

**BOROUGH OF BRADLEY BEACH**  
**COUNCIL BUSINESS MEETING MINUTES**

**SEPTEMBER 28, 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 SEPTEMBER 28, 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 September 28, 2022 Council Business Meeting:**

**Councilman Bonnell, Councilman Gubitosi, Councilman Sexsmith, Councilman Weber, Mayor Fox  
Borough Administrator: Kimberly M. Humphrey  
Municipal Clerk: Erica Kostyz  
Deputy Municipal Clerk: Michele Whille (ZOOM Operator)  
Borough Attorney: Gregory Cannon, Esq.**

**Councilman Bonnell made a Point of Order and stated he feels having the Executive Session at the beginning of the meeting is unfair to the residents and was not advertised with a time limit in the resolution.**

**Councilman Bonnell made a motion to have this Executive Session at the next Council Business Meeting, Councilman Weber seconded.**

**Mayor Fox made a Point of Order and stated items on the Agenda cannot be removed.**

**A lengthy discussion ensued between Mayor Fox and Councilman Bonnell regarding mandatory time limits on Executive Sessions and removing items from the Agenda once they have been placed on there.**

**Mr. Cannon stated procedurally a time can be added to the resolution before having the Executive Session to let the public know when the Governing Body will return.**

**Councilman Bonnell argued it was decided months ago a time limit be placed in the Executive Session Resolution and that he made a motion with a second to have the Executive Session at the next Council Business Meeting.**

**Mr. Cannon stated the decision to be made is what order this Agenda is going to go in.**

**Mayor Fox apologized to the public for changing the sequence of this meeting agenda and placing the Executive Session in the beginning and stated this is not the normal sequence, however it is necessary due to some of the other items on the agenda and suggested the Executive Session would run approximately forty-five minutes.**

**Councilman Bonnell again argued it was not advertised as forty-five minutes and he made a motion which was seconded not to have the Executive Session this evening.**

**Mayor Fox stated this is an important Executive Session and to move it to the next meeting would be a disservice to the public. Mayor Fox stated would consider moving the ES to the end of the meeting with and the resolution that is tied to it and stated it is not being removed from this agenda.**

**A lengthy discussion continued about time limits being placed in the ES resolution prior to having the ES.**

**The question arose for Mr. Cannon if it is Statutorily required to place a time in the ES resolution.**

**Mr. Cannon answered it is not Statute, but a Case Law which stated a time must be put in the ES resolution to inform the public.**

**Mayor Fox again suggested moving the order of the ES to number fifteen on the agenda.**

**Councilman Bonnell suggested redoing his motion doing a roll call vote.**

**ON MOTION by Bonnell/ Weber to move the Executive Session to the October 12, 2022 Council Business Meeting.**

**ROLL CALL:**

**AYES: Bonnell, Gubitosi, Weber**

**NAYS: Sexsmith, Mayor Fox**

**ABSENT: None**

**ABSTAIN: None**

Councilman Sexsmith - voted no and stated he feels there are members of the Council that do not want the public to know.

Mayor Fox - voted no and stated the Executive Session is necessary to address significant issues as a Council and feels it should be moved to the end of the meeting. Mayor Fox stated removing items from a prescribed State Statue Agenda item is improper.

ON MOTION by Fox/Sexsmith to move the Executive Session to item number fifteen on this evening's Council Business Meeting Agenda.

**ROLL CALL:**

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

**THE EXECUTIVE SESSION DID NOT TAKE PLACE**

Resolution 2022-223 Retire into Executive Session to discuss a Personnel Matter and a Pending Litigation Matter.

**RESOLUTION FAILED**

**Mayor Fox**

We have three workshop topics scheduled. This violates the agreement we had to just address two items at each meeting. One of those topics is Zoning rules allowing garage apartments on five thousand square foot lots. This was scheduled for the 10/12/22 when our Borough Planner could do the appropriate due diligence; but Councilman Weber seems to have an agenda. We will review the Continuation of relaxed Enforcement of Borough Codes for Bar and Restaurant Tents going forward. Additionally, we will discuss the Short-Term Rental Ordinance that has tried to be brought forward for months now.

We have a presentation on the Shade Tree Commission Inventory Report that was just completed.

Additionally, we one Ordinance for introduction, Amendments to the Chapter 450-10. This is premature and clearly an insult to the Planning Board and our Borough Professionals. We will talk about that later.

