

February 3, 2020

The regular meeting of the Mayor and Council of the Borough of Bay Head was held on February 13, 2019 at 7:00pm in the Municipal Building, 83 Bridge Avenue, Bay Head, New Jersey.

Mayor Curtis called the meeting to order, welcomed everyone and asked everyone to stand and join in the Pledge of Allegiance to the Flag.

Mayor Curtis read the following statement:

Ladies and gentlemen, pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. This meeting is listed on a schedule of meetings of this Governing Body which was posted on the bulletin board at 83 Bridge Avenue on January 2, 2020 and was published in *The Ocean Star* on January 10, 2020 and the *Asbury Park Press* on January 4, 2020

The roll was called for attendance. Present were Mayor Curtis and Councilmembers Cornell, Barnes, Shaning, MacPherson, Lyons; Christopher Parlow, Borough Administrator and Jean Cipriani, Borough Attorney.

Mayor Curtis stated a letter of resignation had been received from Brian Magory dated January 2, 2020 effective January 2, 2020 and received on January 13, 2020. A copy of this letter is attached to these minutes.

Mayor Curtis stated a letter dated January 15, 2020 had been received from the Regular Republican Organization of Bay Head submitting three nominees to be considered by Council for the remain term of the open Borough Council position. A copy of this letter is attached to these minutes.

Councilmember Lyons offered Resolution 2020-45 appointing R. Andrew Frizzell to the vacant seat on the Borough Council created by the resignation of Councilmember Brian Magory. The motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. A copy of the resolution is attached to these minutes.

Ms. Cipriani administered the Oath of Office to R. Andrew Frizzell. He took his seat on the dias.

Mayor Curtis read a portion a Proclamation proclaiming the week of March 15-21, 2020 as National Poison Prevention Week. A copy of the Proclamation is attached to these minutes.

Councilmember Barnes moved to approve the regular minutes of January 1, 2020 and the special and executive minutes of January 13, 2020. The motion was seconded by Councilmember Lyons and passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell.

Mayor Curtis: I have three announcements.

1. This year marks the 100<sup>th</sup> Anniversary of women getting the right to vote in New Jersey – February 9, 2020. New Jersey was the 29<sup>th</sup> State of the original 36. Congratulations to all the ladies in the audience.
2. New Jersey Transit is proposing a new sub-station. They came in for a meeting on 1-8-2020 at that time, we were told the start date would be the end of January. On February 13, 2020 there will be a public hearing here. Come and get your questions answered. We have not yet seen the construction plans for this process. We are trying to get them before the public hearing.

A Quality of Life Committee was formed when NJT had plans to fuel the trains in Bay Head. Bev Furze, Joanne Pehlivanian, Sue Shore, John Berko and Mayor Art Petracco worked and got them to stop and move to another location. Right now we still have a Quality of Life Committee. We also have a Mayor's Wellness Committee which goes by Bay Head Life. Members of the Quality of Life Committee at present, are Bev Furze and Erik Furze. Erik is a mechanical engineer and read the complete submission NJT made to DEP. The public hearing will be from 3 to 5 pm in this room on 2-13-2020.

3. There will also be a public hearing on Monday, February 24, 2020 from 3 to 5 pm on cell issues. We encourage every citizen to bring their questions and comments. We are looking for your input at that meeting.

Councilmember Lyons: The meeting on 2-24-2020 will be at 7 pm.

Mayor Curtiscalled for Reports of Standing Committees.

Councilmember Shaning, Public Safety, read the December and January report for the Police Department and the Fire Department. A copy of the report is attached to these minutes.

Monthly Fire Safety Tip:

With the winter snowfall season upon us, the fire department would like to remind all homeowners and business owners to shovel out any fire hydrants in front of their properties within 24 hours.

Councilmember Barnes, Legal and Planning: We are working on a couple of ordinances. The Dune Ordinance will be introduced tonight thanks to everyone who attended our September meeting and offering their suggestions. I feel it is a workable document and your help was invaluable. I would also encourage you to show up for the planned meeting to discuss cell antennas. We would like to hear your pros and cons – your input is very much appreciated.

An Ordinance is also being introduced concerning Land Use. We continue to work on amendments to the sign ordinance and hopefully it will be available for introduction soon.

