

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2023-04

AN ORDINANCE AMENDING CERTAIN PORTIONS OF CHAPTER 5: "ADMINISTRATION OF GOVERNMENT" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO MODIFY AND CLARIFY CERTAIN MEETING RULES, AGENDA GUIDELINES, APPOINTMENT POWERS, AND PURCHASING PROCEDURES.

Councilman Gubitosi offered the following Ordinance and moved its introduction:

BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Section 5-9: "Rules of Procedure at Meetings" of Chapter 5: "Administration of Government" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 5

ADMINISTRATION OF GOVERNMENT

ARTICLE I ORGANIZATION, POWERS, MEETINGS, AND RULES OF BOROUGH COUNCIL.

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§ 5-9 Rules of Procedure at Meetings.

A. *Agenda.* The process for the development of the Agenda follows:

1. The preliminary agenda for each regular meeting of the Borough Council shall be prepared by the Clerk, and delivered for Council review, at least seven (7) calendar days (168 hours) prior to the opening of the scheduled meeting.
2. ~~The~~Any member of the Council ~~must confirm and approve any proposed modifications to~~may submit matters of Council business to the Clerk to be included in the preliminary agenda at least 4 calendar days (96 hours) one-hundred fifty (150) hours prior to the opening of the scheduled meeting. Any matter submitted to the Clerk after the 150-hour deadline shall not be included in the upcoming scheduled meeting, but shall be listed by the Clerk on the agenda for the next scheduled meeting thereafter.

~~3. Approval must be made by a majority of Council (at least three Council members) to finalize the Agenda for public distribution.~~

43. The Agenda for each regular meeting of the Council must be made available to the public and the Council members at least ~~2 business days (48 hours)~~ 72 hours prior to the opening of the meeting in accordance with N.J.S.A. 10:4-8D.

B. Items of business, excluding ordinances and as otherwise provided by law, which the Borough Council has unanimously determined to be routine and which do not require discussions, shall be included under a single section of the agenda known as the "consent agenda." Such items may be adopted or approved, as the case may be, upon a single motion and approval thereof by vote of a simple majority of the Borough Council. The consent agenda section of the agenda shall be preceded by an explanatory note substantially set forth as follows: "All matters listed under item Consent Agenda are considered routine by the Borough Council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired on any item, that item will be considered separately."

C. *Order of business.* All regular and special meetings of the Borough Council shall commence promptly at the hour designated, if practicable. Unless otherwise authorized by resolution or motion of Council, all business coming before the Council shall be heard and voted on in the following order:

- (1) Call to order.
- (2) Pledge of Allegiance.
- (3) Open Public Meetings Act statement.
- (4) Roll call.
- (5) Workshop discussion.
- (6) Presentations: receipt of bids or petitions.
- (7) Approval of minutes.
- (8) Public comments on agenda items. There is a five-minute limit on public comments on agenda items.
- (9) Ordinances. There is a five-minute limit on public comments for Ordinance introductions and for Ordinance adoptions.
- (10) Communications.
- (11) Resolutions.

- (12) Announcements.
- (13) Reports of Mayor and Council.
- (14) Public comments: There is a five-minute limit on comments
- (15) Executive Session (pursuant to N.J.S.A. 10:4-13 et seq., if necessary).
- (16) Adjournment.

- D. *Call to order.* The Mayor shall call each meeting to order. In his or her absence, the President of the Council shall call the meeting to order and shall preside during the absence of the Mayor. The Mayor shall assume the chair as soon as he or she is in attendance at any meeting which may have been called to order in his absence, and the President of the Council shall thereupon relinquish the chair.
- E. *Presiding officer.* The presiding officer shall:
 - 1. State the question and announce the result on all matters upon which the Council may vote.
 - 2. Rule on all questions of order, subject to appeal to the Council.
 - 3. Sign the minutes of all meetings of the Council.
- F. *Quorum call.* At the opening of each meeting of the Borough Council, the Clerk shall call the roll, and the names of those present shall be recorded in the minutes. Three members of the Council shall constitute a quorum for the conduct of business. If a quorum is not present by 1/2 hour after the appointed time for any meeting, the meeting shall be deemed adjourned. Upon completion of the roll call, the Clerk shall also announce the names of all other persons present at the meeting who are either Borough employees or providers of professional services to the Borough, and not otherwise part of the official roll call.
- G. *Distribution and reading of minutes.* The Clerk shall, insofar as is practicable, prepare and distribute to the Borough Council the minutes of each meeting within 15 days of the meeting. The minutes of any meeting may be approved without reading whenever they have been distributed at least 24 hours prior to the time of approval. The Clerk shall promptly post a copy of the approved minutes in a public place in the Municipal Building and shall leave such copy posted for 30 days.
- H. *Committees.* The Rules of the Borough Council shall, insofar as applicable, govern meetings of the committee of the whole (work session meetings of Council) and other committees of the Council which may be appointed from time to time. Special committees of the Council for legislative purposes may be appointed by the Mayor ~~with advice and consent of Council, pursuant to resolution.~~ No special committee shall normally report on a matter referred to it at the same meeting at which reference is made, except by unanimous consent of the members of the committee.

