

BOROUGH OF BRADLEY BEACH
COUNCIL BUSINESS MEETING MINUTES

MAY 24, 2023 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 THE ZOOM MEETING PLATFORM, BEING BROADCAST FROM BOROUGH HALL, 701 MAIN STREET, BRADLEY BEACH, NJ 07720. PUBLIC PARTICIPATION FOR THIS COUNCIL BUSINESS MEETING OF MAY 24, 2023 WAS AVAILABLE IN PERSON OR THROUGH THE ZOOM LINK POSTED TO THE WEBSITE. THE REMAINDER OF COUNCIL MEETINGS (RESOLUTION 2022-265 ADOPTED DECEMBER 13, 2022) FOR CALENDAR YEAR 2023 WAS ADVERTISED IN THE COAST STAR AND THE NEW COASTER ON DECEMBER 15, 2022 AND THE ASBURY PARK PRESS ON DECEMBER 17, 2022.

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 May 24, 2023 Council Business Meeting:

Councilwoman DeMarco, Councilwoman DeNoble, Councilman Gubitosi, Councilman Weber, Mayor Fox (Via Zoom arrived at 7:30 p.m.)

Interim Borough Administrator, Gregory C. Fehrenbach

Municipal Clerk, Erica Kostyz

Borough Attorney: Gregory Cannon, Esq.

Police Department: Police Chief, Leonard Guida and Detective Lieutenant Terry Browning

Deputy Municipal Clerk: Michele Whille (ZOOM operator)

WORKSHOP DISCUSSIONS:

Budget Review among Members of the Council only.

Mayor Fox:

We are holding a Budget hearing and adoption on June 14th. To summarize the budget introduced on May 10th. This budget has now been brought down to a true tax levy increase of 5.3%. The budget has recognized some increases in the context of an economy that has witnessed an inflation rate of more than that amount. I continue to feel this budget is prudent, practical, and manageable.

The budget retains the ability to continue providing the level of services to which residents and visitors have become accustomed. Any further reductions will necessitate reductions in services to the Bradley Beach community.

Budgeting is always a balancing act, seeking to provide desired, expected, and improved services at the least possible cost. That is the objective of this budget for the year 2023. Through the assistance of several people, we believe the objective has been achieved.

I appreciate the diligent work done. We have asked departments to make cuts that would not hurt us too much programmatically.

Mr. Fehrenbach stated the discussion this evening will be amongst members of the Governing Body only and is not meant to exclude the public from the discussion, but due to a statute that controls the manner in which a budget is reviewed and discussed. Once the budget is introduced, it is then a legal document and is the subject of a public hearing that is scheduled for June 14th. All public comments regarding the introduced budget must be on the record for that specific public hearing.

Councilman Gubitosi thanked Mr. Fehrenbach for answering several of his budget questions over the last few weeks and read the following prepared statement:

There is one overarching concern that I have with the proposed budget. To pay for all of our planned expenses, I believe we are “borrowing” more from our surplus than we can reasonably expect to repay. Historically, this Borough has consistently paid-back or “Replenished” 100% of our surplus. Until last year...

Only recently did the Council learn that last year, in 2022, we borrowed approximately \$1 million against our surplus, but only paid back \$700,000. This resulted in the Borough “dipping into” our surplus by \$300,000. In our 2023 budget, we are increasing the amount we borrow from the surplus from \$1 Million to \$1.5 million, but there is no evidence to suggest we can repay this full amount to our surplus. In fact, by my very rough estimates, it is likely that we will not replenish another \$500k or more. This could mean that in just two years, we may have drained our surplus by almost \$1 million. This would represent almost a third of the \$3 million surplus we held at the end of 2021.

This is clearly an unsustainable path. To put it simply, we are planning to spend more than we can afford to spend. There are only two things we can do to deliver sustainable budgets to our residents in the future: 1) Cut spending or 2) increase revenues; and no one wants us to increase revenues by increasing taxes).

I do not like this budget, but I may have to vote to adopt it. We do not have enough time as we sit here in late May to dramatically cut spending or to increase revenues for the remainder of 2023. If we do not borrow this \$1.5 Million from our surplus, we would have to raise your taxes, dollar for dollar. For example, reducing the anticipated surplus by \$600,000.00 would double the current proposed tax increase. Over the next few weeks, as we approach the budget adoption, we will discuss where we can make further cuts in spending or where we can increase revenues. Unfortunately, I think there is not enough time to “fix” 2023. We need to formulate an aggressive “cost management” plan immediately. The Council is officially asking the Mayor and our BA to develop a very specific budget management plan that will help us close out 2023 as cost effectively as possible, and that will position us for sustainability for 2024.

