

BOROUGH OF BRADLEY BEACH
COUNCIL BUSINESS MEETING MINUTES

AUGUST 23, 2022 AT 6:30 P.M.

IN ACCORDANCE WITH THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, PUBLIC MEETINGS MAY BE HELD IN PERSON 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 ZOOM MEETING PLATFORM, BEING BROADCAST FROM BOROUGH HALL, 701 MAIN STREET, BRADLEY BEACH, NJ 07720. PUBLIC PARTICIPATION FOR THIS COUNCIL BUSINESS MEETING OF AUGUST 23, 2022 WAS AVAILABLE IN PERSON OR THROUGH THE ZOOM LINK POSTED TO THE WEBSITE AND ADVERTISED IN THE NEW COASTER ON 8/18/22 AND THE ASBURY PARK PRESS ON 8/19/22.

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

A Council Business 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 August 23, 2022 Council Business Meeting:

**Councilman Bonnell, Councilman Gubitosi, Councilman Sexsmith, Mayor Fox
Chief Financial Officer, Anthony Mannino (via ZOOM)**

Municipal Clerk: Erica Kostyz

Deputy Municipal Clerk, Michele While

Borough Attorney: Gregory Cannon

Mayor Fox:

We have a number of topics to address tonight. We have two brief workshop discussions tonight, both relating to Bond Ordinances on important projects. We have two presentations; a summary of the survey recently completed on the LaReine Avenue Church, and a presentation on the Stormwater Utility Grant we are applying for. There are two introductions for Ordinances tonight, both relating to the Bond Ordinances. We have one ordinance adoption, the Fletcher Lake Commission By-Laws.

WORKSHOP(S):

Bond Ordinance 2022-10 Park Place Avenue Phase I Improvements

Mayor Fox stated this ordinance is for improvements to Park Place Avenue and the Borough received a NJDOT Grant for approximately \$193,000.00. The Borough Engineering firm CME & Associates has done the estimate for the total project and the Bond Ordinance is for the difference. Mayor Fox continued this project will consist of road work and sewer work and will take place in the fall.

There were no Council comments for Bond Ordinance 2022-10.

Bond Ordinance 2022-11 Stormwater Outfall Improvements

Mayor Fox explained the Borough is working closely with Avon to obtain a pre-adoption financial agreement to split the cost for this project. Mayor Fox stated the Borough is not going to borrow \$3,500,000.00, only asking for the authorization to do so.

Councilman Gubitosi inquired if any or all of this amount be related to the Beach Utility as opposed to the General Fund.

Mayor Fox responded the funds would most likely come out of the General Fund because this is a stormwater pipe.

Councilman Gubitosi inquired about language in the Bond Ordinance not impacting the gross debt of the Borough.

Chief Financial Officer, Anthony Mannino responded we are doing a \$3,500,000.00 Bond Ordinance out of the beach utility. So improvement Authorizations will be \$3,500,000.00. Since the Beach is self-liquidating we will not require a down payment. This will result in \$3,500,000.00 being bonds and notes authorized but not issued. Bradley will be paying for the costs of the project. During the project either in phases or monthly Avon will be providing 50% Reimbursements. The Reimbursements will be posted in our financial system as a reduction to the bonds and notes authorized but not issued. This would at the end of the project result in Bradley needing to issue debt for \$1,750,000.00. If grants are later brought into the equation they will be utilized to further reduce the authorized, but not issued, which could result in less debt needing to be issued.

Councilman Gubitosi further inquired the language of the ordinance regarding Borough funds and debt.

Mr. Mannino addressed the Councilman's inquiries and explained annual and supplemental debt statements in relation to Bond Ordinances.

Councilman Gubitosi inquired what is meant by utility.

Mr. Mannino responded the Beach and Sewer Utilities.

Councilman Gubitosi inquired if this debt would be issued under one or both of those utilities as opposed to the General Fund.

Mr. Mannino responded it would be issued under the Beach Utility.

