

BOROUGH OF BRADLEY BEACH
COUNCIL BUSINESS MEETING MINUTES

JUNE 28, 2022 AT 6:00 P.M.

IN ACCORDANCE WITH THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, PUBLIC MEETINGS MAY BE HELD IN PERSON OR BY MEANS OF COMMUNICATION EQUIPMENT TO INCLUDE STREAMING SERVICES AND OTHER ONLINE MEETING PLATFORMS (N.J.S.A. 10:4-8b).

THIS MEETING WAS HELD IN-PERSON AND THROUGH ZOOM MEETING PLATFORM, BEING BROADCAST FROM BOROUGH HALL, 701 MAIN STREET, BRADLEY BEACH, NJ 07720. PUBLIC PARTICIPATION FOR THIS COUNCIL BUSINESS MEETING OF JUNE 28, 2022 WAS AVAILABLE IN PERSON AND THROUGH THE ZOOM LINK POSTED TO THE WEBSITE AND ADVERTISED IN THE NEW COASTER ON 6/23/22 AND THE ASBURY PARK PRESS ON 6/24/22.

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

A Budget Amendment Introduction and Council Business Meeting of the Mayor and Council of the Borough of Bradley Beach was held both in person and via ZOOM broadcast from the Meeting Room, 701 Main Street, Bradley Beach, New Jersey on the above date and time.

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 6:00 P.M.

Present at the June 28, 2022 Budget Amendment Introduction and Council Business Meeting:

Governing Body:

**Councilman Bonnell,
Councilman Gubitosi
Councilman Sexsmith (via ZOOM)
Councilman Weber
Mayor Fox**

Administration:

**Borough Administrator: Kimberly M. Humphrey
Municipal Clerk: Erica Kostyz
Deputy Municipal Clerk: Michelle Whille
Borough Attorney: Gregory Cannon**

2022 BUDGET AMENDMENT INTRODUCTION:

Chief Financial Officer, Anthony Mannino, read the Introduction of Amendment for the 2022 Budget to include amendments to the Current, Sewer and Beach Funds.

Councilman Weber:

The role of the state is to approve the structure. They do not put the numbers in for us. They say it is acceptable to put this number here for this reason for that reason. They do not come up with the number. Since our budget introduction, the State has said both things to us. They have said it is not acceptable to put this number here for that reason, they have said also it is acceptable to put this number there for this other reason.

This amended budget contains over \$300K less in salary and wages. Some people describe that as a budget with less capacity. I describe that as a budget that is fairer to the taxpayers. The question was asked, what is that extra \$300K + in Salary and Wages for, but we could not get an answer.

Over a year ago, there was a big transfer from the Sewer Utility to the current fund. The Council did not like it; we protested. We were told it was just this one time, that it will not happen again. And those of us opposed, compromised. We agreed. But we agreed thinking this is never going to happen again. Hold that thought because we are coming back to it.

Over a month ago, three members of the Council said we did not want to transfer \$50K from the beach and \$50K from the sewer into the Current Fund. That request has not been honored. Since we made that request, the state has allowed the transfer of an additional \$451K from the beach and from the sewer to cover legitimate costs that the utilities had not been contributing to previously. Things like pension, healthcare costs, etc. These are legit expenses that both utilities should be contributing to.

But the \$50K from each utility, that was in the original budget, that was not assigned to any particular expense, I am not okay with that. And that is a principled position.

There is a lot of uncertainty out there right now. So, I cannot think of a better thing to do for the people of Bradley Beach, to provide certainty. To stick to a promise made a year ago. A promise that we are not going to keep taking money from the sewer to augment the town's surplus.

There is something inherently unfair about transferring money from the sewer to pad the town's surplus. We all pay the same rate for sewer service. If the sewer system was metered and it was based on volume, we would not be having this conversation. But it is not, and the tiniest two bedroom cottage on an undersized lot pays the same for sewer as a five bedroom house with two or three bathrooms.

I have been told not to base this vote on principles. I have been told it is unwise to make promises with respect to budgets. Because conditions change. No kidding things change. A lot has changed on the Borough Council.

I am going to take a principled vote on this budget and vote no on this budget resolution.

Councilman Gubitosi inquired about the amounts for the surplus in Beach and Sewer funds.

Mr. Mannino stated the amount for Sewer should be \$250,000.00 and Beach should be \$301,000.00.

Councilman Gubitosi stated that is not what he calculated.

Mr. Mannino stated he would look into this.

Councilman Gubitosi concurred with Councilman Weber's comments and expressed concern regarding the additional \$100,000.00 and feels this should not be included.

Councilman Bonnell addressed a concern from the last meeting regarding salary cuts and stated nothing is being cut. Due to an excessive increase in expenses nothing is being increased.