We have another somewhat troubling Ordinance Adoption to the Ordinance Amending Chapter 286, adding oversight authority regarding pick-up schedules. As you will remember, our DPW leaders expressed concern over this change, to no avail.

**WORKSHOP DISCUSSIONS:**

**Short-Term Rental Ordinance**

Mayor Fox stated this ordinance has been in place since March. The ordinance being proposed is from another municipality and has been looked at by the Code Official/Fire Marshal and others who have expertise in this area. There has been a concern regarding Short-Term Rentals and this ordinance will guide the Borough in the right position when a short-term rental is also an owner-occupied property. The ordinance will need to have a landlord registration process which would be hand in hand with rental permits, time and parking constraints and two inspections: one in the summer and one in the winter.

**Administrator Humphrey stated the ordinance will be a trial-and-error process and hopes it will create something feasible and create a control mechanism for short-term rentals in the town.**

**Councilman Weber inquired what town this ordinance was created in.**

**Administrator Humphrey responded the town of Highlands.**

**Councilman Weber inquired if the office staff can manage all of the processes involved within the ordinance (landlord registrations, inspections, etc.).**

**Ms. Humphrey and Mr. Murphy addressed this inquiry.**

**Councilman Weber stated he is in favor of this ordinance suggested placing a seven day minimum in the ordinance instead of the four day minimum as stated in the current draft.**

**Councilman Sexsmith had no questions and stated this is a good start and will address the concerns on Park Place Avenue, non-resident owners renting out their properties, parking, and occupancy requirements.**

**Councilman Gubitosi thanked Ms. Humphrey and Mr. Murphy for starting the process of this ordinance and suggested the following:**

- **Obtaining data from other Municipalities that have this ordinance in place**
- **Fee structure**
- **Tracking non-compliant rental activity.**
- **Adding a section for penalties.**
- **Several C/O inspections throughout the summer season.**

**A discussion ensued between Ms. Humphrey, Mr. Murphy, Mr. Cannon and Councilman Gubitosi regarding all of the suggestions, and enforcement and restrictions.**

**Further discussion ensued amongst the Governing Body regarding the recently renovated property across from the school and the timing of the ordinance discussion/implementation.**

**Public Comment:**

**In Person:**

**Thomas J. Coan, 612 Third Avenue, stated the ordinance should be simplified to treat all rentals the same.**

**Eileen Shissias, 112 Fourth Avenue, expressed concerns regarding sex offenders renting Air B and B's**

**Jane DeNoble, 612 Third Avenue, stated short-term rentals were discussed at the Quality of Life Meeting in June and feels the seven day limit makes sense.**

**Mea Molin, 302 Fourth Avenue, suggested monitoring rentals on the website.**

**Mary Backstrom, 218 Fourth Avenue, suggested a program be considered to track rentals.**

**Zoom:**

Bret Morgan of Ocean Twp, spoke about 506 Brinley Avenue recently purchased by his firm and on behalf of short-term rental operators that are in compliance.

**Continued Relaxation of Enforcement for Tents**

Paul Murphy, Fire Marshal and Code Enforcement, began the discussion and stated at present a business is allowed to have a tent up year round, however there are many safety concerns, considerations and codes that apply for Construction and Code regulations.

Mr. Murphy stated if the Borough needs to decide if it will continue the relaxation of the local land use.

Councilman Weber inquired if the town or the State decides to extend tent relaxation.

Mr. Cannon explained the reasoning for the enforcement relaxation and the different ways to manage the continuation of allowing this since the State has put another extension in place to from 2022 to 2024.

Councilman Sexsmith mentioned several issues to consider (parking, resident complaints, automobile accidents) as reasons to not continue with the relaxation of tents.

**Public Comment:**

**In Person:**

Nancy Meadow, 805 Beach Avenue, stated she would like to see the tents be removed to bring parking back.

Thomas J. Coan, 612 Third Avenue, inquired about the number of tents that in town, if the businesses have been notified and if the relaxation applies to all businesses and not just the ones with tents.

Mr. Cannon addressed Mr. Coan's inquiries

William Psiuk, 110 Fifth Avenue, stated he is in favor of removing the tents due parking issues and commented on Mr. Coan's relation to one the owner's D'Arcy's Tavern.