PRESENTATIONS

319 LaReine Avenue Survey Results

Mayor Fox:

I started working on the LaReine Ave. project in February of 2021, my second month in office. I shifted the 2020 team appointed by Mayor Engelstad to get a focus on what the renovation would take and how we would use the facility. The Chair of that committee remained on the updated committee for continuity. The prior committee gave us some insights; but we needed professionals to get involved. By June, we started to move to a combination of Engineering and Architectural, specifically restoration architecture, professionals. We utilized T&M Engineering and DIG Architectural.

From late June to September those two firms developed a recommended path. That detailed recommendation (\$240+k) was approved by this Council 5-0 on September 21st, 2021. BA Humphrey advertised, interviewed, and recruited 5 unbiased resident volunteers to participate, at the professionals request.

T&M and DIG worked as a “Program Committee” with 5 residents. In late 2021, approximately 6 extensive meetings were held in which Council members rotated attendance. The Business Administrator and I attended, at the request of T&M and DIG, to answer any clarifying questions- we were NOT active Program Committee members. From early 2022, deliverables were provided to the Council and at-large community. Town Hall meetings were held.

A cost estimate for remediation, engineering, and architectural changes were made in May 2022, based on specific instructions to the Professionals by the entire Council. The professionals were made available for questions and clarifications at an additional Town Hall Meeting on June 16th.

From there, we shifted to a survey, something that was brought up a number of times at the Town Hall meetings.

Again, we used a professional survey person. She received support from a number of the residents that were on the Program Committee. Again, the BA and I were not involved in the survey development, except to provide requested information (example- other projects being considered by the Borough). That survey closes next Monday.

I believe that the survey process provided insights and has in a sense educated the public.

I have painstakingly tried to keep all thumbs of the scale; and to-date, I think we have achieved this.

Tonight, Miranda Nash, of Communications Design Consulting, will present some further findings of the survey.

Miranda Nash:

Began the presentation and stated she worked with the Borough Administrator and the Programming Committee to structure the Borough data into an accessible digital survey for the Community. The survey period ran from July 15th to July 31st and was accompanied by clarifying information about possible development of the property. The survey was accessible on computers, tablets and mobile phones with internet connectivity. Digital access to the survey was also available at the Bradley Beach Public Library.

Other items included in the presentation:

- **Survey Analysis – 927 verified submissions through 604 mobile devices, 303 desktops and 20 tablets. 88% were residential property owners, and 99.8% responded in English.**
- **Engagement, awareness, importance, initial feelings, and education opportunities**
- **Tax implications – data was based on mean and median property values.**
- **Financial data – analyzed by a third-party and provided in a spreadsheet form.**
- **Understanding of the data presentation (Yes: 93.5%, No: 1.4%, Not sure: 5.1%).**
- **Project comparisons/rankings (needs and priorities).**
- **Willingness to leave comments (35% over 300 respondents participated in comments).**
- **Of the 900 plus respondents, over half voluntarily left their email address.**
- **Respondents in favor of the project – Yes: 25.1%, No: 74.9%**
- **Building use rankings.**

Councilman Gubitosi thanked Ms. Nash for the presentation asked the following questions:

How many survey cards were sent versus the number of responses.

Ms. Nash responded it depended on how many people made their way to the survey homepage and completed it and did not have an exact number. Ms. Nash was uncertain how many survey cards were sent.

Who provided most of the data and guidance to Ms. Nash.

Ms. Nash responded she worked with the Programming Committee and the Borough Administrator.

Who was the third-party that provided the financial data.

Mayor Fox responded appointed professionals Acacia and HFA.

Stormwater Utility Feasibility Study Grant

Bree Callahan of N.J. Future, an Non-Partisan, Non-Profit Organization gave a presentation on stormwater utilities.