Councilman Bonnell read the following statement regarding the Sewer system:

TNSA rate structure is based on flow rate into the treatment plant. I have attached TNSA rules and regulations for reference to see how Bradley Beach measures up to the other six TNSA customers. In order for TNSA to Bradley's costs, they would have to change their billing protocol from a flow-based rate to a capacity based rate. Selling a per capita/capacity rate structure as a cost negotiating platform at a meeting with TNSA will mean increases for the other six towns. We would be fighting them as well as TNSA with that approach. I doubt we will win that battle, plus, the flow-based rate also allows some control over the Borough's rate. Our inordinately high sewer cost problem does not lie with TNSA. The problem is derived mostly from excessive internal administrative costs and a neglect in of infrastructure.

TNSA only services a small portion of Wall and Tinton Falls. Neptune Township's population is around 27,000 and Avon's population is around 1900. These towns do not match the Borough's demographic.

Neptune City and Ocean Grove are very similar to Bradley Beach in population and length of sewer pipe. Neptune City is slightly larger, Ocean Grove is slightly smaller. They both pay significantly less than Bradley Beach due to much lower gallon per month flow rates because they have maintained their sewers. More importantly, Neptune and Ocean Grove pay much less to their respective sewer utility departments to manage operations.

In 2014, Bradley's sewer utility fund was \$1,820,586, Neptune City's was \$1,153,000, including TNSA fees. Neptune has approximately 5,000 if more road, and about 600 more residents. Bradley's sewer fund should be less than Neptune City's. As a cross check to make sure they do not include additional budget money in their DPW costs which we allocate from our sewer fund, I reviewed their general fund DPW costs and there is no spike significantly higher than Bradley to suggest this.

Ocean Grove's fund was just \$818,000.00 including their fee. Its population is 4,256 and Bradley's is 4,276 and the length of road is roughly 70,000 feet, Bradley's is 74,000. We should be paying slightly more than Ocean Grove. Additionally, Ocean Grove has repaired over fifty percent of their sewer, Bradley has repaired none.

From 2010 through this year, Bradley has collected \$10,970,692.00 in sewer tax. \$4,921,642.00 has paid for TNSA treatment plant fees, \$6,049,050.00 balance is allocated to Bradley Beach Sewer Utility Department. For the same time period, field work on our sanitary sewer system consists of 71.5 crew hours of service by Russell Reid Company, which was primarily cleaning out our lift station. I was not provided the full cost documentation from the town, but from what I did receive, the extrapolated cost is \$37,000.00.

From June 1, 2014 to present, Bradley has also devoted 16 days of DPW crew time in the field, around 100 man hours. This time spent with our new shared jet vac truck cleaning 8" sewer mains. The rough estimate of labor costs is \$11,000.00 plus a plug number of \$5,000.00 for the shared equipment.

We have spent \$4,287,078.00 over the same six year period to facilitate field work. The total internal cost including capital improvement and debt service is over \$6 million, and according to the records I received from Town Hall, we have not done any repairs for almost ten years other than the Sandy repairs in 2013 and 2014. These costs cannot really be included in internal costs because they will be funded primarily through FEMA as I understand it.

The 2014 Audit "Sewer Utility Statement of Fixed Capital" details \$3,293,041.85 of improvements over a forty-two year span. Even if this entire number is included in field work, we still have spent more in the last six years on administration than actual field work. This economy of scale is off the chart to the negative. The industry rule of thumb is administration of field work should be around fifteen percent of the hard cost of work.

I have been working with NJAW on the possible purchase of our sewer system. This is not an uncommon practice, and NJAW currently owns water and sewer in hundreds of towns. The benefit to Bradley is an experienced professional management team within house lawyers and engineers, and a large fleet of maintenance and repair equipment. They are also beholden to the BPU with respect to with respect to maintenance, repair service and rate increases. At last night's Council Meeting it was stated that TNSA had reduced our fee. The fact is the 2015 rate schedule published by TNSA in late March included a 2.15% increase for Bradley. Our internal sewer utility cost was increased by \$194,245.00, a twenty percent increase. The year is almost half over and we have put in a grand total of seven crew days and one pump station cleaning by Russell Reid. A twenty percent increase would be virtually impossible for a private operator under BPU watch. Under Bradley's management we are unprotected. They will also hold overhead to a minimum unlike Bradley's current operations.

The current indicative estimate from NJAW is an up-front payment of 3.5 to 4 million dollars. As this would be required to go through the public bid process, the final purchase amount could be closer to the \$4 million dollar mark, maybe more. It could also include a rate freeze duration, and commitments to repair schedules like other towns have negotiated in the past. They also have special programs like low and fixed income assistance among other things. These topics would all be part of the final negotiations, and effect what Bradley receives as an upfront payment.