Councilmember MacPherson, Public Services, read the Construction Official and Code Enforcement for the month of January. Copies of the reports are attached to these minutes.

Councilmember Cornell, Public Works, read the Public Works Report for the month of January. A copy of the report is attached to these minutes.

Councilmember Cornell, Parks, Grounds and Recreation: The Bay Head Environmental Commission is working on a Water Restoration Grant and a resolution will be offered tonight to work with Princeton Hydro – this will be for work on Twilight Lake.

Councilmember Lyons, Finance and Technology.

Finance: The Finance Committee met and are reviewing items for the 2020 Budget. Hopefully we can introduce our budget as soon as the state allows. We will need to continue with Temporary Emergency resolutions until we can adopt our 2020 budget and one is on the agenda tonight.

Technology, had no report.

Christopher Parlow, Borough Administrator:

1. January I spent working with the new Borough engineer. We are working on moisture issues in this building. There is a problem with the AC units and we are trying to come up with solutions to resolve those issues.
2. Sally port – which is the caged area in the back and to be used when the police bring prisoners into this building. At present it is not usable. We will be working on that.
3. We continue to see issues with the sewer flows. Rain contributes to the high infiltration rate other than the usage by homeowners. I continue to study to correct that. If the sewer was tighter you wouldn't see that influx. There are also some issues on the homeowner side.
4. We recently placed for auction one of our police vehicles. It was a Chevy Tahoe. The reserve was \$4,500 and we sold it for \$7,380.00. We received bids from all over even out of state.

Mayor Curtis called for Clerk's Correspondence.

Ms. Applegate offered the following request:

A request from Special Olympics New Jersey and the Jersey Shore Running Club for permission to have participants in the Jersey Shore Relay to Benefit Special Olympics run through the Borough on Saturday, April 4, 2020

Application for On-Premise 50/50 Raffles License and for Off-Premise Gift Card Raffles License from the Bay Head Fire Company No. 1 for Drawing to be held at their annual Clam Bake to be held on Saturday,

August 15, 2020

Request from Rev. Robyne Mayer, St. Paul's United Methodist Church to use Centennial Park for their annual Community Easter Egg Hunt on Saturday, April 11, 2020 from 7 am to 1 pm

Application for Off-Premise 50/50 Raffles from Meridian Health Foundation Inc. for an event to be held at the Bay Head Yacht Club on May 29, 2020 with drawing to be at 9:30 pm

Request from ZasZasStackles, Bay Head Business Association to carry out the 5<sup>th</sup> Annual Glimmer of Hope lantern event on August 8, 2020 at dusk

Councilmember Cornell moved to approve the request which was seconded by Councilmember Barnes. The motion passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. Nays: None. ABSTAIN: Frizzell.

Mayor Curtis called for Resolutions.

Councilmember Lyons offered Resolution 2020-46 authorizing the execution of a Policy Endorsement with Metropolitan Life Insurance Company (METLIFE) as administered by Bollinger Specialty Group Dental Service Plan Coverage.

Councilmember Shaning offered Resolution 2020-47 authorizing the execution of a Shared Services Agreement with the County of Ocean for the Driving While Intoxicated Enforcement Program.

Councilmember Shaning offered Resolution 2020-48 authorizing the execution of a Shared Services Agreement with the County of Ocean for Drug Recognition Expert Callout Program.

Councilmember Shaning offered Resolution 2020-49 authorizing the execution of a Shared Services Agreement with the County of Ocean for "Move Over" Law Enforcement Program.

Councilmember Barnes offered Resolution 2020-50 authorizing an Agreement for certain Legal Services adopted by the Borough of Bay Head.

Councilmember Shaning offered Resolution 2020-51 authorizing payment to employees for Accrued Compensatory Time from the budgetary provision approved as Police Salary and Wages – Ptl. Iannarone-\$1,664.33 and Ptl. Stockhoff-\$5,121.00.

Councilmember MacPherson offered Resolution 2020-52 authorizing execution of an Addendum to the Electric Supplier Agreement.

Councilmember Barnes offered Resolution 2020-53 awarding Peddler's License for the Year 2020.

