

# **BOROUGH OF BERNARDSVILLE**

## **BOROUGH COUNCIL MEETING MINUTES**

January 28, 2008

A meeting of the governing body was called to order by Mayor Honecker at 7:00 p.m. on Monday, January 28, 2008, in the Borough Hall. Present were Denis J. Dooley, II, Charlotte J. Foster, John McCrossan, Edward McDowell, Joseph Rossi and Kevin Sooy. Also present were John R. Pidgeon, Esquire, Borough Attorney, Ralph A. Maresca, Jr., Administrator and C.M.F.O., and Sandra Jones, Borough Clerk and Assistant Administrator.

### **STATEMENT OF PRESIDING OFFICER**

Mayor Honecker announced that notice of this meeting was provided to the Bernardsville News, Courier News and the Star Ledger, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on December 18, 2007.

### **PRESENTATIONS**

This portion of the meeting was devoted to discussions with members of the Planning Board and Board of Adjustment. Craig Lawrence, Planning Board Chair, called the roll. Present were Terry Thompson, Dorothy Paluck, Jacqueline Totten, Donald Knudsen, and Charlotte Foster.

William Foster, Board of Adjustment Vice Chair, called the roll. Present were Kathy Pierce Desjourdy, Paul Biba, Gerald Negri, David Greenebaum, Steve Omlor, Christopher Howley and the Board Attorney John Lynch.

Mayor Honecker asked if there were zoning issues of concern? None were reported.

Terry Thompson reported that the Borough's center designation expired on January 8, and she, on behalf of the Planning Board, asked if the Borough Council wants to renew it? The first step, she said, is to write a letter and collect documents. Ultimately, documents must be submitted in writing and electronically and if some are not already available in electronic format, their would be some cost involved. The Mayor would appoint a steering committee. Mrs. Thompson and Donald Knudsen volunteered to serve. Center designation history and benefits were discussed. When asked to expound on "benefits lost" during the first ten year period of designation, Mrs. Thompson said the Borough would move down on funding priority lists without designation. The matter was referred to the finance committee to review costs. Mr. Sooy moved to authorize the Planning Board to proceed with the first step toward center designation. Mr. Rossi seconded, and the motion was approved with six yes votes.

The Board of Adjustment presented their Report for the Year 2007.

Mayor Honecker reported hearing negative comments from residents about demeanor and treatment of members of the public at meetings. Mr. McCrossan said he has heard complaints regarding

communications, and frustration with delays. Mr. Rossi reported hearing complaints about “outbursts” at meetings. To all of this, Mayor Honecker asked the boards to be aware of the perception, accurate or not, and to give due process to applicants. Mr. Lynch responded that he has not observed unfair treatment of the public, but commented that at times, the public has misunderstood the board’s rules of procedure, as dictated by law.

### OPEN SESSION

Mayor Honecker opened the public session.

Rosalie Baker, Olcott Avenue, read a letter written by her husband Bob which stated that they have attended Council, Planning Board, Board of Adjustment and School Board meetings for the last 18 months to better understand how government works and to help them fulfill their goals of volunteering for the community. She concluded that the purpose of the letter was to offer constructive feedback of what they have observed and hope for a resolution that all meetings will be conducted in a civil and respectful manor.

Kate Lincoln, Olcott Avenue, referred to prior comments regarding “a certain matter she was involved in”. (Note: The writer believes she referred to the suit, Bernardsville Neighborhood Preservation Committee vs. Somerset Hills School District et al.) Mrs. Lincoln asked Mr. Lynch why he wanted to hurry “this” along? She encouraged everyone to understand that decisive issues only happen if everyone is not equally committed to finding the best long term solution for the entire community.

Anthony Dello Russo, Mine Mount Road, said there are five attorneys on the Board of Adjustment and he encouraged that future appointees be more representative of the whole town. He said he is aware of several lawsuits that our borough has faced over the last several years and asked what these suits are costing? Mr. Dooley said the borough is not creating suits; that it is a person’s constitutional right to sue. Mr. Dello Russo said it would be a big plus if we could reexamine some of the laws that were created in an effort to keep us out of lawsuits, and he cited the tree ordinance as one example of a regulation that it unreasonable in his opinion. Mayor Honecker said Mr. Dello Russo’s comments would be passed along to the Shade Tree Committee to consider in their review of the ordinance, which is already in progress.

