

BOROUGH OF BRADLEY BEACH
COUNCIL BUSINESS MEETING MINUTES

OCTOBER 12, 2022 AT 6:30 P.M.

IN ACCORDANCE WITH THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, PUBLIC MEETINGS MAY BE HELD IN PERSON AND/OR BY MEANS OF COMMUNICATION EQUIPMENT TO INCLUDE STREAMING SERVICES AND OTHER ONLINE MEETING PLATFORMS (N.J.S.A. 10:4-8b).

THIS MEETING WAS HELD IN-PERSON AND THROUGH THE ZOOM MEETING PLATFORM, BEING BROADCAST FROM BOROUGH HALL, 701 MAIN STREET, BRADLEY BEACH, NJ 07720. PUBLIC PARTICIPATION FOR THIS COUNCIL BUSINESS MEETING OF OCTOBER 12, 2022 WAS AVAILABLE IN PERSON OR THROUGH THE ZOOM LINK POSTED TO THE WEBSITE AND THE FRONT OFFICE. THE REMAINDER OF COUNCIL MEETINGS (RESOLUTION 2022-211 ADOPTED AUGUST 23, 2022) FOR CALENDAR YEAR 2022 WAS ADVERTISED IN THE NEW COASTER AUGUST 25, 2022 AND THE ASBURY PARK PRESS ON AUGUST 26, 2022.

WITH ADEQUATE NOTICE HAVING BEEN GIVEN, THE MUNICIPAL CLERK IS DIRECTED TO INCLUDE THIS STATEMENT IN THE MINUTES OF THIS MEETING.

A regular meeting of the Mayor and Council of the Borough of Bradley Beach was held in the Meeting Room, 701 Main Street, Bradley Beach, New Jersey on the above date.

CALL TO ORDER

Mayor Fox opened the meeting with a salute to the flag.

Sunshine Law was read.

The meeting has been noticed publicly according to the Open Public Meetings Act requirement for the “Annual Notice” and posted on the official bulletin board in the Borough Office.

ROLL CALL AT 6:30 P.M.

Present at the October 12, 2022 Council Business Meeting:

**Councilman Bonnell, Councilman Gubitosi, Councilman Weber, Mayor Fox
Municipal Clerk: Erica Kostyz
Deputy Municipal Clerk: Michele Whille (ZOOM Operator)
Borough Attorney: Gregory Cannon**

Mayor Fox

We have one workshop topic scheduled, the COAH Development Fee Ordinance, an important step in our journey to get into compliance with the Fair Share Housing arena.

We have three presentations:

- A Proclamation Honoring Police Captain Charles Zulla
- 2021 Planning Board Recommendations by our Borough Planner, Christine Bell
- Change in Zoning Rule allowing Garage Apartments on 5,000 Square Foot Lots by our Borough Planner Christine Bell

We have one Ordinance Introduction extending brush pick-up through December.

No adoptions tonight.

WORKSHOP(S)

COAH Development Fee Ordinance

Mayor Fox:

Ron Cucchiaro, the Borough Affordable Housing Attorney and Jennifer Beahm, the Borough Planner will be presenting a status report on this project which has been ongoing for the last two years. Mr. Cucchiaro and Ms. Beahm have been working with the Administration to formalize and operationalize the Borough's Affordable Housing Plan. The Borough has made some deliberate progress.

The last time we met on this, Mr. Cucchiaro provided a briefing that granted a request for temporary immunity and Ms. Beahm had provided a one thousand element Fair Share Housing Plan Report detailing vacant land adjustments to the Fair Share Housing Center for the court directive. The Borough was also assigned a Special Master, Marybeth Lonergan. Earlier this year Rachel Lokkin from the Fair Share Housing Committee, Ms. Beahm and Mr. Cucchiaro collaborated to draft a consent order and ordinance which has been sent to Fair Share Housing and asked Ms. Lonergan to provide comments. The Borough has received permission to introduce this ordinance. Additionally various documents, including draft housing element, fair share plan, of adjustment, consent orders, draft affordable housing trust funds, and supporting mapping and aerial documents were provided.

