BOROUGH OF BRADLEY BEACH

COUNCIL BUSINESS MEETING MINUTES

SEPTEMBER 27, 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 SEPTEMBER 27, 2023 WAS AVAILBLE IN PERSON OR THROUGH THE ZOOM LINK POSTED TO THE WEBSITE. THE REMAINDER OF COUNCIL MEETINGS DATES (RESOLUTION 2022-265 ADOPTED DECEMBER 13, 2022) FOR CALENDAR YEAR 2023 WERE 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 September 27, 2023 Council Business Meeting:

Councilwoman DeMarco, Councilwoman DeNoble, Councilman Gubitosi, Councilman Weber,

Mayor Fox

Interim Borough Administrator, Gregory C. Fehrenbach

Municipal Clerk, Erica Kostvz

Borough Attorney: Gregory Cannon Esq.

Police Department: Lieutenant Detective Terry Browning Deputy Municipal Clerk: Michele Whille (ZOOM operator)

WORKSHOP DISCUSSIONS: None for September 27, 2023.

PRESENTATIONS & BIDS: None for September 27, 2023.

MINUTES APPROVAL

ON MOTION by Fox/Gubitosi to approve the Council Business Meeting Minutes of September 13, 2023

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

APPROVED

Public Comments on Agenda Items:

In Person:

Eileen Shissias, 112 Fourth Avenue, had bill list inquiries regarding curbing and road repairs which were answered by Mayor Fox and Mr. Fehrenbach.

Nancy Meadow, 805 Beach Avenue, bill list inquiries regarding seminars and a payment to Mairin Bellack for website and social media services.

Thomas J. Coan, 612 Third Avenue, suggested tabling Resolutions 2023-223 and 2023-241, thanked the Governing Body for the introduction of Ordinance 2023-13 pertaining to dumpsters and storage units.

Discussion ensued between Mr. Fehrenbach and Mr. Coan regarding reimbursement from the County regarding curb work.

Kristin Mahoney, 200 LaReine Avenue, had bill list inquiries regarding reimbursements to FEMA for funds that were not used, payments to Latin Fest vendors and the format of the bill list which were answered by Mr. Fehrenbach.

Paul Neshamkin, $411 \frac{1}{2}$ LaReine Avenue, commented on the language in Resolution 2023-223 and strongly advocated for alternatives for 319 LaReine Avenue.

Brigitte McGuire, 610 Brinley Avenue, had bill list inquiries regarding the Mairin Bellack payment and Latin Fest Vendor which were answered by Mayor Fox. Ms. McGuire requested more clarity on the bill list and stated she has trust issues regarding Borough finances.

Linda Duffy, 312 Brinley Avenue, stated she is in favor of Resolution 2023-241 pertaining to reduced trash collection and inquired about the verbiage in the trash ordinance and the dumpster ordinance.

Mary Backstrom, 218 Fourth Avenue, inquired how the holidays and savings were determined in Resolution 2023-241 which was answered by Mr. Fehrenbach. Ms. Backstrom suggested the Borough conduct a study before passing this resolution.

Zoom: None

ORDINANCE INTRODUCTION(S):

ORDINANCE 2023-12

AN ORDINANCE REPLACING CHAPTER 450: "ZONING" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO UPDATE THE BOROUGH'S ZONING REGULATIONS.

Please note, this ordinance was presented to the Governing Body for review late in the afternoon of 9/27/23. Given the length of the ordinance, there was not sufficient time for the Governing Body to review the most recent changes. All Governing Body members agreed to table this ordinance for October 11th.

ON MOTION by Weber/DeMarco to table Ordinance 2023-12.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

TABLED

ORDINANCE 2023-13

AN ORDINANCE AMENDING CHAPTER 348: "PORTABLE STORAGE UNITS AND DUMPSTERS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO UPDATE THE REGULATIONS PERTAINING TO SAME.

Councilman Gubitosi explained the purpose and logic of this ordinance to the public.

ON MOTION by Fox/Gubitosi to introduce Ordinance 2023-13.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

INTRODUCED

ORDINANCE ADOPTION(S):

ORDINANCE 2023-14

AN ORDINANCE AMENDING CHAPTER 365: "RENTAL PROPERTY" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO RE-ENACT CERTAIN RENTALS OVERLAPPING THE SCHOOL YEAR.