Mayor Fox asked Mr. Fehrenbach if he and the CFO completed a surplus replenishment analysis plan.

Mr. Fehrenbach stated the CFO produced a surplus rebuilding plan and discussed this with Councilman Gubitosi and Councilwoman DeNoble in which the CFO indicated that he would feel more comfortable if the surplus were being anticipated at a level of \$1.1 or \$1.2 million dollars instead of a \$1.5 million dollar level. While there is a concern being at the \$1.5 million level, the reason the surplus is at this level is because of the general concern to keep the property tax increase in 2023 as low as possible.

Councilman Gubitosi stated he did not receive reassurances from the BA or the CFO when he expressed these concerns that they were confident the surplus could be replenished.

Councilman Weber asked if the surplus replenishment plan was done on the original budget that was going to raise taxes 20%.

Mr. Fehrenbach addressed this inquiry and stated the analysis plan presented by the CFO was not going to change based upon the amount of the tax increase because the CFO was going through an analysis of where there would be money coming back into fund balance from what sources and the amount coming back from property taxes was not going to change on the assumption an equivalent amount was going to be spent. This budget was brought down by not affecting the revenue side but by affecting the expenditure side. Because of this the CFO’s analysis would not have differed in terms of the tax levy for 2023.

Mayor Fox stated this is a moderate risk with some potential offsets.

Further discussions ensued between Councilman Gubitosi and Mr. Fehrenbach regarding budget amendments, volunteer organizations, Biase Center roof repairs, funds for Capital purposes, salary increases, DPW expenses and salary increases.

Councilman Gubitosi stated salary increase concerns between 2021 and 2022.

Mr. Fehrenbach stated the data being sought is from different time, place, and personnel. The records may not be as accurate and it is possible the answers to questions may not be found.

Further discussions took place regarding the Police Department salaries and Crossing Guard costs, capital outlays, amendments, special consultants and special events.

Mr. Fehrenbach stated a budget without amendments is easier to process, however this would be up to the Governing Body.

Councilwoman DeNoble inquired about a public safety vehicle in the capital outlay.

Mr. Fehrenbach responded this is the replacement of a Police vehicle in poor condition.

Councilwoman DeNoble suggested doing a vehicle asset inventory.

Councilman Weber inquired if the amount for Fire Department utilities has been increased.

Mr. Fehrenbach gave a detailed explanation of the transfer of funds for the Fire Department utilities.

Councilwoman DeMarco asked what Mr. Fehrenbach’s recommendation is for legal fees that are that are unaccounted for.

Mr. Fehrenbach suggested putting funds into the legal services account if there is going to be a budget amendment. If there will not be a budget amendment, Mr. Fehernbach stated he believes there is enough flexibility in the existing budget to do inter account transfers in November.

Public Comments for this Workshop discussion: None

BIDS:

Newark Avenue Concession Bid Opening

Clerk Kostyz confirmed no bids were received for this concession prior to the meeting and Counselor Cannon confirmed there were no bidders in the room during the meeting.

An interested party from Rocco’s Pizzeria in Bradley Beach expressed possible interest in this concession. They were advised to contact the Interim Administrator.

Beach Umbrellas & Beach Chairs Concession Bid Opening

Clerk Kostyz confirmed no bids were received for this concession prior to the meeting and Counselor Cannon confirmed no bids were received for this concession prior to the meeting and Counselor Cannon confirmed there were no bidders in the room during the meeting.

PRESENTATIONS:

A Proclamation recognizing Pride Month was read by Municipal Clerk Erica Kostyz

WHEREAS, the Governing Body of the Borough of Bradley Beach recognizes and proclaims the month of June 2023 as Lesbian, Gay, Bisexual, Transgender and Queer/Questioning and Plus (LGBTQ+) “Pride Month”; and

WHEREAS, all human beings are born free and equal in dignity and rights. LGBTQ+ individuals have had immeasurable impact to the cultural, civic, and economic successes of our country; and

WHEREAS, the Borough of Bradley Beach is committed to supporting visibility, dignity and equality for LGBTQ people in our diverse community; and

WHEREAS, while society at large increasingly supports LGBTQ equality, it is essential to acknowledge that the need for education and awareness remains vital to end discrimination and prejudice; and

WHEREAS, this nation was founded on the principle that every individual has infinite dignity and worth, and the Governing Body calls upon the people of this municipality to embrace this principle and work to eliminate prejudice everywhere it exists; and

WHEREAS, celebrating Pride Month influences awareness and provides support and advocacy for the LGBTQ community, and is an opportunity to take action and engage in dialogue to strengthen alliances, build acceptance and advance equal rights.