Ron Cucchiaro, Borough Affordable Housing Attorney:

Stated he and Ms. Beahm focused on and achieved getting an order of immunity to prevent the chance of a builder's remedy being filed against the Municipality. Next, an ordinance was drafted that will allow the Borough to collect affordable housing fees. There are State statutes that require the payment of certain affordable housing fees whether the Municipality has an ordinance in place, it is a matter of whether the fees go to benefit the Municipality or are paid directly to the State. In order to prevent the Borough from losing funds to the State, the affordable housing ordinance was drafted under the directives of the Municipal Land Use Law. In the case of the Borough, the State Agency that was created to supervise the Council on affordable housing has not functioned in quite some time. The New Jersey Supreme Court has stated that jurisdiction over Fair Share Housing has reverted to the courts. Pursuant to the directive of the Supreme Court, Bradley Beach has filed a declaratory judgement action which allows the Borough to engage in these activities.

The drafted fee ordinance allows the Municipality to directly collect affordable housing funds. The Fair Share Housing Center, which is a non-profit Fair Share Housing Advocacy group is part of this process. The Supreme Court requires that the Municipality provide them with everything they are doing.

The Fair Share Housing Center and the Special Master had some comments and Mr. Cucchiaro and Ms. Beahm also responded with a few comments and came to a final document which was acceptable and which the court has now provided acceptance through a consent order for that ordinance. The ordinance has now been pre-approved by the court and the Borough is now able to begin proceeding the adoption of the ordinance. This will enable the Borough to establish an affordable housing trust fund to place fees collected for development projects into this account. Prior to this, any monies that were collectable were only collectable by the State.

Ms. Beahm has put together a Fair Share Housing Plan that is within the housing element of the Master Plan that has been submitted and commented upon by Fair Share Housing centers. Mr. Cucchiaro and Ms. Beahm have had conferences with the Special Master. All parties are close on what they believe the constitutional requirement for the town is and are working on refining the vacant land adjustment.

Jennifer Beahm, Borough Planner:

An initial evaluation of developable land was done in the Borough and produced a Realistic Development Plan (RDP), potential four which has been submitted to the Special Master and Fisher Housing Center for review and comment. Ms. Beahm and Mr. Cucchiaro received back several Borough properties both parties want evaluated and determine whether there are potential development opportunities that would increase the RDP. All properties were looked at and determined none were available for additional RDP. Ms. Beahm and Mr. Cucchiaro put together a response and sent it to the Housing Center and the Special Master. Ms. Beahm stated there may be more negotiation with the Housing Center on including other properties. Once an agreement is reached on the number of properties, it will be incumbent as a Borough to provide a plan to affirmatively create the number of units and that plan will go into the Borough Housing Element, Fair Share Plan and settlement agreement that the Borough will have with Fair Share Housing Center, both of which must be approved by the court.

Mr. Cucchiaro stated the fee ordinance can be introduced at the next Council Business Meeting.

Ms. Beahm stated future additional zoning ordinances will be necessary.

Public Comments:

In Person:

Thomas J. Coan, 612 Third Avenue, inquired if an additional ordinance will be necessary to create units.

Mr. Cucchiaro and Ms. Beahm addressed Mr. Coan's inquiry.

ZOOM: None

PRESENTATIONS

A Proclamation Honoring Police Captain Charles Zulla

Mayor Fox read the following Proclamation:

***Borough of Bradley Beach
Proclamation
Honoring Police Captain Charles Zulla***

Whereas, Charles Zulla is retiring from the Bradley Beach Police Department and is being awarded this recognition as a testimonial of loyal and dedicated service for the past twenty-eight years in Law Enforcement; and

Whereas, Charles Zulla's dedicated interest and devotion to duty has had a valuable effect on the efficiency and morale of his co-workers and the community through the years; and

Whereas, he will be missed both professionally and as a friend and we extend our sincere appreciation for his service.

NOW THEREFORE BE IT RESOLVED, on behalf of the Mayor and Council and employees of the Borough of Bradley Beach, we wish to express sincere thanks to Captain Charles Zulla for his distinguished and professional service to the Bradley Beach Police Department and highly commend him for the manner in which he has carried out his duties and extend our best wishes for his continued success and happiness in all of his future endeavors.

2021 Planning Board Recommendations

Mayor Fox:

Christine Bell is our Borough Planner. She collaborated with a sub-committee that made recommendation to the then (2021 Planning Board) She subsequently made recommendations to the Planning Board in late October 2021 and a final recommendation that was unanimous adopted by the Planning Board.

Ms. Bell, Borough Planner for the Land Use Board:

In 2020 the Strategic Planning Committee created an Economic Development Plan as one of their recommendations. This plan was created in collaboration with the Planning Committee and was intended to guide the Borough's response to COVID climate change and improve the overall economic outlook for the Borough. An Economic Plan Element is one of the elements of the Master Plan underneath the Municipal Land Use Law, so the Economic Development Plan was prepared in accordance with those requirements.