Jane DeNoble, 612 Third Avenue, stated for the record Mr. Coan is not related to anyone from D'Arcy's Tavern.

**Zoom: None**

**Change in Zoning Rule allowing Garage Apartments on five thousand Square Foot Lots.**

**Councilman Weber:**

Currently, a property owner can build a garage apartment if the lot size is 5,000 square feet or more and corner lots cannot build a garage apartment. The proposed consideration is to provide relief for property owners on corner lots and relax the density.

Councilman Sexsmith stated he would like to hear from property owners that would be affected by this proposal.

Councilman Gubitosi inquired what number of properties would be at an advantage.

Councilman Weber replied he feels every property in town is advantaged by not making the town denser. Councilman Weber continued the only Governing Body member that would be disadvantaged by moving forward with this would be him and stated this is not a matter of unprecedented politics and feels the town would be nicer town by not adding to the density.

Mayor Fox stated he would like to have the Planner assess the data presented by Councilman Weber and look at other towns.

#### **Public Comment**

##### **In Person:**

Joseph, DiMichele, 608 McCabe Avenue, inquired the large scale townhouses and condominiums on Main Street were taken into effect in this study.

Councilman Weber stated this involves a different ordinance and stated he has requested a density restrictions in previous years.

Thomas J. Coan, 612 Third Avenue, stated he in favor of moving forward with this idea.

Linda Curtiss, 202 Third Avenue, is in favor of allowing garage apartments as this allows for a diverse community.

Mea Molin, 302 Fourth Avenue, stated condominiums and townhomes should be considered in the density issue.

##### **ZOOM**

Alethia Doctor, 613 Fifth Avenue, agrees with not adding to the density in town.

##### **PRESENTATIONS**

###### **Shade Tree Commission Inventory Report**

Dr. George Heflich, Chairman of the Shade Tree Commission gave an overview of the Tree Inventory that was performed earlier this year in the Borough over the summer by Arborist, Mr. Brash. The following items were addressed in the presentation:

- Explanation of a Tree Inventory
- Costs (no costs incurred due to grant)
- Reports performed (tree species, size, leaf area, replacement costs, environmental impact)
- Climate change (carbon storage, oxygen production, pollution removal)
- Removal of trees (importance of removal marked by colored flags)
- Trees to be planted
- Leaf coverage
- Pruning
- Recommendations from the Commission (waive application fee, plan for flagged trees, Shade Tree budget)

**Mayor Fox – commented on the complexity of the analytics and feels overall the Shade Tree Commission has made much progress since it was started.**

**Ms. Humphrey- stated presently there is no mechanism in the ordinance to enforce residents in violation with flagged trees and suggested updating the ordinance to enforce the flagged trees in need of removal.**

**Mr. Cannon stated the ordinance was specifically drafted to not make the Shade Tree Commission the enforce residents in violation with regards to trees.**

**A discussion ensued amongst Ms. Humphrey, Mr. Cannon, Mr. Heflich, Mr. Murphy and Councilman Gubitosi regarding the ordinance, responsibility of tree removal costs, RFP's and notification to residents that have received a red flag.**

**Public Comment:**

**In Person:**

**Shana Greenblatt-Janoff, 414 Monmouth Avenue, thanked Mr. Heflich for the presentation and stated another element that needs to be addressed is creating an emergency management plan for trees in the event of a storm.**

**Ms. Humphrey and Mayor Fox stated there is currently an emergency management plan in place.**

**Zoom: None**

**MINUTES APPROVAL**

**ON MOTION by Fox/Bonnell to approve the Council Business Meeting Minutes of September 13, 2022.**

**ROLL CALL:**

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

**APPROVED**

**ON MOTION by Fox/Sexsmith to approve the Executive Session Minutes of September 13, 2022.**

**ROLL CALL:**

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

**APPROVED**

**Public Comments on Agenda Items:**

**In Person:**

Linda Curtiss, 202 Third Avenue, stated in her opinion, the hotel/motel prohibited use has been overblown and suggested allowing boutique hotels of twenty rooms or less. Ms. Curtiss also stated her opinions regarding Ordinance 2022-9 and does not feel Council should control trash pick-up. Shana Greenblatt-Janoff, 414 Monmouth Avenue, stated she is favor of Ordinance 2022-9 and requested to remove bulk sticker fees and creating a bulk pick-up schedule.