I. *Nominations and appointment.*

1. Nominations submitted by the Mayor will be considered at the work session meetings of the Borough Council and may be confirmed by Council resolution at the next regular meeting. In the alternative, Mayoral nominations may be acted upon at the next regular meeting thereafter, the timing of which is at the sole discretion of the Mayor.
2. With respect to appointments to be made by the Borough Council, any member of the Council may nominate as many candidates as there are offices to be filled. The Council will consider such nominations in the committee of the whole, which will report to a regular meeting of Council. Where there is a single office to be filled, the opinions of the Council and the appointment shall be taken as to each nominee in alphabetical order, and the first nominee to receive a majority shall be deemed appointed. Where there is more than one office to be filled, such as a board, commission or authority, the same procedure shall be followed with respect to each office separately until the total number of appointments to be made has been completed. In the discretion of the Chair, a group of nominations may be considered at once where there is no apparent division in the Council as to the nominees included in the group.

J. *Addressing Council.*

1. Persons other than Council persons may be permitted to address the Borough Council in the proper order of business. A person present may, upon recognition by the Chair, be heard in the order of petitions of citizens and public discussion. A person present may, upon recognition by the Chair and with the consent of a majority of the Council persons present, be heard at any other time. No person shall address any remark or question to any specific Council person nor to any other person present except by permission of the majority of the Council. A Council person may, through the Chair, respond to any communication or address received pursuant to this section.
2. Except upon consent of the Borough Council, each person addressing the Council pursuant to this section shall be required to limit his or her remarks to five minutes and shall at no time engage in any personally offensive or abusive remarks. The Chair shall call any speaker to order who violates any provision of this rule.

K. *Decorum.*

1. Each member of the Borough Council shall cooperate with the Chair in preserving order and decorum, and no member shall, by conversation or otherwise, delay or interrupt the proceedings of the Council, disturb any member while speaking or fail to abide by the orders of the Council or its presiding officer, except as specifically permitted by these rules.
2. Any person who shall disturb the peace of the Borough Council, make impertinent or slanderous remarks or conduct himself in a boisterous manner while addressing the Council shall be forthwith barred by the presiding officer from further remarks before the Council, except that if the speaker shall submit to proper order under these rules, permission for him to continue may be granted by majority vote of the Council.

- L. Filing of reports, petitions and resolutions. All reports to the Borough Council and all resolutions and all petitions shall be filed with the Clerk and referenced in the minutes of the Council.
- M. Adjournment. A motion to adjourn shall always be in order and shall be decided without debate.
- N. Roll call votes; minutes. The vote upon every motion, resolution or ordinance shall be taken by roll call. The vote shall be "aye" or "nay," or words to that effect, of affirmative or negative by each member, and there shall be no further discussion following the commencement of the roll call. The vote of each member shall be entered on the minutes. Any member of the Borough Council may abstain from voting at any time. When the roll is called on any question, the silence of a Council person present shall constitute an affirmative vote, unless he or she states that he or she abstains, in which event the abstention shall not count as a vote. "aye" or "nay." The question shall be determined by a majority of those members voting unless otherwise provided by law. The minutes of each meeting shall be signed by the officer presiding and by the Borough Clerk.
- O. Rules.
 1. Except as otherwise provided by this article or other provisions of the chapter or state statute, all meetings of the Borough Council shall be conducted in accordance with the provisions of the most recent edition of Robert's Rules of Order, Revised. The Borough Attorney, or his or her representative, shall serve as parliamentarian for all such meetings.
 2. No rule or general regulation made by any department, board, officer, agency or authority of the Borough shall take effect until it is approved by the Mayor and filed with the Borough Clerk. The Borough Clerk shall maintain a current compilation of all such rules and regulations, which shall be available for public inspection in his or her office during business hours.

SECTION 2. Section 5-11: "Powers and Duties" of Chapter 5: "Administration of Government" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 5

ADMINISTRATION OF GOVERNMENT

ARTICLE II MAYOR

* * *

§ 5-11 Powers and Duties.

A. The Mayor shall be the chief executive of the Borough. He or she shall:

- (1) Enforce the Charter and all laws and ordinances in effect within the Borough.