Roberto Mendoza, Stevens Street, asked about progress on removal of graffiti on an alleyway off Claremont Road? Mayor Honecker said the Borough Council is discussing how to pursue the matter and will review a reward ordinance later in this agenda. Mrs. Foster said the site in question is private property, and we have to be sensitive to the property owner who was victimized by graffiti, while we arrive at a strategy and standard for removal. Mrs. Foster asked who owns the wall on Woodland Avenue? Mr. Rossi responded, “a private homeowner.” Mr. Sooy discussed options and recommended exploring whether the Sheriff’s department can assist with removal.

Gerald Negri, Ambar Place, said there is a pie shaped piece of land at the end of Ambar Place near Washington Avenue that he believes is owned by the Borough and that “is horrendous.” He called it a trash dump, overgrown with brush and poison ivy.

Mr. Oross, Old Colony Road, said “he is discouraged that common objectives were not foreseen and discussed, before this happened.” (Note: The writer believes he referred to the suit, Bernardsville Neighborhood Preservation Committee vs. Somerset Hills School District et al.)

Donald Knudsen, Anderson Hill Road, spoke about poor lighting in the stacks at the library, and he encouraged the council to deal with the problem. Mayor Honecker responded that solutions are already being explored.

Mayor Honecker closed the public session. It was moved and seconded by Planning Board members to adjourn their meeting. Motion carried. It was moved and seconded by the Board of Adjustment members to adjourn their meeting. Motion carried.

Mayor Honecker announced upcoming awards to four outstanding Bernardsville women for their contributions to the community, and offered his congratulations to:

- Megan McDowell for her work in the category of “hometown hero.”
- Charlotte Foster for her work in the area of education.
- Sharon Lutz for her work in social services, and
- Marie Flynn, this year’s Millicent Fenwick award winner for outstanding government service.

**APPROVAL OF MINUTES**

Mayor Honecker asked if there were amendments or corrections? There were none. Mrs. Foster moved to accept minutes of December 10, 28, January 3, 7 and 14. Mr. Dooley seconded and the motion was approved with six yes votes.

**RESOLUTIONS**

**#08-29 APPOINTING CONSTRUCTION OFFICIAL AND SUBCODE OFFICIALS**

**#08-31 REAPPOINTING RICHARD MC CORRY AS CLASS I SPECIAL POLICE OFFICER**

- #08-32      AUTHORIZING REFUND OF FEES COLLECTED FOR A BUILDING PERMIT WHICH HAS BEEN WITHDRAWN**
- #08-33      AUTHORIZING AN EXCHANGE OF CERTAIN HOLIDAYS**
- #08-34      ACCEPTING MONTHLY REPORTS**
- #08-35      AUTHORIZING TRANSFER OF FUNDS**
- #08-37      AUTHORIZING RECYCLING OR DISPOSAL OF EQUIPMENT**
- #08-38      AMENDING RECREATION FEE RESOLUTIONS**

It was noted that the term for the Temporary Construction Official and Temporary Building Subcode Official is 30 days, as corrected by hand in Resolution #08-29. Mrs. Foster moved to approve Resolutions #08-29, 31 through 35, and 37 and 38. Mr. McDowell seconded and the motion was approved by the following roll call vote:

Mr. Dooley	Yes	Mr. McDowell	Yes
Mrs. Foster	Yes	Mr. Rossi	Yes
Mr. McCrossan	Yes	Mr. Sooy	Yes

**Resolution #08-30, "AUTHORIZING CHANGE ORDER #2 TO THE CONTRACT FOR WWTP FILTER MEDIA AND SUPPORT BLOCK RETAINING ANGLE REPLACEMENT"**, was discussed. Mr. McCrossan recommended that in the future, ordinances which are referenced, be added to background documentation provided with resolutions.

Mr. Dooley asked about a bill for \$3,500 for Bernards High School Municipal Alliance General Expense/Pure Leadership Freshman Orientation, shown in **Resolution #08-36 "AUTHORIZING PAYMENT OF BILLS"**. Mr. Maresca responded that the borough administers and does accounting for the Municipal Alliance grant funds which are provided by the county, and since the funds go through our budget, they must be included on our bill list.