Items addressed in this presentation:

- **What is a Stormwater Utility – A local assessment district that dedicates funding specifically and solely to address stormwater management problems.**
- **Number of Stormwater Utilities across the United States.**
- **Clean Water and Flood Reduction Act**
- **New Jersey allows but does not require local governments to establish stormwater utilities.**
- **Utilities can be established by municipalities, counties, groups of municipalities and sewerage and improvement authorities.**
- **Funds generated from the fees are dedicated solely to the Stormwater Management Fund and cannot be used for other purposes.**
- **Key attributes for Stormwater Utility – Equitable, dedicated, stable, sole exemption.**
- **Items a Stormwater Utility can pay for – The utility itself, Capital Expenditures, operations and maintenance, asset management, public outreach and education, etc.**
- **Fee distribution based on stormwater flow versus impervious area.**
- **Stormwater credits**

- **Process**
- **Steps to establish and implement a Stormwater Utility.**

Mayor Fox inquired if State and County Roads are exempt.

Ms. Callahan replied no.

Ms. Callahan answered inquiries from residents regarding impervious coverage, state guidelines, run-off systems, inventory usage.

MINUTES APPROVAL

ON MOTION by Fox/Gubitosi to approve the Regular Meeting Minutes of July 26, 2022.

ROLL CALL:

AYES: Bonnell, Gubitosi, Mayor Fox

NAYS: None

ABSENT: Weber

ABSTAIN: Sexsmith

APPROVED

PUBLIC COMMENT ON AGENDA ITEMS:

In Person:

Shana Greenblatt-Janoff, 414 Monmouth Avenue, addressed the 319 LaReine Avenue Survey and the process. Ms. Greenblatt-Janoff requested clarification regarding the purpose of the survey for community and if there was a mailing list done as she understood a portion of people did not receive the survey postcard.

Mayor Fox clarified a mailing list was done, a meeting with the postmaster took place prior to the postcard mailing to change the mailing to state “Or Resident”. Mayor Fox also stated there were no returns of postcards and in addition, the process of newsletters and the website were used to inform citizens with no attempt to exclude anyone.

Councilman Gubitosi stated he spoke with the Postmaster and was told the mailing list was based on property tax records therefore renters would not have been included.

Mayor Fox stated this is incorrect and the list provided to the Postmaster was a combination of property tax owners and people with Certificates of Occupancy.

Ms. Greenblatt-Janoff stated she was disappointed and feels the community did not get enough options within the survey.

Jack Gentempo, 103 Fourth Avenue, inquired about the number of registered voters in town, how many postcards were sent and out, and clarified the respondents did not have to stipulate if they received the postcard.

Mayor Fox answered Mr. Gentempo’s inquiries.

Thomas J. Coan, 612 Third Avenue, asked Mr. Cannon why the topic of sale of property needs to be in Executive Session and cannot be discussed in public.

Mr. Cannon responded based of Mr. Coan’s previous lawsuit of the purchaser being in the Executive Session, explained the purchaser will not be in this evening’s Executive Session. Mr. Cannon continued the Executive Session is being held to explain to the Governing Body the legalities of how this type of sale works.

Mr. Coan expressed his opinion regarding the survey.

Thomas McGuire, 610 Brinley Avenue, inquired about returned postcards.

Mayor Fox addressed Mr. McGuire’s inquiry.

Paul Neshamkin, 411 ½ LaReine Avenue, stated the MEP report could not be found on the website as previously stated. Mr. Neshamkin continued a recent OPRA request he submitted did not include all of the documents he requested, including the MEP report.

Nancy Meadow, 800 Beach Avenue, expressed her opinions regarding the Executive Session topic for sale of property, items on the bill list and resolutions 2022-7, 2022-211, 2022-212.

Cindy Lukenda, 218 Fourth Avenue, inquired what the cost was for the survey.

Councilman Bonnell and Mayor Fox addressed this inquiry.

Ms. Lukenda suggested doing another survey based on the feedback over the last month and a more comprehensive set of questions.

Zoom:

Lauren Egbert, 404 ½ Brinley Avenue, stated a few of her neighbors stated they did not get survey cards, Inquired if there is data listing how many adult residents answered the survey, and expressed concerns the Council was not involved in the survey.