Councilmember Shaning offered Resolution 2020-54 amending Resolution 2019-140 providing for Salaries and Compensation for Part-Time SLEO I and II in the Police Department for 2020.

Councilmember Cornell offered Resolution 2020-55 appointing members to the Mayor's Wellness Committee (Bay Head Life) for 2020.

Councilmember Cornell offered Resolution 2020-56 authorizing the execution of a Schedule "C" Agreement with the County of Ocean Road Department.

Councilmember Shaning offered Resolution 2020-57 accepting the retirement of Todd D. LaRue, effective December 31, 2019 and authorizing payment of Accumulated Leave Time.

Councilmember Lyons offered Resolution 2020-58 adopting 2020 Temporary Emergency Appropriations #1.

Councilmember Lyons offered Resolution 2020-59 approving a Change Order in the amount of \$34,411.78 for a Decrease in the Contract executed with A & A Curbing, Inc. for the 2018 NJ DOT Municipal Aid Program – Osborne Avenue Curb & Sidewalk Restoration.

Councilmember Cornell offered Resolution 2020-60 authorizing the submission and payment of the New Jersey Department of Environmental Protection Beach & Dune Maintenance Permit Application.

Councilmember Cornell offered Resolution 2020-61 Re-Approving the Municipal Public Access Plan.

Councilmember MacPherson offered 2020-62 authorizing Maser Consulting, P.A. to perform Community Rating System Program assistance for the Borough of Bay Head.

Councilmember Cornell offered Resolution 2020-63 authorizing Princeton Hydro to assist the Borough in the submission of a New Jersey Department of Environmental Protection Water Quality Grant for the preparation of a Lake/Management Plan for Twilight Lake.

Councilmember Barnes offered Resolution 2020-64 appointing William C. Sullivan, Jr. Esq., of the firm Scarinci Hollenbeck, as Special Counsel for the Borough of Bay Head concerning New Jersey Transit.

Councilmember Shaning moved the above resolutions be adopted. The motion was seconded by Councilmember Barnes.

Mayor Curtis asked if there were any questions from the public concerning the Resolutions presented.

There being no comments or questions Mayor Curtis closed the discussion by the public.

The motion passed on roll call vote: YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell. A copy of each resolution is attached to these minutes.

Mayor Curtis called for Ordinance, First Reading.

Councilmember Cornell offered Ordinance 2020-01 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN,  
STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF THE DEED OF  
DEDICATION AND PERPETUAL PUBLIC ACCESS EASEMENT

Councilmember Cornell moved this ordinance on first reading, which motion was seconded by Councilmember Barnes.

The motion passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell. A copy of this ordinance is attached to these minutes.

This ordinance is scheduled for second reading and public hearing on March 2, 2020.

Councilmember Cornell offered Ordinance 2020-02 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN,  
STATE OF NEW JERSEY, DESIGNATING THE BAY HEAD PUBLIC WORKS  
DEPARTMENT TO INSTALL AND MAINTAIN ALL SIGNS ASSOCIATED WITH  
THE MUNICIPAL PUBLIC ACCESS PLAN

Councilmember Cornell moved this ordinance on first reading, which motion was seconded by Councilmember MacPherson.

The motion passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell. A copy of this ordinance is attached to these minutes.

This ordinance is scheduled for second reading and public hearing on March 2, 2020.

Councilmember Shaning offered Ordinance 2020-03 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN,  
STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE MUNICIPAL  
CODE OF THE BOROUGH OF BAY HEAD, SO AS TO AMEND ARTICLE V OF  
CHAPTER 207, ENTITLED "MAINTENANCE OF REFUSE CONTAINERS AND  
DUMPSTERS" TO ESTABLISH A REQUIREMENT THAT TEMPORARY  
DEMOLITION CONTAINERS BE PROPERLY COVERED DURING NON-  
WORKING HOURS

Councilmember Shaning moved this ordinance on first reading, which motion was seconded by Councilmember Barnes.

The motion passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell. A copy of this ordinance is attached to these minutes.

This ordinance is scheduled for second reading and public hearing on March 2, 2020.