Councilman Gubitosi explained the purpose of this subsection ordinance amendment to protect school age children.

ON MOTION by Fox/Gubitosi to open the public hearing for the adoption of Ordinance 2023-14.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

Public Comment: None

ON MOTION by Fox/Weber to close the public hearing and adopt Bond Ordinance 2023-14.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

ADOPTED

CONSENT AGENDA RESOLUTIONS:

2023-239 Bill List for September 27, 2023

A lengthy discussion ensued amongst the Governing Body, Mr. Fehrenbach, and Mr. Cannon regarding payment to Mairin Bellack in the amount of \$17,000.00 for website and social media PR services and the Latin Fest vendor in the amount of \$6900.00 and the legal consequences if these items are not paid at this time due to additional Councilmember inquiries. Also discussed, the FEMA reimbursement and the Tourism Ordinance and trust account. It was decided by a majority of the Governing Body to approve the bill list minus the payments discussed pending answers to Councilmember's inquiries.

ON MOTION by Weber/DeNoble to adopt the Consent Agenda Resolution 2023-239 minus the bill list items discussed.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi, Weber

NAYS: Mayor Fox

ABSENT: None ABSTAIN: None

Mayor Fox explained his reason for voting no stating he feels Borough has an obligation to pay vendors whether Council agrees or disagrees.

ADOPTED

INDIVIUAL RESOLUTIONS:

2023-240 Authorization to Award the Park Place Avenue – Phase I Improvement Project to Fernandes Construction in the amount of \$559,187.30.

Councilman Gubitosi inquired if this is the same firm that has performed previous Borough projects.

Mayor Fox addressed this inquiry.

Councilman Weber inquired if this bidder's price is closer to the estimate originally presented.

Bennett Matlack of CME Engineering addressed this inquiry.

ON MOTION by Fox/DeNoble to adopt Resolution 2023-240.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

ADOPTED

2023-241 Establishing Municipal Solid Waste Collection on Borough Recognized Holidays.

A lengthy discussion amongst the Governing Body regarding the savings, holidays, and impact on residents and businesses.

ON MOTION by Gubitosi/Weber to not move forward with 2023-241 at this time.

ROLL CALL:

AYES: Mayor Fox

NAYS: DeMarco, DeNoble, Gubitosi, Weber

ABSENT: None ABSTAIN: None

FAILED

2023-242 A Resolution in support of developing Strategic and Comprehensive Parking and Traffic Analyses, that achieve enhanced Parking Efficiency and Effectiveness within the Borough while balancing the needs of Businesses and Residents.

Councilman Gubitosi requested to table this resolution pending further research.

ON MOTION by Gubitosi/DeNoble to table Resolution 2023-242.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

TABLED

2023-223 Authorizing T&M Associates to provide professional Environmental and Engineering Services, Bidding Assistance, and Construction Administration Services for the Demolition of Structures located upon 319 LaReine Avenue.

Mayor Fox:

Mr. Fehrenbach, Councilman Gubitosi, and I met with the three firms. We asked them to clarify the interface with the Artifact management process and the demolition via addendum. After the meetings, I believe we have alignment. There have also been further discussions and refinements with Rose O'Connor Myer; and we are finalizing an engagement with her. We have met with Jim Foley, Chair of the Seven Presidents Foundation, and have had a very productive tour and discussion.

Councilman Gubitosi stated he still has many concerns and questions regarding the removal of artifacts and awarding T&M the project.

Mr. Fehrenbach explained why he feels T&M seems to be the most qualified of the three RFPs submitted.

Further lengthy discussion ensued between Mayor Fox, Councilman Gubitosi, and Mr. Fehrenbach regarding the artifacts, the engineering firms, costs. Councilman Gubitosi stated he is not prepared to vote on this again without answers to his questions.

ON MOTION by DeMarco/Gubitosi to table Resolution 2023-223.

ROLL CALL:

AYES: DeMarco, DeNoble, Gubitosi

NAYS: Mayor Fox

ABSENT: None ABSTAIN: Weber

TABLED

ANNOUNCEMENTS:

Mr. Fehrenbach announced Resolution 2023-237 to appoint Nancy Britton as Chief Financial Officer will not be taking effect due to personal circumstances on Ms. Britton's behalf.