Because this is an element of the Master Plan, the Strategic Planning Committee had ownership of this document, but it went to the Planning Board which is now the Land Use Board, and the Planning Board adopted it and now has ownership of it as a portion as an element of the Master Plan.

The Economic Development Plan that was created included an inventory of the current economic situation in Monmouth County and in Bradley Beach. Specifically, zoning permitting non-residential uses were looked at and identified as growth industries in the Borough to include tourism, medical/wellness and craft entrepreneurship. Characteristics of the labor pool in the Borough were also studied developing economic strategies to achieve a diverse economy.

Many of the goals and objectives were informed by the existing planning document and some Master Plan Elements.

There were a number of recommendations to include eight recommendations to revise the Borough's zoning ordinances. While the Master Plan is under the purview of the Planning Board, any ordinance revisions, updates, and introductions are owned by the Council which is the reason for this presentation.

The eight recommendations that were ultimately approved were:

- Reducing the number of non-residential zones from four zones to two by incorporating the general business zone standards on the east side of Main Street and the General Business West Zone.
- Set a density standard for the GB and GBW zones based on square footage of the lot.
- Create definitions and regulations for Short-Term rentals and Bed and Breakfast establishments.
- All corner lot development on Main Street should have ingress and egress on the side streets to promote safer traffic flow and preserve parking opportunities.
- The fourth-floor setback in the GBW Zone should be ten to fifteen feet to maintain a three-story look from both sides of Main Street.
- Permit co-working spaces within all non-residential zones.
- Permit craft production uses within all non-residential zones to be defined as a commercial use.
- To define wellness as the active pursuit of activities, choices, and lifestyles that lead to a state of holistic health.

Councilman Gubitosi thanked Ms. Bell for the presentation and stated ten-foot set back could be a challenge. Mr. Gubitosi also stated it is important the Council acts on these recommendations and hopes that draft ordinances can be presented in the future.

Councilman Weber inquired about co-working spaces.

Ms. Bell addressed this inquiry.

Public Comments:

In Person:

Thomas J. Coan, 612 Third Avenue, inquired about the GB and GBW zones on Main Street could be utilized for the Affordable Housing Ordinance.

Ms. Bell responded to this inquiry.

Mr. Coan stated the Strategic Planning Committee recommended the removal of hotels and motels and inquired if the Planning Board added the recommendation back in.

Ms. Bell stated the Strategic Planning Committee had a recommendation to remove hotels and motels as a permitted use, however the Master Plan Elements are owned by the Planning Board.

ZOOM: None

Change in Zoning Rule allowing Garage Apartments on 5,000 Square Foot Lots

Mayor Fox:

As I said a few weeks ago with respect for our Professional Staff and Boards by hastily and irrationally conducting a workshop for questionable motives, today our Borough Planner, Christine Bell can frame the question. Hopefully, some thoughtful conversation will ensue.

Ms. Bell stated she looked at the information provided by the Tax Assessor and the fact sheet done by Councilman Weber. Based on the number of structures in the residential properties in the Borough, twenty-five percent have an accessory dwelling. Forty-eight percent of lots greater than 7500 square feet have multiple structures and the lots under 7500 square feet, 18.5 percent. Presently, the lots 6000 to 7500 square feet would be affected the most by this change (approximately forty have structures).

If the Council decides the lots less than 7500 square feet cannot have garage apartments, this will impact 18.5 percent of the existing properties which would make the garage apartments non-conforming.

Limiting the lot size may not be the only solution to reducing density. It would be beneficial to do a comprehensive look at the bulk standards and if garage apartments are going to be permitted, requiring a greater step back from the side in rear yards than just five to ten feet for accessory structures. Also, reducing the building coverage or impervious coverage of the lot to avoid it being overbuilt.

Mayor Fox asked Ms. Bell if she discovered the use of accessory structures for affordable housing.

Ms. Bell responded yes, in some towns there are ordinances that permit/allow use of accessory apartments for affordable housing.

Councilman Weber clarified if an ordinance of that type would require to make the accessory apartment affordable for a period of time.

Councilman Weber inquired once the deed restriction expires if the Borough would run into any State requirements.

Ms. Bell stated if the town has an accessory dwelling unit apartment ordinance, it will not encompass all the affordable housing in the Borough, only portions.