Thomas J. Coan, 612 Third Avenue, thanked the Governing Body for Ordinance 2022-12 introduction and requested plastic film pick-up be picked up once a month.

Mr. Coan inquired about the pay-out resolution 2022-228.

Ms. Humphrey addressed Mr. Coan's inquiry.

**Zoom: None**

**ORDINANCE INTRODUCTION(S):**

**ORDINANCE 2022-12**

**AN ORDINANCE AMENDING CHAPTER 258: "HOTELS" AND CHAPTER 450: "ZONING" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO PROHIBIT HOTELS AND MOTELS WITHIN THE BOROUGH.**

**Councilman Weber, Councilman Gubitosi and Councilman Bonnell all stated they are in favor of this ordinance is being introduced to prevent an additional liquor license and overdevelopment.**

**Councilman Sexsmith this ordinance is overkill and not necessary.**

**Mayor Fox is not in favor of this ordinance and feels it is bad politics and not researched enough has been done and a sledgehammer solution. Mayor Fox stated he is in favor of having the Borough Planners look at the Master Plan and work with the Land Use Board to assess this ordinance.**

ON MOTION by Fox/Bonnell to introduce Ordinance 2022-12.

**ROLL CALL:**

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

**INTRODUCED**



**ORDINANCE ADOPTION(S):**

**ORDINANCE 2022-9**

**AN ORDINANCE AMENDING CHAPTER 286: “LITTERING; SOLID WASTE AND RECYCLABLES COLLECTION” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO PROVIDE THE BOROUGH COUNCIL WITH OVERSIGHT AUTHORITY REGARDING PICK-UP SCHEDULES.**

**Councilman Weber stated the frequency of trash pick-up is a Council decision.**

**Councilman Sexsmith stated he is not in favor of this change and feels data collected should be assessed and then revise this ordinance accordingly.**

**Councilman Gubitosi stated the rationale behind this ordinance introduction the decision about frequency of pick-up is a policy decision and should be left up to the Mayor and Council.**

**Councilman Bonnell feels this ordinance is the right thing to do and the frequency of pick-up should be a legislative decision.**

**Mayor Fox stated he is not in agreement with this ordinance and feels DPW and the Administrator should make the decisions for trash and recycle pick-up.**

ON MOTION by Fox/Weber to open the public hearing for Ordinance 2022-9.

**ROLL CALL:**

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

**Public Comment:**

**In Person:**

**Thomas J. Coan, 612 Third Avenue, stated he is appreciative of this ordinance.**

**Jane DeNoble, 612 Third Avenue, thanked the Council for this ordinance.**

**Zoom: None**

ON MOTION by Gubitosi/Weber to close the public hearing and adopt for Ordinance 2022-9.

**ROLL CALL:**

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

**ADOPTED**

**COMMUNICATIONS : None**

**CONSENT AGENDA RESOLUTIONS:**

**Resolution 2022-224 Bill List for September 28, 2022**

**Resolution 2022-225 Approving a Block Party Application for Second Avenue on Saturday, October 15, 2022 from 1:00 p.m. to 5:00 p.m.**

**Resolution 2022-226 Authorizing the Jersey Shore Rescue Mission to conduct their 5K Race/Walk For Saturday, October 29, 2022 from 9:00 a.m. to 11:00 a.m.**

**Resolution 2022-227 Authorizing a refund in the amount of \$500.00 for a Sidewalk Application Fee Deposit for 312 Second Avenue.**

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

**ROLL CALL:**

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

**RESOLUTIONS ADOPTED**

**INDIVIDUAL RESOLUTIONS:**

**Resolution 2022-228 Authorizing a payout of accumulated sick time to Charles Zulla, Captain of the Bradley Beach Police Department in three separate and equal installments of \$73,849.60, on October 15<sup>th</sup> of 2022, 2023, and 2024.**

ON MOTION by Fox/Bonnell to adopt Resolution 2022-228

**ROLL CALL:**

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

**ADOPTED**

**Resolution 2022-229 Renewal of Membership in the Monmouth Municipal Joint Insurance Fund.**

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-229.

**ROLL CALL:**

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

**ADOPTED**

**Resolution 2022-230 Authorizing the Borough Administrator/Qualified Purchasing Agent to advertise for Requests for Proposals for Professional Appointments for Calendar Year 2023.**

ON MOTION by Fox/Bonnell to adopt Resolution 2022-230.