Even if we decide selling our system to a private operator is not the right move, we have to make significant changes now. Our sewer utility fund should be roughly \$1,100,000.00 this year based on Ocean Grove and Neptune City comparisons. If we include leveling value of \$275,000.00 to offset the excessive flow cost from TNSA, our yearly sewer utility budget should be \$1,375,000.00 This would bring our operating costs down to around \$500,000.00 from the current \$1,120,000.00. We have to bring our current total cost to \$2,032,683.00 down by \$657K. Rather than lowering individual residents cost for the sewer, all of this excess should be put into sewer repair so our yearly average flow rate to TNSA goes down. If we adjust the allocated repair money annually to offset cost of living increases, we should be able to hold our sewer utility fund flat for another ten to fifteen years and be able to complete significant repairs.

With revenue of \$4 million Bradley could do many things. We could pay down a portion of our debt service, or purchase some land for public parking downtown. Here is a unique idea, we could purchase the Delisa property where beach equipment is stored for winter. Then, instead of installing a new \$100,000.00 roof on the crumbling 100 year old DPW building, which we will never get any warranties for due to the 18" cork underlayment currently on the building, we construct a butler building for DPW use on the acquired property. It is over 60k square foot, so we could expand our 10,000 square foot building to 20,000 square feet, have a large yard for storage, a recycling drop-off, and a small area for public parking. The Superintendent's office could be in Town Hall, and we could demolish the current

building to allow expansion of the Recreation Center ball fields allowing home games for the elementary school. The paved DPW driveway could be converted to a recreation center/public parking as well.

The takeaway here is we cannot go another year operating as we have been. We waited too long, and we now have a staggering problem. NJAW delivers roughly 11 million gallons a month of domestic water to us, and we send over 21 million gallons a month to TNSA. I have excluded delivered quantities for fire sprinkler meters, irrigation meters and billing modifiers, so this is a pretty solid evaluation. These numbers will change slightly every time someone new evaluates the data, but the general percentages will remain the same.

Councilman Bonnell also stated he is not in favor of taking additional funds from the Beach and Sewer and also spoke about the number of people named as employees of the sewer for this year.

Ms. Humphrey stated there were 235 employees based out of sewer in 2021 and has since been corrected to what it is now. Ms. Humphrey stated the importance of having a DPW employee available for a sewer emergency if necessary. Ms. Humphrey explained the DPW was not differentiated/allocated properly previously and this is also in the process of being corrected.

Discussion ensued between Ms. Humphrey and Councilman Gubiosi regarding the structure of allocations moving forward.

Councilman Sexsmith stated he does not have any comments and is prepared to vote to approve.

Mayor Fox:

I will again address the question of the \$50,000 Utility surplus transfer to the Current Fund budget. Our 2023 budget, at this time, should not require additional surplus transfers. In the 2021 budget we transferred \$100k from the sewer utility. We have cut that utility number in half and have good justification for the \$50k/\$50k transfer in 2022. I did not anticipate the level of financial issues we encountered and are still analyzing to get to a compliant financial state. Additionally, I would like to point out that Mr. Mannino explained this at the Budget Introduction meeting. The Council unanimously voted for the Introduction; and I believe there was not any reservation in this area. The \$50k transfers from each of the Utilities. This keeps the tax levy down, pays for items past and potentially present that have been funded by the Current fund. There is continued escalation in costs that service these Utilities from the Current Budget. These transfers cover some of those probable increases, and in addition, there are potential costs this year that could adversely affect the Current fund surplus.

On a note worth mentioning, we hold about \$6 million in surpluses, for good reason. That equated to \$3100 per household. The shift of \$100k provides about \$50 per household in tax relief.

Mayor Fox stated the Mayor and the Administrator are responsible for developing and submitting the budget with consultation from the CFO, the Council and other Departments. Mayor Fox stated he does not like every line item in the budget, but he is good with it.

Mayor Fox advised not voting no on principle and stated given the financial issues transferring money from the utilities is a prudent move for 2022. Mayor Fox also stated he would like to take an aggressive look at the sewer system with the help of the Engineers appointed this year.

Councilman Gubitosi further spoke about the surplus transfer and conversations with the DCA regarding the surplus transfers and documentations of these transfers. Mr. Gubitosi also stated he is not prepared to vote yes for this.

Councilman Weber confirmed the publishing dates for the Budget Amendment Introduction.

Mayor Fox explained importance of surplus for anticipated emergencies.

In Person Public Comment on 2022 Budget Amendment Introduction:

Thomas J. Coan, 612 Third Avenue, expressed concerns regarding surplus transfers from the Sewer and Beach Accounts.

Administrator Humphrey addressed Mr. Coan's comments.

Nancy Meadow, 805 Beach Avenue, is not in favor of transferring funds from the Sewer Account and feels the decision to pass the budget should be about principle.

Thomas Gavin, 414 Fourth Avenue, thanked the Mayor and Council for their stands on the budget, feels more research needs to be done on the sewers, agrees with principle, feels the budget needs to be passed.