- (2) Exclusively supervise all of the departments of the Borough government and serve as department head in the absence of such an office or appointment existing.
- (3) Ensure the efficient and effective operation of all of the departments of the Borough government, in accordance with general law, the Charter, this chapter and other municipal ordinances.
- (4) Ensure that all inquiries to the Borough government are promptly assigned to the appropriate department for action.
- (5) Appoint, with the advice and consent of the Borough Council, the Business Administrator, Chief Financial Officer, Auditor, Borough Engineer, Tax Assessor, Tax Collector, Borough Attorney, Borough Clerk, Borough Planner, OPRA Attorney, Labor Attorney, Bond Attorney, Affordable Housing Attorney, Tax Appeals Attorney, Coastal Engineer, Sewer Engineer, and a Treasurer, and all such other officers as may be provided by ordinance, and/or pursuant to N.J.S.A. 40:69A-122.
- (6) Appoint a Finance Committee of the Borough Council, pursuant to N.J.S.A. 40:69A-123.
- (7) Appoint such other legislative committees of the Borough Council as he may deem necessary.
- (8) Appoint all officers and employees where appointment or election is not otherwise provided for in the Charter or by general law, pursuant to N.J.S.A. 40:69A-124.
- (9) Develop a Personnel Code establishing regulations governing Borough policies and procedures relating to the following:
 - a. Rights and duties of Borough employees as to hours of employment, vacations, leave, compensation and other terms and conditions of employment;
 - b. Guaranteeing that all appointments and promotions shall be based upon qualifications and demonstrated performance; and
 - c. Providing for a system of periodic evaluations of the performance of all temporary, part-time and full-time employees.
- (10) Recruit and select persons qualified by either training or experience for the respective offices, positions or employments.
- (11) Require each department, board, commission or other municipal body to make an annual report and such other municipal reports of its work as he may deem desirable.
- (12) Report annually, within the first 60 days of the year and at such other times as he may deem desirable, to the Borough Council and to the public on the condition and on the requirements of the Borough and upon its problems of government

- (13) Make such other reports to the Borough Council and to the public and such recommendations to Council for action as he may deem in the public interest.
- (14) Provide a liaison with agencies of the United States, State of New Jersey and with official bodies of other municipalities on matters affecting the Borough and/or its citizens.
- (15) Prepare the annual budget, with the assistance of the Treasurer and the Auditor and with the cooperation of the members of the Finance Committee of the Borough Council, and present the budget to the Council for consideration by January ~~31~~15 of each year, or as soon thereafter as practical.
- (16) Call special or emergency meetings of the Borough Council as provided by the Charter and this chapter.

B. The Mayor shall be a member of the Borough Council. He or she shall:

- 1. Participate in meetings of the Council and vote as other Council members.
- 2. Preside over the meetings of the Council.
- 3. While presiding over meetings of the Council, have the right to move, second and to debate from the Chair and shall not be deprived of any right to vote or any other rights, powers or duties of a Council person by virtue of his or her presiding over the meeting.

SECTION 3. Section 5-14: "Rules of Procedure at Meetings" of Chapter 5: "Administration of Government" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 5

ADMINISTRATION OF GOVERNMENT

ARTICLE III DEPARTMENTS AND OFFICES.

* * *

§ 5-14 Department Heads and Subordinates.

- A. The Mayor shall recruit, select and appoint persons qualified by training and experience for their respective office as department heads. Department heads shall be employees of the Borough.
- B. Each department head shall serve during the term of the Mayor appointing him, unless removed from office by the Mayor, and shall continue to serve until a successor is appointed and qualified.