Conversation ensued amongst the Governing Body and Ms. Bell regarding ordinance language, affordable housing requirements for accessory apartments and corner lots.

Public Comments:

In Person:

Rich Despina, 600 Third Avenue, stated he hopes there will be fairness of allowing garage apartments on corner lots.

ZOOM: None

MINUTES APPROVAL

ON MOTION by Fox/Bonnell to approve the Council Business Meeting Minutes of September 28, 2022.

ROLL CALL:

AYES: Bonnell, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: Sexsmith
ABSTAIN: None

APPROVED

Public Comments and Questions on Agenda Items:

In Person:

Thomas J. Coan, 612 Third Avenue, complained there is not a time allotment in Resolution 2022-39 for the Executive Session and asked if any action will be taken when the Governing Body returns to the regular meeting.

Mr. Cannon responded the amount of time will be announced by him at the time of the resolution adoption and confirmed there will be no further action taken upon return to the Business Meeting.

Mr. Coan inquired about an item on the bill list for Brown and Brown Metro.

Mr. Cannon responded this is the Borough's Risk Management Consultant.

Shana Greenblatt Janoff, 414 Monmouth Avenue, with regard to Ordinance 2022-13 inquired why the Borough does not provide brush pick-up in the in the summer months and inquired if the age listed in the Halloween Curfew resolution is standard.

Mayor Fox responded it is his understanding through DPW brush is not collected in the summer months due to the difficulty of maneuvering around the parked cars and traffic during July and August.

Clerk Kostyz responded the age listed in Resolution 2022-235 has always been the standard age.

ZOOM: None

ORDINANCE INTRODUCTION(S):

ORDINANCE 2022-13

AN ORDINANCE AMENDING CHAPTER 286: "LITTERING; SOLID WASTE AND RECYCLABLES COLLECTION" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO EXTEND BRUSH COLLECTION THROUGH DECEMBER OF EACH YEAR.

ON MOTION by Fox/Bonnell to introduce Ordinance 2022-13.

ROLL CALL:

AYES: Bonnell, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: Sexsmith
ABSTAIN: None

INTRODUCED

ORDINANCE ADOPTION(S): None

COMMUNICATIONS :

- **Recreation Member Appointment Memo (Norman Goldfarb)**
- **Amendment to the title of Resolution 2022-225 on the 9/28/22 Council Business Meeting Agenda for the Second Avenue Block Party Memo.**

CONSENT AGENDA RESOLUTIONS:

Resolution 2022-234 Bill List for October 12, 2022

Resolution 2022-235 Authorizing the 2022 Halloween Curfew

Resolution 2022-236 Approval of an Escrow Deposit Refund in the amount of \$1,000.00 for 409 Hammond Avenue.

Resolution 2022-237 Approval of Appointment for Probationary Firefighters Evan J. Frederick And Lilly M. Lane.

ON MOTION by Fox/Weber to approve the Consent Agenda Resolutions.

ROLL CALL:

AYES: Bonnell, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: Sexsmith
ABSTAIN: None

INDIVIDUAL RESOLUTIONS:

Resolution 2022-238 Authorizing Advertisement for the Solicitation of Bids for the Improvements to Park Place Avenue Phase I and Award of Professional Services.

ON MOTION by Fox/Weber to adopt Resolution 2022-238.

ROLL CALL:

AYES: Bonnell, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: Sexsmith
ABSTAIN: None

ANNOUNCEMENTS: None

MAYOR AND COUNCIL REPORTS:

Councilman Bonnell:

- Gave the Fire and First Aid Activity reports.
- Congratulated the Probationary Firefighters.
- Stated concern about the replastering the exterior walls for the United Methodist Church.

Mayor Fox stated he would notify the Business Administrator regarding the work at the Church.

Councilman Gubitosi:

Read a statement on behalf of the Fletcher Lake Chairman regarding the bench replacements.

Councilman Weber:

- Congratulated Captain Zulla on his retirement.
- Congratulated the Probationary Firefighters.
- Announced there will be an Energy Supply Auction on 11/15/22.
- The Environmental Commission has been working to become a certified sustainable town. In addition, the EC would like to provide education to the town on the Maritime Forest.
- The tree planting that occurred last week was successful and mentioned the Wishing Tree program.
- Mentioned the Fish Fry was successful.

Mayor Fox:

Mayor Fox mentioned and complimented the appearance of the eight trees that were added last year to the south end of the 500 block of Newark Avenue upon completion of the beautification pilot project. Mayor Fox also thanked the Fire and First Aid Department for the Fish Fry this past Friday.