Rick Bartolomei, 116 Newark Avenue, stated he has a sewer report from two years ago and is not in favor of transferring funds from the utility accounts.

Lauren Egbert, 404 1/2 Brinley Avenue, had several inquiries regarding surplus, amounts being transferred from Beach and Sewer accounts and public view of the Budget document.

Discussion ensued between Ms. Egbert, Ms. Humphrey and Councilman Gubitosi regarding clarification on Ms. Egbert's inquiries.

Rich Despina, 600 Third Avenue, feels the problems need to be fixed before presenting this to the public.

Mayor Fox addressed Mr. Despina's comments.

2022-177 Approval of Budget Amendment.

ON MOTION by Fox/Sexsmith to approve the Budget Amendment.

Councilman Bonnell stated he is not comfortable moving forward with approving this amendment and voted no.

Councilman Gubitosi clarified the motion is to move this resolution from Individual Resolutions and vote now and stated given the concerns he has previously stated, voted no.

Councilman Weber stated given the concerns he stated, voted no.

ROLL CALL:

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

***NOTE* THIS RESOLUTION WAS NOT PASSED AND THIS BUDGET AMENDMENT INTRODUCTION WAS NOT PUBLISHED IN THE NEWSPAPERS.**

Councilman Gubitosi requested to make a motion to move forward with the amendment the elimination of the two \$50,000.00 transfers from Sewer and Beach Utility funds and corrections to allocation amounts for the Beach and the Sewer.

Discussion ensued regarding whether this was allowable or a violation. Ms. Humphrey suggested to wait and speak with the CFO (no longer present at the meeting) before moving forward.

After much discussion, Councilman Gubitosi withdrew the motion.

ZOOM Public Comment: None

WORKSHOP DISCUSSION(S)

Chapter 450 changes:

Bennet Matlack, Borough Engineer, stated he has been working with the Zoning Officer regarding updates and clarification on definitions to simplify and improve Chapter 450.

Some of the topics that have been discussed were balconies, sheds, patios, corner lots, setbacks and clearing up conflicting requirements. Also discussed were ordinances that were not codified previously.

Mr. Matlack stated the benefits of sending ordinance to the Land Use Board for suggestions prior to the introduction. Mr. Matlack also stated the ordinance must be introduced and adopted within the same calendar year.

Councilman Weber inquired if this is a continuation of the previous of the prior group that was working on improvements to Chapter 450.

Mr. Matlack he reviewed the work of the previous group and took their feedback into consideration.

Councilman Gubitosi inquired what the next steps would be to present the recommendations to the Land Use Board.

Mr. Matlack explained the steps involved.

Public Comment on Chapter 450 changes:

Thomas J. Coan, 612 Third Avenue, inquired when the revised documents will be available for public view.

Mr. Cannon responded the revised documents should be available at the next Land Use Board Meeting.

ZOOM Public Comment: None

Park Place NJDOT Award Scope:

Mr. Matlack explained the Borough has received an NJDOT Grant or this project from Main Street to Fletcher Lake Avenue.

Mr. Matlack presented the existing conditions and what is currently not compliant.

Councilman Weber inquired what is not compliant with the curb ramp.

Mr. Matlack addressed this inquiry.

Ms. Humphrey explained the importance of taking advantage of NJDOT and CDBG Grants.

Mr. Matlack explained the sanitary sewer will be replaced to ensure the Borough does not install improvements that will have to be torn up later due to needed sewer work.

Mr. Matlack stated the Grant money can only be used for Park Place Avenue.

Mr. Matlack stated the funding allotment for this project is \$193,000.00. The costs would go towards paving of the road, curbs and sidewalk and upgrading inlet structures.

The estimated cost for the entire project is \$653,000.00.

Mr. Matlack stated the project can move forward once the budget is adopted.

In Person Public Comment on Park Place NJDOT Award Scope: None

ZOOM Public Comment: None

Lake Terrace Open Space Grant Scope:

Mr. Matlack explained this is a matching grant for \$70,000.00 meaning the Borough will need to spend \$70,000.00 to receive and matching \$70,000.00 from the County.

Mr. Matlack stated the existing donated playground structure currently there will be preserved and protected.

Councilman Sexsmith asked if the Borough could move forward with this project without a budget.

Mr. Matlack and Ms. Humphrey replied no.

Public Comment on the Lake Terrace Open Space Grant:

Lauren Egbert 404 1/2 Brinley Avenue, expressed concerns with asphalt paving.

Ms. Humphrey addressed Ms. Egbert's concern.

Councilman Gubitosi suggested expanding the playground equipment to accommodate different age groups.

Ms. Humphrey explained more funds may be added by request through the Open Space Grant program.

Thomas J. Coan, 612 Third Avenue, suggested an upgrade to the fencing surrounding the park other than a chain link fence.