Mr. Fehrenbach thanked the Mayor and Council for giving him the opportunity to make some improvements to the operations in the Borough and to learn about the community he has chosen to live in

MAYOR AND COUNCIL REPORTS:

Mayor Fox:

We have "semi-officially" wrapped up summer. Hurricane Ophelia has been wrapping us up, but we still have a lot of activity going on at the beach prior to the hurricane. We made a decision to cover our beaches during the month of September with a skeleton crew of lifeguards, led by Police Officer Chris Wilson. The first day after Labor Day, we had three saves and have continued to monitor our beaches and assist other beaches as emergencies come up. We are discussing a tri-borough approach for next year, so stay tuned. Thanks to our team that is working through next week.

Beach Lockers Need to Be empied by next Sunday. Due to the storm we have been enduring, we extended the lockers by a week. After some discussions with DPW and OEM, we will be recommending that we revise the locker ordinance to the mid-September timeframe versus the end of month.

Some other activities this past week:

Fundraising began on Sunday for the Class of 2024 Washington D.C. trip. The cost of the trip is covered by donations, fundraisers, and student contributions. It is a great tradition that has been going on for decades at BBES and we hope our residents will contribute to this important event as our eighth- graders finish their time in Bradley and prepare for their next big step.

The Mayors Wellness Campaign:

We had our third Blood Drive Monday at the Fire House. We ended up registering 40 donors, collected 30 units of blood, 12 Plasma, and 1 Platelet unit. That translates to 43 lives impacted. Thanks to our volunteers and, as importantly, our donors.

Local Summer II had their rain date last Sunday at the Brinley Avenue Beach.

This fun event was open to All Bradley Beach Residents. People enjoyed a raffle, food, and fellowship on a nice Sunday evening at the beach.

Infrastructure:

We have had a lot of success with our Infrastructure projects this past two plus years. It is time to pivot to the next set of projects. We have been working on a project to enhance our Lake Terrace Park. We have had planning meetings with the appropriate people and our plan is to get started on the second week in October.

Lake Terrace Park Improvements: Monmouth County Open Space Grant Here are some of the planned changes/ upgrades to this important park:

- 6' Chain Link Fence Gates replaced.
- Leyland Cypress trees along back border
- New surface Course Walkway
- Small Sensory Dome Play Structure
- Two Belt Swings plus one Expression Swing
- Decorative 6' Bench
- New Brick Pavers Replace the 8-foot fencing (back border)
- Fiber safety mulch
- One Zero-G Swing Chair
- Decorative Picnic Table

The Bradley Cinema update:

Luke Parker-Bowles, one of the principles of *Cinema Lab*, has provided an update for The Bradley. Key steps that are in the works....

- Construction is due to begin approximately October 2023, based on final funding confirmed by September 29, 2023.
- Cinemas and Bar designs are complete. Revised renderings are in process and will be shared with all and sundry at the right time.
- The design team have sourced bar and furniture.
- Projection and Sound equipment are being finalized.
- Luxury chairs have arrived from Norway and are in storage.

• The team have met with a General Contractor, and we are ramping up to start once final plans have had final review by the town.

On the Library Front:

Sign up for a new library card or check out library materials by presenting your card between September 5^{th} and October 11^{th} and you will be entered into a drawing for a gift card. Let's Speak Italian – Wednesdays at 11 am September 27^{th} – November 8^{th} – Join us for a free introduction to Italian for beginners. The instructor will teach Italian basics. Space is limited and registration is required.

Manhattan Short Film Festival, September 28th, October 8th, various times. Discover your inner film critic by casting your vote for Best Film and Best Actor in the 26th Annual Manhattan Short Film Festival. You will join film lovers in over 500 venues across the globe gathering to see the ten finalists in this year's event. With past finalists garnering Oscar nominations and short films continuing to move into the Hollywood mainstream, come see this entertaining program featuring the best short films in the world today! Registration required.

The Bradley Beach Senior Meetings will pick up as well this month on September 27th from 12:00 p.m. to 3:0 p.m. at UVA. Please join us for lunch, great conversation and some fun bingo. There will be a guest speaker this month discussing Healthcare.