Mrs. Foster moved to approved Resolutions #08-30 and #08-36. Mr. Rossi seconded and the motion was approved upon the following roll call vote:

Mr. Dooley	Yes	Mr. McDowell	Yes
Mrs. Foster	Yes	Mr. Rossi	Yes
Mr. McCrossan	Yes	Mr. Sooy	Yes

**REPORT OF THE MUNICIPAL ATTORNEY**

Mr. Pidgeon's written report as of January 22, 2008, was received. Mr. McCrossan asked if the governing body is entitled to request that the Board of Adjustment keep them informed, in writing, regarding suits? Mr. Pidgeon advised against that, because if there is an appeal, the matter would come before the governing body and it is best to hear appeals with an open mind.

**COUNCIL COMMITTEE REPORTS**

**Mrs. Foster reported for the Public Safety Committee.** She said the work on Route 202 is on the agenda as an item of business, and the committee recommends signing the contract with the state for our Bernardsville Police to handle traffic control. There have been some operating issues that need to be rectified with the parking pay station at the train station parking lot. Decal holders are parking in the metered area and at this time are given warnings. The police are monitoring the train station lot and have noticed fewer cars are parked and have noted some cars are from outside the borough. It is suspected that these cars were previously parking free in the lot and some non-residents are finding different places to park within the borough, including Claremont Road between the Bookworm and the office building, at the post office, library and Ammerman lots, and on Boylan Terrace. New parking regulations for Boylan Terrace are being considered. There is a problem with day laborers congregating at the train station particularly near the parking pay station and being defiant when told to move when they are blocking the walkway to the train station entrance. Various solutions were discussed. The graffiti ordinance was discussed tonight. OEM initiatives were discussed. We have not received a response to our initial request to be considered for the ICE program. NIMS training information was provided.

**Mr. McCrossan reported for the Finance Committee.** He said the committee met twice in January with a follow-up meeting planned on January 30 to review capital requests. The borough auditor is due shortly to do the 2007 closeout. The committee has a first cut of the 2008 budget. Last year, there were seven versions of the budget before it was brought before the full council for consideration. The state has relaxed their mandate that municipalities have an approved budget by the end of March, extending the deadline to the end of April. Mayor Honecker asked if we have items that may put us above the 4% cap which could lead to a referendum? With no answer available at this point, Mr. Pidgeon commented that August is the deadline for a referendum.

**Mrs. Foster reported for the Personnel Committee.** She said there is a need for technical support throughout the borough. Mr. Maresca will explore an interlocal agreement with another municipality. The council has been presented with resumes of two consultants who are willing to team up to provide pro bono services to the borough to meet the goal of staff reorganization and improved efficiency. New regulations for the senior van have been developed and are ready for implementation.

**Mr. Rossi reported for the Engineering, Technology & Public Works Committee.** He said the committee has three goals. Reorganization of the Road Department; a comprehensive five year capital road program, and strategic planning for the maintenance and development of borough properties. Orchard Street, Ballantine Road, Post Kunhardt Road, Anderson Hill sidewalks, Olcott Avenue and Clark Road will be worked on this year. Future work will include the pond. The drainage box culvert on Route 202 and the line that goes through the Ruschmann field to the brook will be started in the spring. The county is on Mount Airy road looking to rebuild the wall. The Claremont ballfield pedestrian steps are being looked at. Spring cleanup will take place April 13 through May 3.

### **ITEMS OF BUSINESS**

#### Ten Towns membership

Mr. Rossi moved to appoint Mr. Knudsen, Mmes. Thompson and Marasco to the Ten Towns Committee. Mrs. Foster seconded the motion which was approved with six yes votes. A final decision on 2008 membership was tabled until February 25.

#### Somerset County Business Partnership membership

The question of whether or not to join the partnership for 2008 was discussed again. Messrs. Rossi and McCrossan were in favor, and Mr. McCrossan moved to join at the annual cost of \$1250. Mr. Rossi seconded the motion which was approved with six yes votes.

#### Cohen residence, Ravine Lake Road/Conservation easement

In a letter dated January 14, 2008, Mr. Esposito of Three Seasons, Inc., requests approval to plant and make improvements, including fencing, in an existing conservation easement which he claims has experienced undergrown deterioration due to an increased deer population. It was unanimously agreed to refer this matter to the Planning Board for review and comment.