- C. Each department head serves at the pleasure of the Mayor regardless of the term of appointment, except as otherwise provided by law.
- D. Personnel subordinate to the head of a department shall be appointed by the Mayor, except as may otherwise be provided by this chapter, and shall serve during the Mayor's term, unless otherwise provided by the Charter, general law, this chapter or other ordinances.
- E. Personnel subordinate to the head of a department may be removed by the head with the approval of the Mayor, unless otherwise provided by the Charter, general law, this chapter or other ordinances.
- F. Nothing in this article shall be construed to prevent the Mayor from appointing to any position for which the Mayor has the responsibility of making appointments either himself or another appointed municipal officer, except as specifically prohibited by the Charter, general law or this chapter.
- G. The Mayor shall report to the Borough Council on his or her appointments to the position of department heads and subordinate personnel within 30 days of assuming office, except as otherwise provided by the Charter, general law, this chapter or other ordinances.
- H. No new department, division, office, officer or employee position shall be created except by action of the Borough Council, and no existing department, division, office, officer or employee position shall be abolished except by action of the Council.
- I. The creation and/or the abolition of any position by Council shall be specifically noted as appropriate in the annual budget, and any ordinance establishing a new department, division, office, officer or employee position shall include a statement of the powers, duties and responsibilities of the function therein created, and this chapter shall be appropriately amended.
- J. Whenever a vacancy exists in any office required by the Charter or by this chapter to be filled by the Mayor with the advice and consent of the Borough Council ~~and there is no holdover incumbent~~, the Mayor may temporarily fill such vacancy, in the absence of any contrary provision in the Charter, general law or in this chapter, by appointing an acting officer. Such acting appointee shall have all of the functions, powers and duties of the office until it shall be permanently filled. Any such appointment shall terminate not later than 90 days after the date of the appointment, unless the Borough Council shall by resolution authorize one or more extensions of such a period. The Mayor shall make a permanent nomination to such office filled by an acting appointee within ten (10) days of the expiration of the acting appointment. If the Mayor shall fail to make a permanent nomination within ten (10) days or the Borough Council fails to confirm the permanent nomination by the Mayor within twenty (20) days of being presented such nomination, then the Borough Council shall make the appointment to that office.
- K. Unless otherwise provided specifically by this chapter or state statute, nothing contained herein shall prevent any officer or employee from serving under one or more titles, offices or positions under this form of government.

SECTION 4. Section 5-19: "Rules of Procedure at Meetings" of Chapter 5: "Administration of Government" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 5

ADMINISTRATION OF GOVERNMENT

ARTICLE IV DEPARTMENT OF ADMINISTRATION.

* * *

§ 5-19 Establishment; Administrator in Charge; Agencies within Department.

There is hereby established the Department of Administration, the head of which shall be the Borough Administrator, in whose absence or by virtue of no appointment having been made the Mayor shall perform the duties, and he or she shall assist the Mayor in supervising and directing all departments of the Borough and shall specifically oversee the following offices and divisions, as well as provide support services for the Mayor and Borough Council:

- A. Office of Personnel.
- B. Office of Borough Attorney.
- C. Office of Borough Engineer.

(1) The Borough Engineer shall be assigned to the Department of Administration. He or she shall be appointed by the Administrator-Mayor with the advice and consent of the Borough Council to serve for a term of one-three years under N.J.S.A. 40A:9-140, unless said term be otherwise limited by the Local Public Contracts Law when such position is filled by a professional service contractor, or by other general law. and The Borough Engineer shall be a licensed professional engineer of the State of New Jersey, but need not be a resident of the Borough. When directed by the Borough Council he or she shall:

- (a) Make examinations, prepare surveys, levels, plans, profiles, measurements, delineations, estimates, specifications and contracts for the construction and repair of streets, alleys, culverts, drains, sewers, sidewalks and other public works and improvements undertaken by the Borough, either on force account or by public contract.
- (b) Supervise all such public works and furnish certificates upon their partial or final completion.
- (c) Provide and maintain surveys, maps, plans, specifications, and control records with respect to all public works and facilities owned or operated by the Borough, except as otherwise directed by the Borough Council.

- (d) Provide technical and engineering advice and assistance to other Borough departments as needed, and perform all other services which may properly be performed by a civil engineer and of which the Borough has need, unless such services are specifically delegated to some other officer or department of the Borough.
- (2) All papers, documents, memoranda, reports, original maps, and tracings, and other materials relating to the administration of engineering duties of the Borough Engineer shall be and remain the property of the Borough. On the termination of his services with the Borough, the Borough Engineer shall surrender to his successor any and all such property.

D. Municipal Court.

- (1) Established; powers. There shall be a Municipal Court of the Borough pursuant to the provisions of Chapter 293 of the Laws of 1993 (N.J.S.A. 2B:12-1 et seq.), as amended and supplemented, to be known as the "Municipal Court of the Borough of Bradley Beach." The Municipal Court shall have a seal bearing the impress and name of the Court. The Municipal Court shall be held in the Borough Hall or in such other place as the Borough Council shall from time to time designate by resolution. It shall exercise all the functions, powers, duties and jurisdiction conferred upon municipal courts by the provisions of Chapter 293 of the Laws of 1993 (N.J.S.A. 2B:12-1 et seq.), as amended and supplemented, or by any other law.
- (2) Municipal Judge; powers and duties. There shall be a Judge of the Municipal Court, appointed by the Borough Council, who shall serve for a term of three years from the date of appointment and until a successor is appointed and qualifies. The Municipal Judge shall possess the qualifications and shall have and exercise all the functions, duties, powers and jurisdiction conferred by Chapter 293 of the Laws of 1993 (N.J.S.A. 2B:12-1 et seq.), as amended and supplemented, or by any other general law or ordinance.
- (3) Municipal Court Administrator. There shall be an Administrator of the Municipal Court, who shall be appointed by the Borough Council for a term of three years and who shall perform the functions and duties prescribed for him by law, by the rules applicable to municipal courts and by the Municipal Judge. His duties shall include, but shall not be limited to:
 - (a) Carrying out the rules, regulations, policies and procedures relating to the operation of the Court.
 - (b) Interviewing and speaking to prospective complainants, receiving complaints and dispensing information relating to Court matters.
 - (c) Maintaining the financial records of the Court.