Julie Nutaitis, 605 Newark Avenue, suggested more amenities for all age groups.

Robyn Flipse, 408 Lake Terrace, mentioned a recent issue of dogs being brought to the park.

Ms. Humphrey stated she will address the dog issue.

ZOOM Public Comment: None

PRESENTATIONS

CDBG Grant Application for Sylvan Lake Walkway:

Mr. Matlack explained this Grant is for 2023 that the Borough is applying for. The deadline for submission of this application is 7/22/2022 and the project is for a walkway along Sylvan Lake from Bradley Boulevard, to Main Street to Evergreen Avenue.

The walkway would consist of paved or concrete with amenities such as benches, landscaping, walkway lighting.

Mr. Matlack maximum amount for the grant is \$250,000.00 and the total cost for the project is approximately \$350,000.00 and can be done in phases.

On Motion by Weber/ Sexsmith to open a Public Hearing on the CDBG Grant Application for Sylvan Lake Walkway.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

Councilman Weber, stated he would like to see trees along the walkway for shade.

Councilman Gubitosi, inquired if anyone has spoken to the Sylvan Lake Commission regarding this grant.

Ms. Humphrey stated she has been in contact with the Sylvan Lake Commission and confirmed this does not impose on any existing grants for the Sylvan Lake Restoration Project.

Mr. Matlack explained this hearing is to apply for the Grant right now.

Ms. Humphrey explained the process of how a CDBG Grant works.

Councilman Sexsmith inquired if the bulkhead repair will be included in this application.

Ms. Humphrey responded no. Ms. Humphrey stated she suggested applying for discretionary aid grant for the bulkhead.

Councilman Sexsmith inquired what the time frame is for a discretionary aid grant.

Ms. Humphrey stated these types of grants are ongoing.

Public Comment on CDBG Grant Application for Sylvan Lake Walkway:

Peter Sharpe, 301 Second Avenue, inquired if a fence against will be necessary for the walkway and making the ramp at the midpoint as part of the application. Mr. Sharpe stated the ramp is beneficial for kayaking and ice skating.

Mr. Matlack stated fencing is not necessary.

Thomas J. Coan, 612 Third Avenue, suggested an on-site meeting with the residents and honor benches and confirmed any construction will not interfere with the Sylvan Lake Restoration Project.

Mr. Coan mentioned the Public Hearing was not stated separately on the Agenda.

Mr. Cannon and Mr. Matlack addressed this.

Richard Despina, 600 Third Avenue, expressed concern about paving over the grass and the location of the walkway.

ZOOM Public Comment: None

APPROVAL OF MINUTES FOR JUNE 14, 2022

ON MOTION by Fox/Weber to approve the Council Business Meeting Minutes of June 14, 2022.

ROLL CALL:

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

APPROVED

ON MOTION by Fox/Weber to approve the Executive Session Meeting Minutes of June 14, 2022.

ROLL CALL:

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

APPROVED

Public Comments and Questions on Agenda Items:

In Person:

Nancy Meadow, 805 Beach Avenue, expressed several concerns with the bill list.

Rich Despina, 600 Third Avenue, inquired about resolutions 2022-178, 2022-181, and pointed out an error regarding Resolution 2022-184 regarding the Executive Session topic.

Mayor Fox, Mr. Matlack and Ms. Humphrey addressed Mr. Despina's inquiries regarding resolutions 2022-178 and 2022-181.

Mr. Cannon explained resolution 2022-184 topic of discussion was a typo.

Note, typo error for 2022-181 was corrected to read "Pending Litigation" instead of "Acquisition of Public Property, for the Executive Session.

Thomas J. Coan, 612 Third Avenue inquired about Resolution 2022-181.

Ms. Humphrey addressed Mr. Coan's inquiry and explained the RFP process for Electric Charging Stations.

Mr. Matlack addressed Mr. Coan's inquiries regarding resolution 2022-178.

ZOOM: None

ORDINANCE INTRODUCTION(S): None

ORDINANCE ADOPTION(S):

ORDINANCE 2022-6

AN ORDINANCE AMENDING SECTION 123-8: "RULES AND REGULATIONS" OF CHAPTER 123: "BEACHFRONT AREAS AND ADJACENT WATERS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO CLARIFY THAT ALL MOTORIZED OR POWERED BICYCLES ARE PROHIBITED ON THE BEACHFRONT PROMENADE.

ON MOTION by Fox/Sexsmith to open the public hearing for Ordinance 2022-6.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

Public Comment on Ordinance 2022-6:

In Person:

Rick Bartolomei, 116 Newark Avenue, inquired if a child's motorized vehicle would be prohibited on the boardwalk with the adoption of this ordinance.

Mr. Cannon stated confirmed this ordinance amendment includes all motorized vehicles on the boardwalk.