NOW, THEREFORE BE IT RESOLVED that the Governing Body hereby proclaims the month of June 2023 as Pride Month in support of the LGBTQ+ Community.

MINUTES APPROVAL

ON MOTION by Fox/Gubitosi to approve the Special Meeting/Executive Session Minutes of May 4, 2023.

ROLL CALL:

AYES: DeNoble, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: None
ABSTAIN: DeMarco

APPROVED

ON MOTION by Fox/Gubitosi to approve the Council Business Meeting Minutes of May 10, 2023.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber
NAYS: None
ABSENT: to None
ABSTAIN: Mayor Fox

APPROVED

ON MOTION by Fox/DeMarco to approve the Executive Session Minutes of May 10, 2023.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber
NAYS: None
ABSENT: None
ABSTAIN: Mayor Fox

APPROVED

Public Comments on Agenda Items:

In Person:

Thomas J. Coan, 612 Third Avenue,

- **Commended Rally Cap Sports named in Resolution 2023-164 for running a nice program and feels this is an asset to the town.**
- **Expressed concerns regarding the Special Council Communications Memo.**
- **Stated he is in favor of Ordinance 2023-9.**

Nancy Meadow, 805 Beach Avenue

- **Expressed concerns about Resolution 2023-127A not being on the website until this afternoon.**
Note: Clerk Kostyz addressed the reason for this.
- **Stated she is in favor of Ordinance 2023-9**
- **Expressed concerns regarding the Special Counsel Communications Memo.**

Linda Duffy, 312 Brinley Avenue, requested more clarification in Ordinance 2023-9 regarding usage of power tools.

Larry Bagwell, 305 Park Place Avenue, expressed concerns with Resolution 2023-166 in relation to the Shade Tree Commission.

Anita Nazario, 116 Newark Avenue, inquired about commercial and residential construction included in Ordinance 2023-9.

Mr. Cannon addressed this inquiry.

Steve Fisher, 506 Monmouth Avenue, stated he is in favor of Ordinance 2023-9.

Eileen Shissias, 112 Fourth Avenue, complained about invoices on the bill list that are from 2022 that are being paid now.

ZOOM:

Shana Greenblatt-Janoff, 414 Monmouth Avenue,

- **Requested clarity on what type of companies/workers are included in the change to Ordinance 2023-9 and enforcement/compliance methods.**
- **Inquired about the Communications memo regarding Special Council to the Mayor.**

Mayor Fox stated he would be addressing this memo later in the meeting.

Email Public Comment:

Tim Sexsmith, 500 LaReine Avenue, regarding Ordinance 2023-9 amending chapter 310-3 - Noise. This ordinance revision is an attempt at implementing even more government overreach and is being pursued by a small segment of the population who want to change the very character of Bradley Beach in an attempt to make our town more like Spring Lake or Deal. It casts aside the property rights of residents who must work full time jobs and do not have the luxury of completing their construction projects during the week. Lastly, this ordinance lacks an emergency response clause allowing work to be completed to secure unsafe structures or property features following a fire or other disaster that may strike a property or neighborhood. This ordinance should be withdrawn, redrafted and re-workshopped prior to being reintroduced.

ORDINANCE INTRODUCTION(S):

BOND ORDINANCE 2023-08

BOND ORDINANCE PROVIDING FOR SEWER IMPROVEMENTS ALONG PARK PLACE AVENUE AND FIFTH AVENUE, APPROPRIATING \$500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$475,000 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/DeMarco to introduce Bond Ordinance 2023-8.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

INTRODUCED

ORDINANCE 2023-9

AN ORDINANCE AMENDING SECTION 310-3: “UNLAWFUL ACTS” OF CHAPTER 310: “NOISE” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO PROHIBIT CONSTRUCTION ACTIVITIES WITHIN THE BOROUGH ON WEEKENDS DURING THE SUMMER SEASON.