**ROLL CALL:**

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

**ADOPTED**

**Resolution 2022-231 Authorizing the Borough Administrator/Qualified Purchasing Agent to advertise for Bids for Sanitary Sewer CCTV.**

ON MOTION by Fox/Bonnell to adopt Resolution 2022-231.

**ROLL CALL:**

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

**ADOPTED**

**Resolution 2022-232 Waiving the \$50.00 Shade Tree Application Fee to Property Owners that have received a notice to remove a tree due to the Tree Inventory Report.**

ON MOTION by Fox/Weber to adopt Resolution 2022-232.

**ROLL CALL:**

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

**ADOPTED**

**Resolution 2022-233 A Resolution calling for Public Censure.**

**Mayor Fox advised this resolution was not included in the Council packets nor made public and was to be the topic of the and instructed the Municipal Clerk read the resolution aloud and vote on it.**

**BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY**

**RESOLUTION 2022-233**

**RESOLUTION OF PUBLIC CENSURE AS TO COUNCILMAN AL GUBITOSI ARISING FROM HIS INTERACTIONS WITH BOROUGH OFFICIALS/EMPLOYEES**

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**Mayor Fox** offered the following Resolution and moved its adoption:

**WHEREAS**, the Borough of Bradley Beach (the “Borough”), as a municipal corporation and public employer, is required to maintain certain employment policies and procedures to ensure that the Borough’s workplace is compliant with New Jersey law; and

**WHEREAS**, in accordance with the Borough’s employment policies and procedures, the Borough’s Labor Attorney recently conducted an investigation and issued a confidential report pertaining to certain interactions between Borough officials and employees; and

**WHEREAS**, following the aforementioned investigation, the Borough’s Labor Attorney determined that certain interactions between Bradley Beach Councilman Al Gubitosi and -employee(s) of the Borough violated the Borough’s employment policies and procedures;

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor & Council of the Borough of Bradley Beach, County of Monmouth, State of New Jersey hereby publicly censure Councilman Al Gubitosi for improper interaction with Borough employee(s) and direct him to cease further interactions with other Borough officials and employees that may lead to potential liability on the part of the Borough.

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be placed in the personnel file of Councilman Al Gubitosi.

ON MOTION by Fox/Sexsmith to adopt Resolution 2022-233.

**Councilman Bonnell voted no and stated he has not seen any reports, he did the resolution prior to the meeting, and is not aware what the censure is about.**

**Councilman Weber voted no and will not vote on resolutions he did not receive prior to the meeting.**

**Mayor Fox explained the Executive Session scheduled for this evening that did not occur was to review this resolution and feels the Executive Session was blocked for purposes of not addressing this situation.**

**Mayor Fox has addressed concerns about ongoing problem issues relative to the treatment of professionals and employees in past meetings and feels responsible to protect the Borough from lawsuits and inappropriate behavior. Mayor Fox continued he takes this very seriously and hoped to have this review in an Executive Session and felt this needed to move forward.**

**ROLL CALL:**

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

**RESOLUTION FAILED; NOT ADOPTED**

**Councilman Gubitosi stated he was stunned by the process being referred this evening and stated he asked several times to see the documentation and discovered the resolution was prepared in advance of the meeting and not given to Council until this evening. Councilman Gubitosi stated he has still not seen the investigation report to date.**

**Councilman Gubitosi read the following statement:**

**There was an employee complaint filed against me, and after an investigation by attorneys, the Mayor and Council President Sexsmith have decided to present a Resolution to the Council which would publicly censure me.**

**First of all, what is Public Censure? (I had just two days' notice to figure it out). Our Borough attorneys have given me no insight. Mayor Fox surprised me with the notice of this action via certified mail, just two days ago. From what I can tell, "Censure" means:**

***"An official expression of disapproval or condemnation. It may result in a written reprimand, and it could serve as notice that future violations may be cause for more severe disciplinary action."***

**So let me start with the obvious... THE CLAIMS AGAINST ME ARE FALSE! This so-called, "objective" investigation by an "independent" attorney was - in plain English - a SHAM. After a four-month investigation, I have been given TWO days' notice of these findings - and two days' notice of the Mayor's plans for my public censure. This item was added to tonight's Agenda - and shared with the Public MONDAY EVENING -- without notifying the Council. Up until the start of tonight's meeting, the Council STILL was not provided with the language for the Censure Resolution -- and yet, the Council is expected to vote on this Resolution tonight. All aspects of this process have been carefully orchestrated by the Mayor to provide me with no time to even research what "Public Censure" means!**