- (d) Attending Court, taking minutes of trials and entering them in the docket; arranging trial calendars; signing Court documents; preparing and issuing warrants and commitments.
- (e) Taking and preparing bill bonds and making inquiry as to their sufficiency and equity; receiving and accounting for fines and costs.
- (f) Interviewing persons on informal Municipal Court matters to determine whether there is a basis for formal action and, if necessary, issuing summonses requiring Court appearances in this regard; maintaining and classifying records and files.

(4) Municipal Prosecutor and Assistant. There shall be a Municipal Prosecutor, who shall be appointed by the Borough Council, who shall have the powers and perform the duties required for the Office of Municipal Prosecutor by general law or ordinance of the Borough. There shall also be an Assistant Municipal Prosecutor, who shall have all of the powers and duties of the Municipal Prosecutor in the absence or disability of the Municipal Prosecutor.

E. Free Public Library.

F. The following agencies, boards, commissions and committees (for administration and coordination purposes: Board of Adjustment, Municipal Coordinators on Aging, Senior Citizen Information and Referral Program Coordinators, Community Development Program Representative, Environmental Commission, Local Assistance Board, Planning Board, Shade Tree Commission, representatives to the Neptune Regional Sewerage Authority, the Bradley Beach Housing Authority, and similar agencies, boards, commissions and committees).

G. Public Defender.

- (1) There is hereby established the position of Public Defender in the Borough of Bradley Beach.
- (2) Any person who makes an application for representation by the Borough of Bradley Beach Public Defender shall pay an application fee to the Borough of Bradley Beach in the amount of \$200.
- (3) The Municipal Court may waive the application fee in whole or in part if the Court determines in its discretion that the application fee represents an unreasonable burden on the person seeking such representation.

SECTION 5. Section 5-22(I): "Purchase Control" of Section 5-22: "Office of Chief Financial Officer Established; Duties; Purchasing" of Chapter 5: "Administration of Government" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 5

ADMINISTRATION OF GOVERNMENT

ARTICLE V DEPARTMENT OF FINANCE.

* * *

§ 5-22 Office of Chief Financial Officer Established; Duties; Purchasing.

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I. Purchase Control.

(17) All purchases, whether they are for supplies, materials, equipment, labor, or other contractual services for the Borough of Bradley Beach, shall be made by the Qualified Purchasing Agent pursuant to written requisition from the department head. The appropriation for the department shall be charged subsequent to certification by the Office of the Chief Financial Officer, setting forth that a sufficient unencumbered balance of detailed appropriation is available to pay therefor.

(18) The following guidelines apply to the obligation of the buyer to purchase at reasonable and economical levels:

<u>Aggregate Cost of Any 1 Item</u>	<u>Action Required</u>
\$0.01 to \$6,599.99	No quote required
Statutory minimum and over	Follow statutory procedure for public bid, where applicable and required
<u>Any professional service contracts exceeding \$4,000.00</u>	<u>Award said contract by Resolution of the governing body.</u>

(19) Where no quote is required or where verbal quotes are acceptable, the buyer shall establish a written record of purchasing experience.

(20) The Purchasing Agent shall set forth uniform standards for requisitions and purchases. The Purchasing Agent, or his or her representative, shall control the delivery of all supplies, materials, equipment and other items purchased and shall make or cause to be made proper test checks and inspections. The Purchasing Agent, or his or her representative, shall ascertain whether the supplies, materials, equipment and other items purchased comply with the specifications and shall cause laboratory or other tests to be made whenever, in the opinion of the department head, it is necessary to determine whether


the materials or supplies furnished are of the quality and standard required as part of the procedures for requisition and purchase.

SECTION 6. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 7. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 8. This Ordinance shall take effect upon adoption and publication in accordance with the laws of the State of New Jersey.

SO ORDAINED as aforesaid.


ERICA KOSTYZ
Municipal Clerk

Introduced: April 12, 2023

Date of Hearing and Adoption: April 26, 2023