Mayor Fox stated the Governing Body will continue to receive feedback between the introduction and the adoption.

Mr. Feherenbach suggested the Borough Attorney provide the Council with an assessment.

Mr. Cannon clarified that the ordinance has an exception for emergency circumstances.

Councilwoman DeMarco asked Mr. Cannon if enforcement is addressed in the ordinance.

Mr. Cannon responded enforcement will be managed by the Code Enforcement Officer and the Police Department.

Councilman Weber requested clarity if a Code Enforcement Official will be available on the weekend if necessary and feels the ordinance needs an update.

Councilman Gubitosi stated he appreciated the audience participation and feels the language needs to be clearer and updated.

Further discussion ensued between the Governing Body and Mr. Cannon regarding a broader look at the noise ordinance language over all for a potential update.

ON MOTION by Gubitosi/Weber to table Ordinance 2023-9.

ROLL CALL:

AYES: DeMarco, Gubitosi, Weber
NAYS: DeNoble, Mayor Fox
ABSENT: None
ABSTAIN: None

TABLED

ORDINANCE ADOPTION(S): None

COMMUNICATIONS:

- **Recreation Summer Camp Employee Memo**
- **SLEO Seasonal Employee Memo**
- **Part-Time Fire Protections Subcode Official/Inspector Employee Memo.**
- **Beach Staff Seasonal Employee Memo.**
- **Appointment of Special Counsel to the Mayor**

Mayor Fox read the following statement regarding the Appointment of Special Counsel to the Mayor:

In 1992, the residents of Bradley Beach chose our current form of government. It is my responsibility to administer this form of government, until which time our residents choose to change it.

After a year and a half of disputes with the Council Members regarding the appropriate demarcation of legal roles and responsibilities in the operation of the Borough, I was compelled to seek relief from the courts to resolve this dispute. At the heart of it all, the question is whether the members of Council can adopt ordinances to dilute the legal powers and authorities granted to Mayors in this form of government. My understanding of the law is that the answer to this question is no. I believe we must adhere to the decision of the Bradley Beach electorate, who decided in 1992 to organize our government as it did. There are members of the Council who disagree and continue to encroach on the authority granted to my office by State Law and Borough Charter. We will now have to leave it to the court to resolve this dispute and I appreciate the patience of my colleagues here on the Council and the public as this matter is decided by the court. I remain open to working with my colleagues here on Council to continue to work forward on those matters that do not relate to this issue and remain hopeful we can resolve this amicably and in an expeditious manner.

To be clear, the actions I have taken are for the protection of our form of government. I take no pleasure in having to move in this direction; but the oath I took on January 1st, 2021, compels me to act on behalf of our residents.

A brief was filed today, May 24th, to remedy this situation and ensure we are conforming to the Small Municipality form of the Faulkner Act. On Wednesday, May 17th, I appointed Ms. Vicky Flynn Esq. as Special Counsel to litigate this matter.

Last Friday I communicated this to the Council, the Clerk and Business Administrator, and our Municipal Attorney and recommended that we postpone the Appointment Resolutions 2023-172, 2023-173, 2023-174, and 2023-175 on this Agenda.

Councilwoman DeNoble read the following statement in response to the Mayor's statement:

After any election, it is not uncommon for a clear review of all Borough Professionals, and new Professionals are brought in. In this case, which did not happen.

I was elected November 8th, 2022, but the first conversation I had about the hiring of Borough Professionals was on December 21st, 2022. When I was invited into Borough Hall for the first time and began discussing Professionals with Kim Humphrey and Mayor Fox. It was requested by the Mayor and Business Administrator that I make my decisions in nine days. I then had a lot of work ahead of me, in a short window.

I met with other Council members from surrounding towns to discuss their experience with past and present professionals.

I met with Mayors as well.

I attended Council meetings in other Municipalities.

I called many Professionals directly with questions.

I completed the weigh sheets as requested by Mayor Fox and Business Administrator Humphrey.

I did a lot of research and submitted a list of qualified professionals that I felt would best serve the residents of Bradley Beach.

I gave my advice as per the ordinances of our Borough. Apparently, it was not what Mayor Fox wanted to hear, and as he stated in an email it was "retribution and a power grab."

The Mayor sought legal advice from other Municipal Attorneys and our Tax Appeal Attorney who provided a ten page brief report - at the expense of the taxpayers. All while trying to find a way to avoid the Council's advice and consent, at any cost.