With the holidays quickly approaching we have many exciting things planned for the coming months at the rec and all over Bradley Beach so make sure to check the website for updates!

We will continue to focus on Service and Progress as a Municipal Team.

Mayor Fox gave the weekly Activity Report for the Fire Department and First Aid Squad.

Councilwoman DeNoble:

- Attended the Board of Education Meeting September 19th.
- The Tourism Commission is planning to have a free "Movie in the Park" on October 20th.
- The Shade Tree Commission met on September 20th and are planning to have their planting on October 14th in Fountain Park located between Second and Third Avenue.
- Councilwoman DeNoble gave a statement regarding Mayor's selection for the BA Appointment and expressed her feelings on ethics and morals.

Councilman Gubitosi:

- Thanked Mr. Fehrenbach for his service to the Borough.
- Councilman Gubitosi gave the Police Weekly Activity Report.
- The Sylvan Lake Commission has been utilizing effective methods to control geese presence.
- The Sylvan Lake Commission is considering collaborating with Avon to remove an invasive weed species and collaborating with the Shade Tree Commission to replenish trees around the lake.

Councilman Gubitosi read the following prepared statement:

I want people to know that the Mayor sent the Council an email two days ago. In it he stated his reasons for planning to move forward with the appointment of Ms. DeMarco as an "Acting Business Administrator." He described his rationale for moving forward with a less qualified candidate - which is his prerogative to do so. However, I took great exception to a few of his condescending, arrogant, and disrespectful comments all of which were directed towards me, Councilwoman DeNoble and Councilman Weber. Specifically:

- The Mayor told us that we should "Rethink" our "Power of 3 Votes". He said: "That is not what government is about" and, "That doesn't serve the greater good."
- In my response, I reminded him that HIS so-called "Power of 3 votes" is often referred to as "Democracy". Perhaps he should read more about it. I encouraged him to spend more time collaborating and less time leading divisively.
- Most importantly, I want to share with the public how the Mayor closed his <u>admonishments</u> to us. He said to the Council: "So please, call off your surrogates. This was obviously referencing residents who speak out against the Mayor in Town Council meetings or on Social Media surrogates. I continue to be struck by the Mayor's total and complete disdain for so many of our residents, people who he has sworn an oath to support. He clearly believes that people who oppose him do not have minds of their own. In the Mayor's eyes, people who speak against him must be reading from a script that I or my Council colleagues have prepared.
- Mr. Mayor, your contempt for so many of our residents, simply because they do not agree with you, is evidence of the worst form of Leadership imaginable. I realize that there is little I can do to change this. I just want to do a better job of making the public aware of your contempt.

Finally, I have a very important point of concern, that I want to raise publicly, related to the imminent appointment of Councilwoman DeMarco as an acting Business Administrator:

- The Mayor is about to appoint Ms. DeMarco as an "Acting BA" under Code Section 5-14(J) which states:
- 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 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.
- It is my understanding that the only way to classify the Business Administrator role as "Permanent" would be to secure the advice and consent of this Council. Without this CONSENT The Mayor's plan is to continue to reappoint Ms. DeMarco every 90 days or so, as a "Temporary", "Acting" BA. As far as I can tell, he believes he can do this indefinitely.
- My concern for Ms. DeMarco and for you, Mr. Mayor as noted under 5-14(J), is that Ms. DeMarco's role will be classified as a "Temporary" Full-time employee. Under our Borough Code § 78-2 entitled: "Personnel record card; probationary period; full-time, part-time, and temporary employees. It clearly states that only "Permanent" Full-time employees are entitled to PAID HOLIDAYS (Section 78-4) AND PAID VACATIONS (Section 78-5). Not only should this raise concerns about Ms. DeMarco's benefits' eligibility for Holidays and Vacations, but this can clearly lead to questions as to whether the Acting Business Administrator role will be eligible for statutory benefits such as Pension Benefits.
- Mr. Mayor, you have chosen to pursue somewhat unorthodox means by which to accomplish your goal of hiring Ms. DeMarco to be the Borough's Business Administrator. Such an unusual plan is likely to encounter policy inconsistencies, concerns, and challenges -- either from this Council or from the State of New Jersey.