Mayor Fox addressed Ms. Egbert’s comments and stated he as well did not have involvement in the survey.

Donald Greenberg, 302 Park Place Avenue, expressed his opinions regarding the survey and Mr. Neshamkin’s OPRA request and the Stormwater Utility Study.

Bob Sorrentino, 401 Ocean Park Avenue, expressed opinions regarding the survey and Mr. Neshamkin’s OPRA request.

ORDINANCE INTRODUCTION(S):

BOND ORDINANCE 2022-10

BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO PARK PLACE AVENUE PHASE I, APPROPRIATING \$556,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$363,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF BRADLEY BEACH, IN THE COUNTY OF MONMOUTH, NEW JERSEY.

ON MOTION by Fox/Sexsmith to introduce Bond Ordinance 2022-10.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Mayor Fox

NAYS: None

ABSENT: Weber

ABSTAIN: None

INTRODUCED

BOND ORDINANCE 2022-11

BOND ORDINANCE PROVIDING FOR STORMWATER OUTFALL IMPROVEMENTS, APPROPRIATING \$3,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$3,500,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF BRADLEY BEACH, IN THE COUNTY OF MONMOUTH, NEW JERSEY.

Councilman Gubitosi stated the prior conversation with the CFO helped him understand the amount being bonded, therefore he will be voting yes.

ON MOTION by Fox/Sexsmith to introduce Bond Ordinance 2022-11.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Mayor Fox

NAYS: None

ABSENT: Weber

ABSTAIN: None

INTRODUCED

ORDINANCE ADOPTION(S):

ORDINANCE 2022-8

AN ORDINANCE AMENDING ARTICLE II: “FLETCHER LAKE COMMISSION” IN CHAPTER 24: “COMMISSIONS AND COMMITTEES” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO APPROVE THE FLETCHER LAKE COMMISSION’S REVISED CHARTER.

Councilman Gubitosi commended the Fletcher Lake Commission for doing a phenomenal job revising The Charter Agreement.

ON MOTION by Fox/Sexsmith to open the public hearing for Ordinance 2022-8.

ROLL CALL:

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

Public Comment on Ordinance 2022-8:

There were no public comments on this Ordinance in person or via ZOOM.

ON MOTION by Fox/Sexsmith to close the public hearing and adopt for Ordinance 2022-8.

ROLL CALL:

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

ADOPTED

COMMUNICATIONS :

- Seasonal Lifeguard Employee Memo

CONSENT AGENDA RESOLUTIONS:

Resolution 2022-205 Bill List for August 23, 2022

Resolution 2022-206 Authorizing a refund in the amount of \$10.00 for overpayment of a Mercantile License Fee for Master Ray Torres Karate.

Resolution 2022-207 Authorizing the Special Olympics Turkey Dash 5-K Race for Saturday, November 19, 2022 from 10:30 a.m. to 12:00 p.m.

Resolution 2022-208 Approving a Limited Brewery Off-Premise Event Permit ABC Application to CEEBEE, LLC for Bradley Beach Latin Festival on Sunday, September 18, 2022.

Resolution 2022-209 Authorizing a refund of Sewer Overpayment for 201 Ocean Avenue Unit 6 in the amount of \$597.50.

Councilman Gubitosi questioned an item on the bill list for Web Alliance and inquired if this is to create a new website and inquired why this is happening without holding the current web designer accountable to fix any issues with the current website.

Mayor Fox responded in doing an assessment it has been discovered a number of entities are not using this designer due to design flaws. Mayor Fox continued, Web Alliance is a firm that is in alignment with Municipal websites.

Councilman Gubitosi inquired if the Borough will be asking for a refund from the current website.

Mayor Fox responded no.

Councilman Gubitosi stated he and the Communications Coordinator were able to create a framework for the current website and needed the Borough to load the content onto the website and is concerned the website has flawed data that is not updated.

Councilman Bonnell inquired about a charge to Settembrino Architects for roof repair.

Mayor Fox addressed Councilman Bonnell's inquiry.