The Mayor also stated that advice and consent is a "rubber stamp" for his decisions and nominations. Take it from me, especially being a woman, consent is never a "rubber stamp."

I wonder who Mayor Fox is serving? Developers, Political Action Committees, Labor Unions, and Professionals that contributed to his campaign?

This last quarter of 2022, while not a Mayoral Election year, the "Larry Fox for Mayor" Committee report reflects \$4,700 in donations. One in particular was from a group called "Fix Asbury Park," in the amount of \$2,700. This specific donation comes with no contact person, address, email, or phone number. We really do not know who is backing Mayor Fox or the reasoning behind his dictatorial motives.

Bradley Beach does not need to be fixed, or overdeveloped because Bradley Beach is not for sale. I stand by my selections, just as I stand by the residents of Bradley Beach.

Councilman Gubitosi made a statement regarding the challenges in the last year regarding the form of Government and indicated the Council that is not being afforded the opportunity to play a role in the current form of Government regarding advice and consent and rights to certain appointment nominations and stated the Council has followed the advice of the Borough Attorney and does not

support this at the expense of the tax payers.

Mr. Cannon stated his position as the Borough Attorney and his role in this procedure.

Mayor Fox stated this is a matter of defending the Faulkner Act and corrected the “rubber stamp” comment made previously and stated his view of “advice and consent” is a “check and a balance.”

CONSENT AGENDA RESOLUTIONS:

2023-163 Bill List for May 24, 2023

2023-164 Approval for Rally Cap Sports to conduct Beach Volleyball for participants with special needs on Wednesdays in July and August at Cliff and Ocean Avenue.

2023-165 Award of ATM Machines on the Beachfront Promenade to Coastal ATM, LLC.

ON MOTION by Fox/DeNoble adopt the Consent Agenda Resolutions.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

Councilman Gubitosi made a statement regarding the HFA invoices on the bill list are covered by previous approvals by the Council and that he is watching payments to this vendor closely .

RESOLUTIONS ADOPTED

INDIVIDUAL RESOLUTIONS:

2023-127 (A) Authorizing the Borough Administrator to purchase a new roofing system and retain a Certified Contractor from a New Jersey State Purchasing Cooperative for the Biase Center and the Municipal Building in an amount not to exceed \$163,000. (Previously tabled 4/12, 4/26, and 5/10; Amended for 5/24)

Interim Administrator Fehrenbach gave an explanation of the work involved in this resolution.

Councilman Gubitosi stated he is in favor of voting yes for this to move forward with this project after learning this project will not affect the current year budget.

ON MOTION by Fox/Weber to adopt Resolution 2023-127(A) .

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ADOPTED

2023-166 A Resolution Ratifying the Waiver of \$50.00 Application Fees under Borough Code Section 425-10(f) of Chapter 425: “Trees” for certain properties required to remove or remediate hazardous trees.

Mayor Fox requested to change the language in the title of the resolution to read “red tag” trees in place of “hazardous” within the resolution title.

Councilwoman DeNoble clarified the waiver of this fee will apply to public property tree removal only.

Councilman Weber stated he would prefer to wait on this resolution until everyone named in the resolution has paid what is owed to the Borough.

Councilman Gubitosi agreed with Councilman Weber and suggested taking the permit fee out of the donations of those in the resolution who owe funds.

It was further discussed amongst the Governing Body this is a one-time waiver for the red tag trees that needed to be removed and intentions to send payment reminders to those who owe funds to the Borough.

ON MOTION by Fox/DeMarco to adopt Resolution 2023-166.

ROLL CALL:

AYES: DeMarco, DeNoble, Mayor Fox

NAYS: Gubitosi, Weber

ABSENT: None

ABSTAIN: None

ADOPTED

2023-167 Authorizing the 2023 Service Agreement with Motorola Solutions, Inc. for the Police Consoles.

ON MOTION by Fox/Gubitosi to adopt Resolution 2023-167.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ADOPTED

2023-168 Authorizing the Re-Appointment for Municipal Court Judge Paul J. Capotorto for a three-year term effective July 1, 2023 through June 30, 2026.