**Fundamentally, this "Investigation Process" is intended to protect employees from harassment. Employees have every right to file a "Claim" if they believe they are being harassed by an individual. What SHOULD follow is an "Unbiased," "Objective" and "Independent" investigation of the veracity of that Employee's claim. In this circumstance, there is simply too much evidence of bias and bad motives to consider this process anything other than what it is... a SHAM. Specifically:**

**The so-called "Independent" attorney who conducted the investigation works for the same law firm that serves as the Borough's Labor Attorney. Any "Independent" investigation should have been conducted by Legal Counsel with no existing "ties" to the Borough and to Mayor Fox.**

**When I was first notified of an employee complaint filed against me in May of this year, I asked for the specifics of the "complaint" language. The investigating attorney provided this detail and I have those original complaints, in writing... Guess what? Four months later - and just two days ago - I was given a certified letter from Mayor Fox (not by the Law Firm) determining that I have violated policies of the employee handbook. However, the law firm has never contacted me regarding the results of their**

investigation. The original complaints were never addressed in the letter that I received from Mayor Fox. This is likely because the original complaints were unfounded. I guess new complaints had to be created; complaints that were never shared with me until two days ago.

Also, in May, I asked the investigating attorney who else would be interviewed during his investigation process. He mentioned Mayor Fox and Council President Sexsmith, two of my political opponents. Let us just say that I perceived the deck to be heavily “stacked against me.” I specifically requested that our other two Council members, Mr. Weber and Mr. Bonnell, also be included in interviews. They were privy to the circumstances related to the initial complaints. The investigating attorney agreed to include them. However, a funny thing happened during the investigation over the next four months, Council members Weber and Bonnell were never approached to be interviewed. If this investigation were intended to be fair and objective, why wouldn’t all “witnesses” to the original complaints be included in the interview process?

Importantly, the so-called “FACTS” cited in the letter I received, do not add up. These “facts” are clearly flawed and unsubstantiated. They reference dates that do not align with actual meetings held -- and they declare me responsible for “excessive criticism and constant disagreement.” 1) “EXCESSIVE CRITICISM”... and 2) “CONSTANT DISAGREEMENT”. The accusation of “Excessive” criticism can be easily refuted by a review of my very professional email correspondence. As for “Constant Disagreement”? That may be true, I was in “constant disagreement” with the Administration’s efforts to dramatically increase the Borough’s budget for “Salaries and Wages.” However, I do not understand why “constant disagreement” is referenced as a charge of guilt? How is “constant disagreement” by a Council member, during ongoing debate over budget issues, allowed to serve as a basis for my “Public Censure”? I am proud of the fact that my “constant disagreement” led to a reduction in our 2022 budgets of over \$300,000 and a reduction in our residents’ taxes!

To date, I have not received a formal report of the lawyer’s findings. So let me understand, I am being publicly Censured on two days’ notice, based upon a “Non-Independent” Attorney’s investigation. An attorney who still has not delivered his findings to me? Instead, I receive a letter from Mayor Fox, a very biased, non-attorney, who has supposedly summarized the attorney’s report in a certified letter to me. This letter, dated September 20, 2022 (a week ago) was only delivered to me two days ago. What is really interesting is that there is clear evidence that this letter was drafted on August 24<sup>th</sup> - over one month ago! Why would the Mayor wait over a month? And now, Mayor Fox and Council President Sexsmith have worked together, without any other Council involvement, to add my “Public Censure” to tonight’s agenda? Does this sound like fair “Due Process” or does it sound like biased “Political Gamesmanship”?

Despite my lack of awareness of the so-called “Evidence” against me until two days ago, apparently the results of the attorney’s report had already been shared with members of the public and with Council President Sexsmith. I can NOW appreciate that Council President Sexsmith’s Facebook posts over recent weeks have clearly hinted at his “insider knowledge” of the results of this investigation. All this time, I remained unaware of the “revised” complaints against me. On this note, let me state clearly: I plan to pursue recourse for any violations - both legal and ethical - resulting from the inappropriate public dissemination of this supposedly CONFIDENTIAL report. Again, this serves as further evidence of “bad politics;” unethically manipulating what should have been an unbiased, confidential, review process.