#### Eagle Scout project

Michael Poling, a SHSD student, via material provided by the SHSD Business Administrator, proposed a beautification project for the new Gazebo area at the tennis courts adjacent to the pool, involving construction of a brick pathway connecting the entrance of the gazebo with the sidewalk at the courts, and planting shrubs around the cement blocks that block the entrance to the polo grounds. It was unanimously agreed to permit Mr. Poling to proceed with the project, as described in the material presented, to qualify for his Eagle Scout badge. It was further recommended that the project be referred to the Public Works Committee for review. The Borough Clerk advised that a certificate of insurance will be required.

Fire Prevention permit applications

Mr. Rossi advised that Fire Prevention will meet once a month on the same date as the first Council meeting each month. One recommendation that is anticipated is a change to receiving and scheduling Fire Prevention inspections at the Construction Office at town hall.

Mayor's appointment of Mariel O'Brien to Fire Prevention

Mayor Honecker announced Mrs. O'Brien's appointment to Fire Prevention. Mr. Rossi moved consent. Mr. Sooy seconded the motion which was approved unanimously.

Mayor's appointment of Linda Kragie to HPAC

Mayor Honecker advised that he has appointed Mrs. Kragie as Second Alternate Member on the Historic Preservation Advisory Committee, effective immediately.

Draft ordinance amendments

A draft ordinance establishing a graffiti reward program was discussed. Mr. Pidgeon advised that the draft patterns State law, and that it is also possible to amend the Borough's property maintenance ordinance to address concerns. It was decided to introduce the ordinance on February 25.

A draft ordinance amending special event banner and sign regulations was discussed, and it was decided to prepare the ordinance for introduction on February 25.

A draft ordinance to make the housing committee "permanent" was discussed. It was decided to add a provision for monthly reporting. Mayor Honecker said he would make appointments upon adoption of the ordinance.

Part-time Housing Inspector

The possibility of hiring a part-time housing inspector was discussed, and Neil Schetelick, Housing Committee Member recommended that the individual be bilingual. The matter was referred to Mr. Maresca and the Finance Committee for review.

Rt. 202/Quarry Rd. drainage project/traffic control agreement

A letter from John Campi, DOT Project Manager, dated December 17, a Statement of Cost and an agreement between the Borough and the State DOT providing for local traffic control was discussed. Mrs. Foster stated that the Public Safety Committee recommends adoption. Mr. Pidgeon advised that the matter falls outside of the ordinance regarding escrow deposits. Mr. McCrossan

recommended that the project be coordinated with the schedule for the downtown improvement project to prevent a traffic nightmare. The Borough would be reimbursed for costs. Mr. Pidgeon confirmed that the agreement can be approved via motion. Mr. Rossi moved approval and authorization for the Mayor to sign the agreement. Mr. Dooley seconded, and the motion was approved with six yes votes.

### OPEN SESSION

Mr. Baker, a member of the school Eagle Scout Committee, answered a question regarding the type of materials which are proposed for the Eagle Scout project discussed earlier. He said the young man is proposing to use pavers.

Anthony Dello Russo spoke about the housing committee ordinance. Mayor Honecker said they are coming before the council on February 11<sup>th</sup>, and it would be introduced on February 25 and adopted in March.

A resident asked if any reports have been issued by the housing committee? Mayor Honecker said no, and explained that the committee was ad hoc, charged with making recommendations for a housing ordinance. The committee is going to make a proposal to council on February 11, to make the Zoning Officer and the housing department more efficient. In conjunction with that, the Mayor said he would like to appoint a part time housing officer and make that committee permanent.

### CLOSED SESSION

Mrs. Foster moved that the meeting be adjourned to executive session to consider **personnel matters and contract issues**, and that the time when and circumstances under which the above can be disclosed to the public is when the matter(s) is (are) finally resolved. Mr. Dooley seconded, and the motion was approved with six yes votes.

### REOPEN AND ADJOURNMENT

It was moved and seconded to reopen the meeting to the public. Motion Carried. It was moved and seconded to adjourn the meeting. Motion Carried.

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Sandra G. Jones, Borough Clerk

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keywords: planning-zoning-housing-shade-tree-graffiti-library-award-women-construction-fees-eagle-fire-hpac-drainage-fire-prevention-conservation-easement-budget-police-train-station-parking-ten-towns