• I just wanted to provide this information as full disclosure of the potential risks that Ms. DeMarco might face if you complete her appointment as "Acting Business Administrator" over the next few days. Out of respect for Ms. DeMarco I am making this statement now, instead of after her planned appointment date of October 1, 2023.

Councilman Weber:

- Thanked Mr. Fehrenbach for his service to the Borough.
- Announced there is a vacancy in the Shade Tree Commission.
- The Fletcher Lake Commission is requesting signage on the footbridge prohibiting motorized vehicles.
- Councilman Weber stated in the Organizational flow Chart for Bradley Beach the residents are at the top.

Councilwoman DeMarco:

- The Land Use Board met September 21st.
- The Environmental Commission will be conducting their Beach Sweep on October 21st.

Mayor Fox responded to Ms. DeNoble's comments regarding ethics and morals during her Council report.

Public Comment

In Person:

Thomas McGuire, 610 Brinley Avenue, strongly objected to the Business Administrator Appointment.

Rosemary Accurso, 415 Park Place Avenue, strongly objected to the Business Administrator Appointment.

Nancy Meadow, 805 Beach Avenue, complaints regarding the payroll company, DPW Contract, the website, Tourism, and the reimbursement to FEMA.

Kristin Mahoney, 200 LaReine Avenue, objected to the Business Administrator Appointment.

Thomas J. Coan, 612 Third Avenue, asked the Council to consider a request he sent via email regarding the placement of benches in front of 401 Main Street. Mr. Coan stated he applied to be a member of the Shade Tree Commission recently and is awaiting a response. Objected to the Business Administrator Appointment.

Eileen Shissias, 112 Fourth Avenue, stated her frustrations concerning the Mayor.

Brigitte McGuire, 610 Brinley Avenue, inquired about the amount of FEMA money that was used, strongly objected to the Business Administrator Appointment, and expressed her frustrations concerning the Mayor.

William Psiuk, 110 Fifth Avenue, stated the expiration date for the COVID-19 test kits that were offered to the public at the 9/13 meeting is December of 2023 as confirmed by the County.

Linda Duffy, 312 Brinley Avenue, encouraged the Governing Body to try and get along, expressed concerns regarding the curb lines, the Biase Center repairs pertaining to mold, and the fee for Mahjong at the Recreation Center, and the expense for town events.

Jeanne Leahy, 419 Park Place Avenue, thanked the Council for their efforts and requested more communications for the Seniors in the community.

Cindy Lukenda, 218 Fourth Avenue, stated opinions regarding the Business Administrator Appointment. Ms. Lukenda thanked Mr. Fehrenbach for providing his services to the Borough and inquired if he will be paid for the additional time he will remain at the Borough to ensure an easier transition with the new BA.

Mr. Fehrenbach responded he will not be paid after September 30th.

ZOOM:

Alice Harkin, 409 McCabe Avenue, clarified a comment she made at the 9/13 meeting as being directed towards the Mayor and not Ms. DeMarco. Expressed concerns regarding any changes to garbage and recycling collection. Strongly objected to Business Administrator Appointment.

Mea Molin, 302 Fourth Avenue, expressed concerns regarding the Latin Fest payment on the bill list and strongly objected to the Business Administrator Appointment.

Joe Kostantino, 621 Fourth Avenue, thanked Mr. Fehrenbach for his service to the Borough and inquired about the qualifications Mr. Fehrenbach considered during the BA selection process.

Mr. Fehrenbach addressed this inquiry.

Thomas Gavin, 414 Fourth Avenue, thanked Mr. Fehrenbach for his service to the Borough.

Randy Bonnell, 506 Third Avenue, made several negative comments pertaining to the Mayor.

EXECUTIVE SESSION:

Resolution 2023-243 to Retire into Executive Session to discuss a Litigation Matter.

• Januzzi vs. Bradlev Beach

ON MOTION by Fox/DeMarco to retire into Executive Session at 10:05 p.m. to discuss a Litigation Matter.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None ON MOTION by Weber/DeMarco to return from Executive Session at 10:25 p.m.

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

ADJOURNMENT:

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

ROLL CALL:

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

NAYS: None ABSENT: None ABSTAIN: None

THE COUNCIL BUSINESS MEETING ADJOURNED AT 10:25 P.M.

Erica Kostyz Erica Kostyz, RMC, CMR

Municipal Clerk