In conclusion, this entire process has made a mockery of the system we have in place today. It is a system intended to OBJECTIVELY, FAIRLY, evaluate employee complaints. Instead, this has become a new tool in the Mayor’s political arsenal to disparage my reputation. Perhaps it is a good thing, because this biased, mean-spirited, miscarriage of justice will serve to expose everything that is wrong with politics in Bradley Beach today. Did I ask a LOT of questions of the Mayor and our Borough employees?

**YES, I DID. IS THAT GROUNDS FOR CALLS OF HARASSMENT AND PUBLIC CENSURE? I CLEARLY THINK NOT.**

**As a Councilman, I represent the people of Bradley Beach. I would like to work collaboratively with this Administration, but I do NOT represent this Administration. I represent the people. Mayor Fox often refers to people who do not agree with him as “divisive” or as “factions” within our Community. So, feel free to call me divisive as well -- because I do not always see “eye to eye” with the Mayor. Interestingly, I THINK THAT MY MANY DISAGREEMENTS WITH MAYOR FOX HAVE SERVED OUR RESIDENTS WELL.**

**Here is my “Bottom line.” As long as I am on this Council, I will continue to ask questions of our Mayor and his Administration. My questions will always serve the public’s best interest. That is my pledge to everyone in this Borough, including Mayor Fox.**

**Finally, I would like to thank my wife Anne, who is in the audience tonight, in support of me. I encouraged her to “stay home” and to avoid the tension that this would create. However, she insisted on being here, and I love her for it. Thank you, Anne.**

**Councilman Sexsmith stated a Borough employee voiced a complaint to him about harassment by Councilman Gubitosi to which he contacted the Mayor and Labor Attorney and stated this was the extent of his involvement in this investigation. Councilman Sexsmith stated he has not seen the report.**

**Councilman Sexsmith made a motion to release the Employee Complaint Investigation Report to the Public with the sufficient redactions to protect the employee.**

**ROLL CALL:**

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

**Mr. Cannon stressed to the public to conduct themselves accordingly and not speak aloud randomly.**

**Councilman Weber asked Mr. Cannon if releasing the report publicly is allowed.**

**Mr. Cannon stated it can be released, but does not feel this is a best practice. Mr. Cannon also strongly stated there are employees involved in this that have employment rights and liability. Whatever the debates are in the room will be secondary to the rights of the taxpayer liability dollars.**

**Mayor Fox stated he acted on a complaint and will continue to do so and investigate any complaints that come up. Mayor Fox stated this situation was delayed by over two months by Councilman Gubitosi and his attorney. Mayor Fox wanted to provide the Council the opportunity this evening to read this report and they opted not to do it. Mayor Fox continued the reason a particular Councilman was interviewed was because he was in the room when a specific incident occurred.**

**ANNOUNCEMENTS: None**

**MAYOR AND COUNCIL REPORTS:**

**Councilman Bonnell:**

Gave weekly activity reports for the Fire and First Aid Departments.

**Councilman Gubitosi:**

Gave updates for the Sylvan Lake Committee and the Fletcher Lake Committee.

**Councilman Sexsmith:**

Thanked the Bradley Beach Fire Department for taking part in the “Make -A-Wish” ceremony this past week.

Gave the weekly Police Department Activity Report.

**Councilman Weber:**

- Spoke about the lawsuit in 2019.
- The Bus Load of Books Organization visited the Bradley Beach Elementary School today and BBES was the only school visited in the State of New Jersey.
- Mentioned Latin Fest which occurred 9/18/22 was a success.
- The Shade Tree Commission will be doing a planting on 10/8/22.

**Mayor Fox:**

I know this was a difficult meeting in a number of ways. The very things I mentioned at our last meeting

- Respect for our Professional Staff and Boards by hastily and irrationally conducting a workshop for questionable motives.
- An ordinance introduction for the elimination of hotels and motels without the benefit of the Planning Board or Borough Planner inputs.
- An ordinance adoption that is a “power and control” move that will inevitably cause issues in the future.