ZOOM: None

ON MOTION by Fox/Sexsmith to close the public hearing and adopt for Ordinance 2022-6.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

ADOPTED

ORDINANCE 2022-07

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER 5: “ADMINISTRATION OF GOVERNMENT” OF THE BOROUGH’S REVISED GENERAL ORDINANCES TO MODIFY AND CLARIFY CERTAIN MEETING RULES, AGENDA GUIDELINES, AND APPOINTMENT POWERS.

ON MOTION by Weber/Bonnell to open the public hearing for Ordinance 2022-6.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

Public Comment on Ordinance 2022-7:

In Person:

Thomas Gavin, 414 Fourth Avenue inquired if Legal Counsel, the Administrator, and the Clerk have reviewed the amendments and if outside Legal Counsel was sought to review these amendments and were there costs incurred.

Mr. Cannon addressed Mr. Gavin’s inquiries.

ZOOM: None

ON MOTION by Weber/Bonnell to close the public hearing and adopt for Ordinance 2022-7.

Councilman Sexsmith voted no and feels this is an attempt to use a legislative solution to a political problem that can potentially cause legal consequences.

Mr. Fox voted no for similar reasons as Councilman Sexsmith.

ROLL CALL:

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

ADOPTED

COMMUNICATIONS :

- **Beach Cashiers and Gate Guards Employee Memo.**
- **Library Board Appointment Memo.**

CONSENT AGENDA RESOLUTIONS:

2022-176 Bill List for June 28, 2022.

Councilman Weber inquired about an item on the bill list for pesticides.

Councilman Sexsmith and Ms. Humphrey addressed Councilman Weber's inquiry.

ON MOTION by Fox/Weber to Approve the Consent Agenda Resolution.

ROLL CALL:

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

APPROVED

INDIVIDUAL RESOLUTIONS:

2022-178 Approval to submit a Grant Application and execute a contract with the NJDOT for the Fifth Avenue Improvement Project.

ON MOTION by Fox/Sexsmith to approve Grant Application submittal and execution of a contract with the NJDOT for the Fifth Avenue Improvement Project.

ROLL CALL:

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

APPROVED

2022-179 Approving a Block Party Application for Burlington Avenue for Saturday, July 16, 2022 from 4:00 p.m. to 8:00 p.m.

ON MOTION by Fox/Sexsmith to approve a Block Party Application for Saturday, July 16, 2022 from 4:00 p.m. to 8:00 p.m.

ROLL CALL:

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

APPROVED

2022-180 Approving a Limited Brewery Off-Premises Event Permit ABC Application to CEEBEE, LLC for Bradley Beach Park Fest on July 10, 2022.

Councilman Gubitosi inquired the location for the Off-Premises Event.

Mayor Fox stated Riley Park.

ON MOTION by Fox/Bonnell to approve a Limited Brewery Off-Premises Event Permit ABC Application to CEEBEE, LLC for Bradley Beach Park Fest on July 10, 2022.

ROLL CALL:

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

APPROVED

2022-181 Authorizing the Administrator/Qualified Purchasing Agent to advertise for Request for Proposals for installation of Electric Vehicle Infrastructure and Services Provider within the Borough of Bradley Beach.

Councilman Weber inquired if any charging stations will be on the beachfront and if there will be designated parking spaces for electric vehicles only.

Ms. Humphrey addressed Councilman Weber's inquiries.

Councilman Gubitosi suggested public input in addition to Council regarding the locations.

Ms. Humphrey stated this will be workshopped as all ordinances are.

ON MOTION by Fox/Sexsmith to authorize the Administrator/Qualified Purchasing Agent to advertise for Request for Proposals for installation of Electric Vehicle Infrastructure and Services Provider within the Borough of Bradley Beach.

ROLL CALL:

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

APPROVED

2022-182 Granting a Special Events Permit to Safe Way Out and Multiple Non-Profit Organizations to conduct their Beach Yoga Sessions from June through September.

ON MOTION by Fox/Bonnell to grant a Special Events Permit to Safe Way Out and multiple Non-Profit Organizations to conduct their Beach Yoga Sessions from June through September.

ROLL CALL:

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

APPROVED

2022-183 Authorizing the release of Performance Guarantee posted by 301 Main Street Holdings, LLC for 301 Main Street and requiring the posting of a Maintenance Guarantee.

ON MOTION by Fox/Bonnell to authorize the release of Performance Guarantee posted by 301 Main Street Holdings, LLC for 301 Main Street and requiring the posting of a Maintenance Guarantee.

ROLL CALL:

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

APPROVED

2022-185 Granting a Special Events Permit to Safe Way Out and Multiple Non-Profit Organizations to conduct their Beach Yoga Sessions from June to September. *AMENDED*

Resolution amended to state the sessions will be conducted on McCabe Avenue beach only and not rotating beaches.