ON MOTION by Fox/Weber to adopt Resolution 2023-168.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: None
ABSTAIN: None

ADOPTED

2023-169 Acknowledging the Granting of Tenure to Patricia Megill, CMCA, as Bradley Beach Municipal Court Administrator pursuant to N.J.S.A. 2A:8-13.1

ON MOTION by Fox/Gubitosi to adopt Resolution 2023-169.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: None
ABSTAIN: None

ADOPTED

2023-170 Authorizing the execution of an agreement with Meghan Ann Bennett, Esq. of Dilworth Paxson, LLP as Bond Counsel for the Borough of Bradley Beach.

ON MOTION by Fox/Gubitosi to adopt Resolution 2023-170.

ROLL CALL:

AYES: DeMarco, Gubitosi, Weber, Mayor Fox
NAYS: DeNoble
ABSENT: None
ABSTAIN: None

ADOPTED

2023-171 Authorizes the Borough of Bradley Beach to participate in Intra-County Mutual Aid and Assistance Agreements with participating Units in the County of Monmouth.

ON MOTION by Fox/Gubitosi to adopt Resolution 2023-171.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox
NAYS: None
ABSENT: None
ABSTAIN: None

ADOPTED

Mayor Fox made a motion to table resolutions 2023-172, 2023-173, 2023-174, and 2023-175 based on his earlier comments and pending determination of the complaint pending that needs to be resolved by the court.

Council President DeMarco seconded the motion and stated she was formally notified by the Borough Attorney shortly before the Council Meeting that she was named defendant in this lawsuit and has not had an opportunity to discuss with legal counsel how this vote can impact the Council's defense and is not comfortable voting on these resolutions at this time.

ON MOTION by Fox/Gubitosi to table Resolutions 2023-172, 2023-173, 2023-174, and 2023-175.

ROLL CALL:

AYES: DeMarco, Mayor Fox
NAYS: DeNoble, Gubitosi Weber
ABSENT: None
ABSTAIN: None

MOTION TO TABLE FAILED FOR RESOLUTIONS 2023-172 THROUGH 2023-175

2023-172 Awarding a Fair and Open Professional Services Contract to CME Associates as Borough Engineer for the remainder of calendar year 2023.

ON MOTION by DeNoble/Gubitosi to adopt Resolution 2023-172.

ROLL CALL:

AYES: DeNoble, Gubitosi, Weber
NAYS: None
ABSENT: None
ABSTAIN: DeMarco, Mayor Fox

ADOPTED

2023- 173 Awarding a Fair and Open Professional Services Contract to Wielkocz & Company as Borough Auditor for the remainder of calendar year 2023.

ON MOTION by Gubitosi/DeNoble to adopt Resolution 2023-173.

ROLL CALL:

AYES: DeNoble, Gubitosi, Weber
NAYS: None
ABSENT: None
ABSTAIN: DeMarco, Mayor Fox

ADOPTED

2023-174 Awarding a Fair and Open Professional Services Contract to Sobel Han & Cannon, LLP, as OPRA Attorney for the remainder of calendar year 2023.

ON MOTION by Weber/DeNoble to adopt Resolution 2023-174.

ROLL CALL:

AYES: DeNoble, Gubitosi, Weber
NAYS: None
ABSENT: None
ABSTAIN: DeMarco, Mayor Fox

ADOPTED

2023-175 Awarding a Fair and Open Professional Services Contract to Rainone, Coughlin, & Minchello as Borough Labor Attorney for the remainder of calendar year 2023.

ON MOTION by DeNoble/Gubitosi to adopt Resolution 2023-175.

ROLL CALL:

AYES: DeNoble, Gubitosi, Weber
NAYS: None
ABSENT: None
ABSTAIN: DeMarco, Mayor Fox

ADOPTED

ANNOUNCEMENTS: None

MAYOR AND COUNCIL REPORTS:

Councilwoman DeMarco:

Gave a Land Use Board Report from the May 18th meeting.

Councilwoman DeNoble:

- **Ms. DeNoble met with Linda Deustche on May 11th at Bradley Beach Elementary School to discuss her literary career accomplishments.**
- **Attended the Board of Education meeting on May 16th to discuss beach safety, NJDOE School Assessment Mandated Report.**
- **Thanked the residents that donated to the Shade Tree Commission.**
- **Announced the festivities for the Memorial Day Weekend.**
- **Explained the use of Tourism Fees and feels the Borough needs to analyze how the events benefit the residents.**

Councilman Gubitosi

- **Thanked the Police and DPW for their assistance with an issue during a non-profit event this past weekend and feels there should be a stronger policy for special events to cover Borough related costs.**
- **Read the Weekly Police Activity Report.**
- **Read a drafted letter on behalf of the Sylvan Lake Committee pertaining to grant funding for replacement of the bulkhead.**

Councilman Weber:

- Read the Fire Department and First Aid Weekly Activity reports.
- Reminded the public it is their responsibility to maintain trees in planting strips.
- Complimented the new Fletcher Lake Bridge.
- Agreed the Borough needs a stronger policy pertaining to Special Events.