I mentioned last week that there is an exasperating number that is a problem for our community; that number is ten. What am I referencing? Key position turnover over the last few years:

CFO's-	Three
Business Administrators-	Three
Borough Attorneys-	Two
Clerks-	Two
	Total: Ten

That this is not normal.

The Public Censure is not something I relish. Unfortunately, the message was NOT getting through and given the level of complaints I have received of late, transparency to the extent possible and recognition of the current climate is important to recognize.

If ANYONE thinks there is a political motivation with a pending election, I can tell you that the delays in scheduling, completing the investigation, and the availability of Councilman Gubitosi and his Counsel caused almost two months delay in concluding this review.



**The misinformation and “gaslighting” effort on social media of a dozen or so “topics” has not ceased. Unfortunately, the latest post is pure inuendo. Very unfortunate and unacceptable, to say the least.**

**The most frustrating thing is that these are people’s careers and professional reputations that are at stake; but seem to be “at play;” and I use the word “play” in that sometimes I think actions by some have ZERO self-awareness nor a focus on all of our residents. We are back to “power and control” unfortunately.**

**I hope that there is an ability to conform to roles and responsibilities and move in a positive direction.**

**Mayor Fox also mentioned the following:**

- **The upcoming General Election.**
- **Thanked the Fire Department for participating in the Make-A-Wish Ceremony**
- **The Fish Fry will take place on Friday, 10/7/22.**
- **The Fall Festival for 10/2/22 has been cancelled due to possible inclement weather.**
- **The next Connect and Quench meeting will take place on 10/6/22.**
- **There will be a Mayor’s Wellness Walk on Sunday, 10/16/22.**
- **The Latin Fest on 9/18/22 was a success.**

**Public Comment:**

**In Person:**

**Shana Greenblatt-Janoff, 414 Monmouth Avenue, voiced her opinions regarding the censure and behaviors of the professionals and administrative employees in the room.**

**Susan Pazinko, 507 Fifth Avenue, inquired about Employee Complaint Investigation Report.**

**Mr. Cannon addressed this inquiry.**

**Stephen Lozowick, 100 Ocean Avenue, expressed his disappointment and stated elected officials need to do better.**

**Linda Curtiss, 202 Third Avenue, announced the 40 year anniversary of the Bradley Beach Food Pantry.**

**Mary Backstrom, 218 Fourth Avenue, voiced opinions on how the harassment issue was handled and the censure.**

**Jack Gentempo, 103 Fourth Avenue, spoke in support of Councilman Gubitosi.**

**Julie Nutaitis, 605 Newark Avenue, stated she was appalled at the way the meeting was managed this evening and stated voiced complaints about the Mayor.**

**Rich Despina, 600 Third Avenue, requested providing the public with materials for workshops.**

**Thomas J. Coan, 612 Third Avenue, gave his opinions regarding the censure.**

**Jim Shissias, 102 Fourth Avenue, spoke in support of Councilman Gubitosi.**

**Brigitte McGuire, 610 Brinley Avenue, challenged the eligibility of a Council Candidate.**

Mr. Cannon addressed Ms. McGuire's inquiry.

Nancy Meadow, 805 Beach Avenue, voiced complaints on the following:

- Public emails should be listed on the Agenda.
- Emergency Shelters
- Communications regarding Borough events
- Law Enforcement

Cindy Lukenda, 218 Fourth Avenue, expressed opinions about the Governing Body and administration.

Debbie Bruynell, 401 Fifth Avenue, stated recent comments made about the fireplace at 414 Fourth Avenue were compliments and not meant as insults.

Jane DeNoble, 612 Third Avenue, spoke in support of Councilman Gubitosi.

Barb Kenny, 216 Brinley Avenue, voiced opinions about the Mayor and Council.

Thomas McGuire, 610 Brinley Avenue, inquired about misinformation on Facebook and requested Council Candidates to keep their commentary open to the public on social media.

Richard Davidson, 304 Fourth Avenue, commented on Ordinance 2022-12.

William Psiuk, 110 Fifth Avenue, spoke about the 2019 lawsuit and Superior Court rulings and the costs incurred.

Zoom: None

**ADJOURNMENT:**

ON MOTION by Fox/Bonnell to adjourn the Council Business Meeting.

ROLL CALL:

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

THE COUNCIL BUSINESS MEETING ADJOURNED AT 10:40 P.M.

  
Erica Kostyz, RMC, CMR  
Municipal Clerk