ON MOTION by Gubitosi/Weber to grant a Special Events Permit to Safe Way Out and multiple Non-Profit Organizations to conduct their Beach Yoga Sessions from June through September with the Amendment to conduct the sessions on McCabe Avenue Beach only.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

APPROVED

A discussion ensued amongst the Governing Body and the Borough Attorney regarding the motions made regarding resolution 2022-177 Budget Amendment. It was confirmed the resolution was voted down and not tabled.

ANNOUNCEMENTS: None

MAYOR AND COUNCIL REPORTS:

Councilman Bonnell:

Gave the weekly Fire, First Aid and Police weekly activity reports.

Councilman Gubitosi:

- Expressed his frustration regarding the budget amendments.
- Expressed concern regarding public comments on social media he viewed regarding 319 LaReine Avenue.
- Stated the Council will continue to pursue amendments to Chapter 286 and working with the Borough Attorney and the Labor Attorney.

Councilman Sexsmith:

Gave the Board of Education update and congratulated Captain Charles Zulla on his retirement.

Councilman Weber:

Anonymous OPRA requests:

It is an understatement to say that a lot was said at the last Council meeting regarding the anonymous OPRA requests. Now it is my turn. According to Councilman Gubitosi's statement at the last meeting, Councilman Sexsmith admitted to Councilman Bonnell that he was the anonymous OPRA requestor. But according to Councilman Sexsmith's statement in the Coaster, he is not the anonymous OPRA requestor. Both those things cannot be true. I really want to get to the bottom of this, because I ran for Council with both guys. I think there should be some type of inquiry by an authority outside of the Borough. Partly because it is possible that someone is framing Tim and we should find out who and clear Tim's name. Some will say, why bother, it is not illegal to do anonymous OPRA requests. And that is right, it is not illegal to do anonymous OPRA requests. But I believe a Councilman should be held to a higher standard. It may not be illegal, but it is not right. And people deserve to know. And framing someone may very well be illegal and people deserve to know that too. All I know is that it cannot go on like this. Communication has stopped between some of us. Some of the people up here are not talking to each other because of this. So let us get to the bottom of it.

Trash at the Street in cans and Signs:

We passed ordinances on both items. Your trash at the curb must be in a can, and that can must have a lid. Also, you cannot put up signs to advertise contractors who are working on your house. I am seeing a decent amount of these things around town, enough to make me ask the question; how are these things being enforced?

Shade Tree:

The Tree Survey is done or nearly done. A Licensed Tree Expert surveyed every street tree in this town. It is incredible the amount of work this Shade Tree Commission has gotten done.

Ms. Humphrey stated Code Enforcement is issuing violations for loose trash bags and inappropriate signs.

Mayor Fox stated he received a report from the Labor Attorney in which he needs to review with the Borough Attorney regarding Chapter 286.

Mayor Fox

On the topic of some of the events of the June 14th Council meeting, as your Mayor, I am committed to support progress through problem solving, effective decision making with data; and building community trust in our Bradley Beach Municipal Government. As Mayor, I applaud respect and civility, and I do not condone individual Council Member comments about other Council Members at Council meetings. This is unproductive.

The first month of summer is concluding. So far, the weather has cooperated. We are tracking very closely to our badge revenue from this time last year (within a few thousand dollars). Four of July weekend is upon us this weekend and we hope to enjoy great fireworks display this Sunday evening. On a positive note, Station 94.3- The Point ranked Bradley Beach number 6 of 44 beaches in New Jersey. Nice job to all.

Recycling switched over to a weekly cycle this week. Public Works will be reporting to us in September on the good, the bad and the recommended path forward. In addition, we can now add pizza boxes to your recycling- simply empty the box.

We had an important meeting a week ago Thursday, June 16th we had a Town Hall Meeting to answer any clarifying questions about the cost estimate provided by our project partners. T&M and DIG brought their experts to the Town Hall Meeting and answered several questions.

Additionally, we are working on a Town-Wide survey to be administered in July/ August.

The last Library event, Habitat Habits, for the month will be Thursday, June 30th 3:15 or 4:00 pm at Jenkinson's Aquarium. To kickoff for Summer Reading about the Ocean, children will learn the key factors every habitat must provide to support life.

Last, as we get the first 6 months of 2022 completed, it is important to share with the public where we anticipate our focus to be.

Administrator Humphrey

- **Mentioned a change order may be necessary for Sanitary Sewer Phase II.**
- **Mentioned deficient stormwater lines in town.**
- **Mentioned pricing for storm drains.**
- **Announced the Borough selected an intern to work in the central office a few days a week.**

In Person Public Comment:

Cara Turcich, 803-805 Ocean Avenue, thanked Council for approving the Beach Yoga Application however expressed disappointment one of the stipulations in the resolution was to rotate the sessions on different beaches in town.