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

ROLL CALL:

AYES: Bonnell, Sexsmith, Mayor Fox

NAYS: Gubitosi

ABSENT: Weber

ABSTAIN: None

RESOLUTIONS ADOPTED

INDIVIDUAL RESOLUTIONS:

Resolution 2022-210 Authorizing an extended Grace Period for 2022 Third Quarter Real Estate Taxes.

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-210.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Mayor Fox

NAYS: None

ABSENT: Weber

ABSTAIN: None

ADOPTED

Resolution 2022-211 Designation of Council Business Meeting Dates for the remainder of 2022.

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-11.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Mayor Fox

NAYS: None

ABSENT: Weber

ABSTAIN: None

ADOPTED

Resolution 2022-212 Award of Non-Fair and Open Contract to H2M Architects + Engineers for Sanitary Sewerage System Sale Feasibility Study.

Councilman Bonnell stated based upon his commitment a few months ago to not approve anymore non-fair and open contracts he will not second this resolution.

Note: No motion to second, resolution failed.

RESOLUTION NOT ADOPTED

Resolution 2022-213 Providing Authorization to apply and obtain a grant for the American Rescue Plan Firefighter Program.

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-213.

ROLL CALL:

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

ADOPTED

Resolution 2022-214 Authorizing the award of an Emergency Procurement for Ocean Park Avenue Stormwater Outfall.

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-214.

ROLL CALL:

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

ADOPTED

Resolution 2022-215 Authorizing Remington & Vernick Engineers to file a Grant Application on behalf of the Borough with the NJDEP Stormwater Competitive Grant Program.

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-215.

ROLL CALL:

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

ADOPTED

Resolution 2022-216 Street Closing from 12:00 p.m. to 9:00 p.m. for the Bradley Beach Latin Festival.

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-216.

ROLL CALL:

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

ADOPTED

ANNOUNCEMENTS: None

MAYOR AND COUNCIL REPORTS:

Councilman Bonnell:

Had no reports for Fire and First Aid. Stated the Bradley Beach 5K Run was a success.

Councilman Gubitosi:

Stated the Bradley Beach 5K was a success.

Councilman Sexsmith:

- Gave the weekly Police Report and the Board of Education report.
- Welcomed the new School Superintendent Michael Heidelberg and thanked the interim Superintendent Margaret Hayes for assisting the Board of Education with the selection process.

Mayor Fox:

The weather has continued to cooperate to-date. We are about to finish August; and things are going very well. We continue to run over our projections- and we are hopeful this trend will continue.

On an adjacent note, and as many of you may know, we have had some sinkhole issues on both the McCabe Avenue and Lake Terrace Avenue beaches. We are working diligently with the NJDEP and Army Corp of Engineers. Our Administration, OEM, and Public Works has been on the issue. The beaches are safe; and we will continue to monitor.

The Sylvan Lake Outfall work will begin right after Labor Day. We are in the final throws of appointing the Engineering resource to manage the job.

Our National Night Out was a big success on Tuesday, August 2nd. We had a super turnout again, similar to last year. Sergeant Josephine Celauro did a great job in leading the effort for Chief Guida and his team.

On Saturday morning, our Municipal Team led by the Fire Department held another successful Annual BB 5k Run. About 800 participants from the tri-state area ran the race- and there were no injuries according to the EMS team. Thanks to Todd Migdon of our Fire Team who led the effort.

On Sunday evening we held our 4th Mayors Wellness Walk on the Promenade. We had solid participation on a beautiful August evening.

The Library's Fourth Avenue entrance and book drop are closed until further notice due to a construction project.

August 29th 3:30 to 4:15, Bermuda Triangle Clue Room, Analyze clues to see if you can solve the mystery!

August 31st 3:00 to 4:00, VR Dives. Not able to take a real dive in the ocean? Ages 10 to 18 are invited to try looking at the ocean with the virtual reality Merge Cube. Teens can get up close to shipwrecks, coral reefs, and marine life!