There will be a Mayor's Wellness Walk on Sunday, 10/16/22 at 12:00 p.m. with lots of fun, prizes and great overall exercise fellowship. Please join us! Link is on Facebook and the Borough website. Omicron Boosters Please consider getting an Omicron Booster. Only four percent of the population has received the shot.

We are having a Flu Shot Clinic Friday 10/21/22 from 10:00 a.m. to 12:00 p.m. at the Bradley Beach Recreation Building.

We do not have anything significant to report since the last meeting, however we do want everyone to know that this coming Saturday, 10/15/22, Police Chief Guida will be hosting a "Meet and Greet" at the Perfect Perk, which is located at 300 Main Street in the Borough.

We will be there from 11:00am until 2:00pm, to meet and interact with the public, answer questions and just generally get to know each other. Coffee and light refreshments will be courtesy of the Chief.

Public Comments:

In Person:

Mea Molin, 302 Fourth Avenue

- **Suggested all meetings on the calendar be listed as public.**
- **Suggested the town be notified of grant money for town projects.**
- **Mentioned the referendum question on the General Election Ballot.**

- **Inquired about road repair (sinkholes)**
- **Expressed concern regarding a letter she received from the Mayor regarding election candidates.**

Councilman Weber stated all meetings listed on the calendar are public meetings.

Councilman Gubitosi explained the non-binding referendum process.

Joe Kulick, 509 Monmouth Avenue, expressed concern regarding the non-binding referendum.

Shana Greenblatt Janoff, 414 Monmouth Avenue, read a statement concerning a letter she received from the Mayor regarding election candidates.

Linda Duffy, 312 Brinley Avenue, inquired about led and asbestos testing for 319 LaReine Avenue.

Councilman Bonnell addressed Ms. Duffy's inquiry.

Terence Wright, 406 Madison Avenue, disagreed with Ms. Greenblatt Janoff's commentary.

Nancy Meadow, 805 Beach Avenue

- **Voiced her displeasure the reading of resolution 2022-233 was delegated to a Borough employee at the 9/28/22 Meeting.**
- **Stated she feels information is being withheld from the public.**
- **Stated her opinion regarding the Internship Program.**

Thomas J. Coan, 612 Third Avenue,

- **Feels the Shade Tree Commission should have been able to work in conjunction with DPW on the beautification program last year.**
- **Complained about not getting access into the building the Lake Terrace Park Public Information Meeting which had ended before the 8:00 p.m. as advertised.**

Conversation ensued between Mr. Coan and Mr. Cannon regarding the legal procedures regarding Challenging candidacy.

Michael Flynn, 600 Fourth Avenue, inquired about bill list denials, requisition approval for the public to view.

Julie Nutaitis, 605 Newark Avenue, inquired why the seating in the meeting room seems to have decreased and requested the public be informed of this.

Mia Mutascio, 401 McCabe Avenue, requested an update on the 217 McCabe Avenue litigation.

ZOOM:

Jane DeNoble, 612 Third Avenue, spoke about the Honor Me tree program and the Wholesale Nursery.

EXECUTIVE SESSION:

Resolution 2022-239 Retire into Executive Session to discuss a Personnel Matter and a Pending Litigation Matter.

Mr. Cannon announced the Governing Body should be in Executive Session for approximately 20 minutes.

- **Employee Complaint Investigative Report**
- **217 McCabe Avenue**

ON MOTION by Fox/Gubitosi retire into Executive Session at 8:30 p.m. to discuss a Personnel matter and a Pending Litigation matter.

ROLL CALL:

AYES: Bonnell, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: Sexsmith
ABSTAIN: None

ON MOTION by Weber/Gubitosi to return from Executive Session at 9:10 p.m.

Note, Councilman Bonnell left the Executive Session at approximately 8:45 p.m. and was not present at the time of return to the Council Business Meeting or the Meeting Adjournment.

ROLL CALL:

AYES: Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: Sexsmith, Bonnell
ABSTAIN: None

ADJOURNMENT:

ON MOTION by Weber/Gubitosi to adjourn at 9:12 p.m.

ROLL CALL:

AYES: Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: Sexsmith, Bonnell
ABSTAIN: None

THE COUNCIL BUSINESS MEETING ADJOURNED AT 9:12 P.M.

Erica Kostyz
Erica Kostyz, RMC, CMR
Municipal Clerk