After much discussion amongst the Governing Body, Administrator and Borough Attorney regarding this stipulation, it was decided to amend the resolution to remove the beach rotation stipulation and allow the Beach Yoga sessions to be conducted on McCabe Avenue Beach as was originally requested, thus adding resolution 2022-185 at the end of the meeting.

Nancy Meadow, 805 Beach Avenue, expressed disappointment for allowing the amendment to the Beach Yoga amendment.

Mia Mustascio, 401 McCabe Avenue, stated she is in favor of the Beach Yoga remaining on the McCabe Avenue Beach.

Peter Sharpe, 301 Second Avenue, had inquiries regarding the sewer laterals, comments about the recycling schedule and stated he was impressed with the budget process.

Councilman Bonnell and Ms. Humphrey addressed the sewer lateral inquiry.

Rick Bartolomei, 116 Newark Avenue, inquired about the Fourth of July Fireworks being cancelled.

It was determined an email announcement received by Mr. Bartolomei was from 2021.

Brigitte McGuire, 610 Brinley Avenue, gave the following statement:

Did we come to an understanding on the 13% salaries and wages increase? I find it very interesting that Mayor Fox blamed Councilman Gubitosi on stalling the budget of \$300,000. This just happens to be approximately the same number as the increase of the salaries and wages that Councilman Gubitosi was questioning. I will watch back the recording of the meeting to hopefully find the answer unless anyone would like to elaborate on that point.

Next is in regards to Councilman Gubitosi's statement from the last meeting that had strong evidence pointing to Council President Sexsmith. I emailed the Council President after that meeting and never received a response. But after reading the paper where he "denied telling Bonnell that he was the author of the requests", I would like to follow up on that. I would like to address Councilman Bonnell directly regarding this, Do you have anything you can say to clarify this for the residents? I do believe we really need to get to the bottom of who Lying Larry is. Even though the act was not illegal, which I am well aware of, I still cannot believe we have someone spending thousands of our tax dollars this way and not willing to come forward and apologize.

In closing, we have residents who are trying to get to truth and transparency in this town. The real faction lies in this Administration and it has been proven time and time again. Mayor Fox, a leader does not ignore the subject of someone costing the town thousands of dollars and then negatively reports to the paper about the tax-paying residents.

Mayor Fox stated as a leader he is in the process of obtaining the proper legal opinions before responding to Ms. McGuire's comments.

Julie Nutaitis, 605 Newark Avenue, expressed her opinions on the Mayor's communication with the Governing Body and the public.

Nancy Meadow, 805 Beach Avenue, thanked Councilman Gubitosi for initiating hybrid meetings, mentioned her concerns regarding the budget, stated the 319 LaReine Avenue survey planned should be bilingual and beach enforcement on signage.

Thomas J. Coan, 610 Third Avenue, stated he is in favor of the Beach Yoga sessions remaining on the McCabe Avenue Beach Yoga.

Mr. Coan commended Mr. Heflich for his work on the Shade Tree Commission.

Thanked Ms. Humphrey for obtaining an intern.

John Naples, 1009 Ocean Avenue, stated Councilman Gubitosi's were out of line at the last meeting regarding the accusations against Councilman Sexsmith being the anonymous OPRA requestor and feels this matter should be dropped.

ZOOM Public Comments:

Dave Rakowski, 304 Third Avenue, thanked Council for the ZOOM capability reported he saw four motor vehicle violations on his street.

Resolution 2022-185 Amending Resolution 2022-182 to remove the rotation requirement for Beach Yoga Sessions.

ON MOTION by Weber/Gubitosi to remove the Rotation requirement for Beach Yoga Sessions.

ROLL CALL:

AYES: Bonnell, Gubitosi, Sexsmith, Weber, Mayor Fox

NAYS: None

ABSENT: None

ABSTAIN: None

APPROVED

Clerk Kostyz stated for the record the date on Resolution 2022-179 for the Burlington Avenue Block party is incorrect and will be corrected to read Saturday, July 16, 2022.

EXECUTIVE SESSION:

Resolution 2022-184 Retire into Executive Session to discuss a Litigation Matter.

***Note* Resolution 2022-184 was corrected from "Lease of Acquisition Property" to read "Litigation Matter" and reposted to the corrected resolution website after the meeting.**

ON MOTION by Fox/ Sexsmith to retire into Executive Session at 10:15 p.m. to discuss a Litigation Matter.

ROLL CALL:

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

APPROVED

ON MOTION by Bonnell/Sexsmith to return from Executive Session at 10:20 p.m.

ROLL CALL:

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

ADJOURNMENT:

ON MOTION by Bonnell/Sexsmith adjourn the Council Business Meeting at 10:20 p.m.

ROLL CALL:

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

THE COUNCIL BUSINESS MEETING ADJOURNED AT 10:20 P.M.


Erica Kostyz, RMC, CMR
Municipal Clerk