Councilmember Barnes offered Ordinance 2020-04 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE II OF CHAPTER 75 OF THE BOROUGH OF BAY HEAD, ENTITLED "PROTECTION OF BEACHES AND DUNES"

Councilmember Barnes moved this ordinance on first reading, which motion was seconded by Councilmember Cornell.

The motion passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell. A copy of this ordinance is attached to these minutes.

This ordinance is scheduled for second reading and public hearing on April 6, 2020. This ordinance requires Planning Board review.

Councilmember Barnes offered Ordinance 2020-05 entitled:

AN ORDINANCE OF THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING ARTICLE II OF CHAPTER 147 OF THE BOROUGH CODE OF THE BOROUGH OF BAY HEAD, ENTITLED "LAND USE"

Councilmember Barnes: This amendment addresses front yard setbacks on East Avenue.

Councilmember Barnes moved this ordinance on first reading, which motion was seconded by Councilmember MacPherson.

The motion was passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell. A copy of this ordinance is attached to the minutes.

Mr. Parlow: The front yard setback for oceanfront property is now based on the rock revetment. The rock revetment is not exposed, so it is difficult to determine the setback. We will now use the property line on East Avenue.

This ordinance is scheduled for second reading and public hearing on April 6, 2020. This ordinance requires Planning Board review.

Mayor Curtis called for New Business.

Mayor Curtis made the following appointments to Council Standing Committees for the remainder of 2020. The first person is Chairman.

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|-----------------------------|--------------------------------------|
| Public Services             | <u>FRIZZELL</u> , Barnes, Shaning    |
| Public Works                | <u>CORNELL</u> , Shaning, MacPherson |
| Legal & Planning            | <u>BARNES</u> , MacPherson, Frizzell |
| Public Safety               | <u>SHANING</u> , Barnes, Lyons       |
| Parks, Grounds & Recreation | <u>MacPHERSON</u> , Cornell, Lyons   |
| Finance & Technology        | <u>LYONS</u> , Cornell, Frizzell     |

Councilmember Cornell moved to approve Mayor's appointments of the 2020 Standing Committee and Chairpersons. This motion was seconded by Councilmember MacPherson and passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell.

Mayor Curtis called for Unfinished Business. There was none.

Mayor Curtis opened the meeting to the public.

Beverly Furze, 2 Wyndham Drive: The NJT meeting – could you extend the hours or make it an evening meeting for those who work?

Mayor Curtis: NJT will give a presentation. We just hired an attorney, to work on this and Jean is also involved.

Ms. Furze: What we need to do is stop the project.

Ms. Cipriani: I know you feel notice was an issue and if it was incorrect that may be a reason but that was done legally. We need to find an environmental issue for an order to show cause.

Ms. Furze: In 2001 we were noticed – in 2016 we were not noticed. The DEP submission never included the overhead lines.

Ms. Cipriani: That is still being looked at.

Bill Furze, 2 Wyndham Drive: NJT overstated their need. There are wet lands, overhead wires, diesel fuel for generator and there will be no DEP monitoring. The height of the structure is an issue. They can comply with the old standard – 8-5-2013 flood hazard. The new maps dated 6-20-2018 – need to take a closer look. It will also sit right on Twilight Lake.

Erik Furze, 2 Wyndham Drive read from the notes he made from NJT's submission to DEP. A copy is attached to these minutes.

Mayor Curtis: We are very lucky to have Erik. He has done a superb job. He will be involved with our attorney's tomorrow.



Peter McMahon, 102 Twilight Road: Weren't there discussions in 2001 not to put in diesel fuel.

Mayo Curtis: Yes, in writing.

Lisa Baney, 421 Lake Avenue: It is such a spiritual place – a beautiful place. I didn't get a notice for the 2016 submission to DEP – do you have to be within 200 feet? Why was there not a public hearing then?

Ms. Cipriani: They are required to notice blocks and lots within 200 feet as part of the notification process for their CAFRA permit. They may or may not have a public hearing – it is not required. A number of issues other than notification have been raised tonight and will be looked at.

Ms. Baney: Zoning approval from Bay Head is not required.

Ms. Cipriani: That is correct.

Ms. Baney: Wildlife during construction should be considered as well as erosion controls during construction. Was an analysis as to wildlife after construction done?