Chief Guida announced there will be a Memorial Day Ceremony at the Jack Wright Memorial on Monday, May 29th.

Mayor Fox:

I will continue to highlight the infrastructure projects going on.

Beachfront- our Outfall Pipe on Ocean Park/ McCabe Avenue beaches.

This “outfall pipe” delivers Stormwater to the ocean. The replacement project started on Monday, April 17th and will conclude before July 1st. We have avoided intermittently closing the Promenade so far. As you may be aware, the Evergreen Avenue entrance will be closed until mid-late June.

Next, completing Phase II of the Sewer Project. We have curbing, driveway aprons, and paving on Third and Fourth Avenues. We have been pushing to complete this as soon as possible; and we have been targeting a pre-Memorial Day completion. We will miss that target by about a week. The concrete work we directed was more extensive than anticipated. We made the decision not to mill later this week and have unpaved roads on Memorial Day Weekend. Also, we will not have equipment on the streets until they resume next week. We will complete all but Fourth Avenue and some of the side streets. Our Engineers and contractors are “dovetailing” the concrete and paving to the extent we can. We are disappointed; but a comprehensive solution is what we sought and are fortunate that we will achieve that, although a week or so late.

We have completed the joint project with Ocean Grove, our partners on the Fletcher Lake Commission. The Walking Bridge between our two towns needed a major facelift. We completed this last week and with the replacement of benches at Fletcher Lake and planned improvements at the Lake Terrace Park, our North End is looking good.

Memorial Day Weekend is upon us. The Parade on Ocean Avenue starts at 10:00 a.m. followed by various vendors on the Promenade. Most importantly, we are having our annual Memorial Day ceremonies on Monday at Riley Park at 11:00 AM.

We are also happy to share our 130th Anniversary Plan, celebrating Bradley Beach since 1893 . The Borough, Bradley Beach Business & Community Alliance, and the Bradley Beach Historical Society will recognize our 130th Anniversary and our great town with:

- * Celebrating Bradley Beach 1893 Flags on Main Street
- * Memorial Day Parade - Saturday 5/27
- * 130th Dinner and Music Celebration - Saturday 6/10 by the Gazebo
- * Mapping Main Street Historical Exhibit
- * Alliance Week 6/24-6/30

This should be a great opportunity to celebrate as a community.

The Library in partnership with the BBBCA and BYCC held an event last week with this year’s One Beach, One Year. This year’s book is “*The Namesake*” experiences as immigrants in America and how

they deal with living in a new country while trying to hold on to their heritage. About thirty people attended.

The middle school One Beach, One Read was held on Friday, May 19th at Bradley Beach Elementary school. Another excellent event “*New Kid and Class Act*” by Jerry Craft. After discussing the book, students attended a comic book workshop.

Spring English Language Classes will be held on Saturdays at 9:30 a.m. for Intermediate English classes for Spanish speakers. Registration required.

One-on-One Technology

Do you need help with finding a job or updating your resume? Are you looking to transition to a new career? Do you need help learning new technologies or do you need help navigating the technology you encounter on a day-to-day basis? Contact the Library for help. The Library has a One-on-One Technology Assistance program that can help with all of the above.

Photography Contest

The Library’s Photography Contest runs through May 31st. This year’s theme is “New.” Entries will be displayed in the Library in June.

Recreation

Games will start May 1st and run until June 27th. People can sign up for Mondays at 4:00 p.m., 6:30 p.m. and Tuesdays at 6:30 p.m.

We have a lot to be thankful for here in Bradley Beach, and much to celebrate. We will continue to focus on Service and Progress as a Municipal Team.

Mayor Fox stated he and Mr. Fehrenbach met with the Borough of Avon and Engineers earlier this week to discuss the repair of additional outfall pipes and the opportunity to apply for Green Acres Grants.