September 8th at 2:00 pm, the 10 Warning Signs of Alzheimer's. This program via Zoom will help you recognize common signs of the disease in yourself and others and next steps to take, including how to talk to your doctor.

Thanks to Margaret Hayes, interim Superintendent. Welcome to Michael Heidelberg, our new Superintendent. Transferring from the Perth Amboy.

PUBLIC COMMENT:

In Person:

Nancy Meadow, 805 Beach Avenue:

- **Feels citizens on Zoom should be informed who is in the meeting room prior to the start of the meeting.**
- **Requested to converse with Council President Sexsmith about other forms of government.**
- **Complained about communications on the website.**
- **Feels Hotels and Motels need to be prohibited in the Borough.**
- **Still has not received an answer to a Police Department vehicle inquiry.**
- **Feels there is not enough publicity for Borough events.**
- **Feels there should be two Council Meetings every month.**

Shana Greenblatt-Janoff, 414 Monmouth Avenue, asked several questions regarding the appointment and necessity of an OPRA Attorney.

Mr. Cannon addressed Ms. Greenblatt-Janoff's inquiry.

Further conversation ensued between Ms. Greenblatt-Janoff, Mayor Fox and Mr. Cannon regarding the previous anonymous OPRA requests within the Borough.

The following residents of Park Place Avenue expressed their complaints, concerns and frustrations regarding Air B&B business being conducted on their street:

**Jeanne Leahy, 419 Park Place Avenue
Rosemary Accurso, 415 Park Place Avenue
George Proto, 409 Park Place Avenue
Evelyn Lopez, 417 Park Place Avenue
Louise Millmann, 502 Park Place Avenue
Victoria Leahy, 419 Park Place Avenue**

Jack Gentempo, 103 Fourth Avenue, spoke about the importance of preserving 319 LaReine Avenue.

Thomas J. Coan, 612 Third Avenue, spoke about Air B and B, suggested virtual meeting equipment for Land Use Board Meetings, requested the public be kept updated regarding Affordable Housing, and expressed opinions regarding the 319 LaReine Avenue Survey.

Thomas Gavin, 414 Fourth Avenue gave the following statement:

I will be reading my remarks as I will be quoting multiple legal formats and want to be sure they are mentioned correctly.

First, I want to truly thank the Bradley Beach Police, Fire, OEM, First Aid and especially the DPW for their support last Saturday of the Bradley Beach 5K run. I had several friends running in it and I did notice a few people who we should have timed with a sundial and they all said what a great event it was and how their lunch later on Main Street topped off their day.

The other reason I felt the need to speak is that I have become aware that my property at 414 Fourth Avenue has, for a second time, become the target of an OPRA request. I learned this when I submitted an OPRA request for an OPRA log of our Borough while researching a different issue.

In reviewing the purpose of the NJ Open Public Records Act I found “[A Citizen's Guide to the Open Public Records Act - NJ.gov](#) Second Edition, July 2011”

It states, “The law is compiled in the statutes as N.J.S.A. 47:1A-1 et seq. Specifically, OPRA is intended to: Expand the public's right of access to government records; ▪ Create administrative appeals process if access is denied; and ▪ Define what records are and are not “government records.”

In further research the State of NJ Dept of Community Affairs/Division of Codes and Standards published this directive originally in July of 2003 and revised in April 2013.

**Subject: Open Public Records Act
Public Access to Building Plans**

Reference: N.J.S.A. 47:1A and N.J.A.C. 5:3

Building Plans: Because this statutory reference is broad, the Department has sought to provide clarity in its rules for OPRA. Adopted on October 17, 2011, the Department’s rules (N.J.A.C. 5:3) provide that “building plans submitted in conjunction with any permit application” are exempt from disclosure under OPRA.

The reason for this exemption is simple: OPRA requires that government records be provided to any citizen without requiring an explanation for why the records are wanted. That standard operates well for most of the records that we hold, but building plans are an exception to that general rule. Building plans contain details about building construction and also about security and safety systems that should not be available to just anyone upon request. This does not mean that no one should ever be able to view or obtain copies of building plans; it means that no one should be able to view or obtain copies of building plans without a valid reason for doing so.