Ms. Cipriani: That is part of the point being made. Is the information in the submission incomplete and/or inaccurate information? That could be a basis to stop the project and/or look at additional sites.

Ms. Baney: Is Save Barnegat Bay also investigating?

Erik Furze: Yes.

Ms. Baney: Historical not impacted? Do we have elevations as to all angles?

Ms. Cipriani: We are trying to get the plans – we don't have them yet.

Ed Nolan, 89 Osborne Avenue: We have struggled for many years with NJT – horn blowing etc. This doesn't make sense – building the tallest building on the barrier island. Where is all this going to lead to - what's next? Have you been on the path that goes out to Kellogg Island? There are osprey nests right where they are going to be building. They have crews there now and poles have been installed. Where are the checks and balances? They have no idea what is going on in Bay Head. I want to thank Erik and Bill otherwise we would not have known about this. Thanks also to Mayor and Council.

Mayor Curtis: We are making every effort that we can.

Mr. McMahon: We are grateful for all you are doing but as residents contact your local Congressman. You have two Senators – write letters – as voters in this state they will pay attention to you. Contact the Sierra Club, Green Peace – please do that – lets help ourselves.

Helene Defilippis, 78 Goetze Street: Before when this happened we had support of everybody. Are our assemblymen helping us?

Mayor Curtis: Yes – Senator Jim Holzapfel, Assemblyman Greg McGuckin are helping. Also, the attorney we hired is the same as in the prior issues with NJT.

Dan Paulus, 206 Lake Avenue and Chairman of the Environmental Commission: We have sent a letter to Glen Feldman and to NJT. I haven't received any acknowledgment from transit. We did get a response from Glen Feldman. Environment Commission is reviewing this with Erik who made a presentation at our last meeting.

218 Osborne Avenue: Have you considered using social media, Ocean Star?

Councilmember Cornell: The Ocean Star did an article last week.

Jon Younghans, Mount Street: We don't want this in Bay Head so we need to give them the next logical location. Erik meeting with the experts pulling together an alternative solution - might be the answer.

As to the cell tower – it is a shame that we have lost revenue over the last years. Hopefully there will be a solution to have the cell tower on town property.

Dr. Gail Zimmerman, 50 Mount Street: I worked in the U. S. Senate – we need to make phone calls – they do make an impact. Contact all local and state legislatures.

Mayor Curtis: Senator Holzapfel and Congressman Chris Smith – they are willing to help.

Dr. Zimmerman: Maybe a list of all phone numbers could be posted to the website.

Councilmember Barnes: I will make sure it is there.

Dr. Zimmerman: I agree with Jon about the cell tower being on Borough property. All those years we have lost the revenue. Is there a plan for a temporary cell tower?

Mayor Curtis: Nothing yet – we want to get your thoughts.

Art Williams, 359 East Avenue: As to the cell tower – who is proposing this Verizon?

Mr. Parlow: There are currently three carriers on the water tower. Last year, NJ-American Water Co. notice them that the tank would be demolished. They want this work complete by January 2021. We have been told by the carriers they need antennas in this area. This brings up the question – what is going to happen to those antennas going forward. That is the purpose of the public meeting.

John, 317 Lake Avenue: In May 2019 NJT posted on their website contracts to do this work in Bay Head. How could they provide the plans to them and not the Borough?

Toby Wintersteen, 277 Osborne Avenue: One main problem is that passenger rail is becoming obsolete. Las Vegas, DC and Baltimore have plans – this may make the whole thing go away.

Mr. Williams: Thank you for your errors on the new beach ordinance. I spent the morning fighting the state. How can a homeowner go to jail for walking on their own property? There are 70 ocean front properties.

Mayor Curtis: Thank all of you for coming. A special thanks to Erik, Bill, Bev, Dan and the Environmental Commission for your work on this.

There being no further comments Councilmember Lyons moved to approve the vouchers for payment. The motion was seconded by Councilmember Barnes and passed on roll call vote. YEAS: Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None. ABSTAIN: Frizzell. A list of vouchers is attached to these minutes.

The meeting was adjourned.

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Patricia M. Applegate, Municipal Clerk

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William W. Curtis, Mayor