Public Comment

In Person:

Eileen Shissias, 112 Fourth Avenue, inquired if Councilman Gubitosi was present during discussions regarding Sylvan Lake Outfall Pipe Improvements.

Councilman Gubitosi responded he was not, however has been kept informed by the Commission.

Mary Backstrom, 218 Fourth Avenue, expressed concerns regarding the BBBCA, Tourism Board, the Special Counsel Memo, and commended the Police Department.

Brigitte McGuire, 610 Brinley Avenue, expressed budget concerns.

Nancy Meadow, 805 Beach Avenue, voiced several complaints regarding announcement of employees, Ordinance 2023-9, the Outfall Pipe repair, and expenses.

Rick Bartolomei, 116 Newark Avenue, gave suggestions for Ordinance 2023-9.

Thomas J. Coan, 612 Third Avenue, complimented Black Rock Construction for doing a great job with the curbs, thanked Mr. Fehrenbach for looking into the Special Events policy, expressed concerns regarding Special Counsel to the Mayor, and stated budget concerns.

Herb Kenny, 216 Brinley Avenue, expressed concern regarding the budget preparation, the Mayor's lawsuit, and requested an update on 319 LaReine Avenue.

Mia Mutascio, 401 McCabe Avenue, stated there is an issue with the people dumping animal waste in the dumpster at 217 McCabe Avenue.

Tracie Davidson, 304 Fourth Avenue, feels there needs to be a change in government and thanked Councilman Weber for passing the ban on hotels and motels.

Alice Harkin, 409 McCabe Avenue, reinforced Ms. Mutascio's comments regarding 217 McCabe Avenue and requested better Council collaboration.

Julie Nutaitis, 605 Newark Avenue, also requested better Council collaboration and expressed concerns regarding the lawsuit.

Thomas McGuire, 610 Brinley Avenue, expressed concerns regarding the lawsuit and potential legal fees. Mr. McGuire also requested a censure of the Mayor.

Linda Duffy, 312 Brinley Avenue, gave comments regarding site triangles, requested an update on 319 LaReine Avenue, location for the senior center, and expressed concerns about the Fletcher Lake Footbridge.

Richard Davidson, 304 Fourth Avenue, made unfavorable statements towards the Mayor.

ZOOM:

Rich Despins, 600 Third Avenue, expressed concerns regarding Fletcher Lake Bridge and the trees along Main Street.

Mr. Despins made an inquiry regarding the voting process for Resolutions 2023-172 through 2023-175.

Council President DeMarco and Mayor Fox addressed this inquiry.

EXECUTIVE SESSION :

Resolution 2023-176 Retire into Executive Session to discuss Litigation Matters.

- **217 McCabe Avenue**
- **Rapaport vs. Bradley Beach**

ON MOTION by Fox/Gubitosi to retire into Executive Session at 9:45 p.m. to discuss Litigation Matters.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ON MOTION by Fox/Gubitosi to return from Executive Session at 10:45 p.m.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ADJOURNMENT:

ON MOTION by Fox/DeMarco to adjourn at 10:45 p.m.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

THE COUNCIL BUSINESS MEETING ADJOURNED AT 10:45 P.M.

Erica Kostyz

Erica Kostyz, RMC, CMR
Municipal Clerk

Questions answered offline for 5/24/23

Shana Greenblatt-Janoff, 414 Monmouth Avenue,

Question: What is the cap or scope of cost for the Special Counsel hired by the Mayor?

Response: The initial issued Purchase Order encumbered the amount of \$2500.

Thomas McGuire, 610 Brinley Avenue,

Question: Is the Mayor responsible for paying his own legal fees?

Response: This is a question for the courts to decide. Under the applicable portions of the Local Public Contracts Law and the Pay to Plan legislation, the Mayor is able to request a purchase order to engage an attorney.

Question: Can the Council make a motion for a vote of no confidence or publicly censure the Mayor?

Response: I am unaware of a provision for such in the statutes, the Borough Attorney would need to address this question.

Linda Duffy, 312 Brinley Avenue,

Question: Where is the Borough purchasing the Police vehicle from?

Response: Typically, the department, as nearly all police departments in the state, purchase police vehicles from State Contract providers as these providers are able to offer fleet pricing which cannot be met by local dealers. The last vehicle was purchased from Mall Chevrolet in Cherry Hill. As there is a shortage of vehicles at this time, the department will need to find a state contract dealer with the ability to supply the specified vehicle.