According to attorneys, this proviso was to prevent miscreants, social deviants, gadflies, sexual predators, potential thieves, those who may wish ill on the occupants of these buildings, among others, from obtaining the details of a building’s plans, access points, security issues, etc.

The key phrase here is the person requesting access should not “view or obtain copies of building plans **“WITHOUT A VALID REASON FOR DOING SO”**”.

As my home has been fully vetted by all Construction Officials in the Bradley Beach Code and Construction Office, and my file has been closed as satisfying all necessary procedures, I ask for a “Valid reason” for my plans to be released.

Continuing in the directive quoted above; “Site Plans and Architectural Renderings: The Department’s rule specifies that site plans are different from building plans and are public records that are subject to disclosure under OPRA. Members of the public should be given access to general information such as elevations, site layout, architectural renderings, etc. This is the type of information that is filed with the planning board or zoning board of adjustment and that the entire community has a right to know. From the questions that we have received, the Department has concluded that a significant portion of the requests to “see plans” in a local code enforcement office are actually requests to view the site plans for a specific project. The person asking, for example, could be a neighbor who has a concern that a project undertaken on an adjacent property might have an impact on their property. Where the request to “see plans” is really a site concern, access to the site plan can be offered under OPRA and is likely to satisfy the requestor.”

The person requesting this OPRA on our home at 414 4th Avenue is neither a neighbor nor someone who has any “valid reason” to be following up on the Bradley Beach Code and Construction Office. No variances were requested, nothing was accomplished that was not approved by the Bradley Beach Code and Construction Office.

I cannot say what is prompting this OPRA request, however, I do now understand, the concerning personal nature of such a request may bring upon a resident of Bradley Beach, or any other town where such random requests are made.

On advice of Counsel, I would ask the Borough of Bradley Beach to not release these plans until such time as the requester can prove a “Valid Reason” for the request to the Borough.

I trust that the person requesting this report, a serial OPRA requestor in our Borough, has no ill will toward the safety and security of myself and my family, and hopefully does not have a history of causing this type of upheaval to other residents of our Borough. I also would like to believe, that as someone who lives in the Borough, this person places the qualifications of the members of our Code and Construction Office at the level they deserve.

Would it be possible that this person has a history of instigating this random type of controversy in other municipalities? Should we be concerned that this person is just transferring that “psychological need for attention” to our Borough? This constant solicitation of records should cause the Borough to question any further requests submitted by this resident that do not rise to the necessary level of causation.

Thank you for your time.

Zoom:

Donald Greenberg, 302 Park Place Avenue, inquired if the Group Rental Ordinance is still in effect and if it is being enforced.

Mayor Fox addressed Mr. Greenberg's inquiry and referenced what properties the Group Rental Ordinance covers at the present time.

Eileen Shissias, 112 Fourth Avenue, requested a financial report for the Memorial Day Parade Activities and expressed her concerns regarding Air B and B's in town and the mentioned the virtual camera is distracting.

EXECUTIVE SESSION:

Resolution 2022-217 Retire into Executive Session to discuss Attorney-Client Privilege, Pending Anticipated Litigation and Contract Negotiation Matters .

- **Disposition of Public Property located at Block 71, Lot 29 (Non-Conforming possible surplus)**
- **Veterans Relocation Project vs. Borough of Bradley Beach**

ON MOTION by Fox/Sexsmith retire into Executive Session at 9:30 p.m. to discuss Leasing or Acquisition of Landlocked Property for Block 71, Lot 29.

ROLL CALL:

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

ON MOTION by Fox/Gubitosi return from Executive Session at 9:45 p.m.

ROLL CALL:

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

ADJOURNMENT:

ON MOTION by Fox/Bonnell to adjourn at 9:47 pm.

ROLL CALL:

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

THE COUNCIL BUSINESS MEETING ADJOURNED AT 9:47 P.M.


Erica Kostyz, RMC, CMR
Municipal Clerk