

BOROUGH OF BERNARDSVILLE

Mayor & Borough Council Meeting

May 27, 2008 – 7:00 p.m.

A regular meeting of the Governing Body was called to order by Mayor Lee Honecker at 7:00 p.m. on Tuesday, May 27. Present were Denis J. Dooley, II, Charlotte J. Foster, John McCrossan, Edward McDowell, Joseph Rossi and Kevin Sooy. Also present were Borough Attorney John R. Pidgeon, Esquire, Ralph Maresca, Administrator and C.M.F.O., and Sandra G. 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.

PLEDGE OF ALLEGIANCE

PRESENTATIONS (There were none)

APPROVAL OF MINUTES

Mr. McCrossan corrected the May 12 minutes, fifth bullet point, page three, "increase to \$1.385". Mr. McDowell moved approval of minutes of **April 28** (Mr. Rossi was absent), **May 5** (Mr. Dooley was absent), and **May 12** as corrected (Mr. Rossi did not attend closed session). Mrs. Foster seconded, and the motion was approved unanimously.

OPEN SESSION

Mayor Honecker opened the meeting to the public. There were no questions or comments and the Mayor closed the open session.

ORDINANCES

Mayor Honecker opened the public hearing on **#08-1489, AN ORDINANCE CLARIFYING ENFORCEMENT DUTIES IN THE GRAFFITI ORDINANCE, AMENDING ORDINANCE #08-1482 AND SUPPLEMENTING AND AMENDING CHAPTER III OF THE BOROUGH CODE ENTITLED "POLICE REGULATIONS"**. There were no comments or questions; the Mayor closed the hearing. Mr. McDowell moved to pass #08-1489 on final reading and adopt as published. Mrs. Foster seconded the motion and a call of the roll followed:

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

Mayor Honecker opened the public hearing on **#08-1490, AN ORDINANCE PROVIDING FOR THE IMPROVEMENT OF OLCOTT AVENUE IN AND BY THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY, AND APPROPRIATING \$185,997 THEREFOR, CONSTITUTING PROCEEDS OF BONDS OF THE BOROUGH HERETOFORE ISSUED AND FUNDS AVAILABLE UNDER ORDINANCES OF THE BOROUGH HERETOFORE ADOPTED.** There were no comments or questions; the Mayor closed the hearing. Mr. Rossi moved to pass #08-1490 on final reading and adopt as published. Mr. McCrossan seconded the motion and a call of the roll followed:

Mr. Dooley	abstained	Mr. McDowell	yes
Mrs. Foster	yes	Mr. Rossi	yes
Mr. McCrossan	yes	Mr. Sooy	yes

RESOLUTIONS

- #08-97 GRANTING TAX DEDUCTION TO QUALIFIED VETERANS**
- #08-98 REAPPOINTING THE TAX ASSESSOR**
- #08-99 REAPPOINTING THE DEPUTY TAX ASSESSOR**
- #08-100 APPROVING A FIREWORKS PERMIT FOR SOMERSET HILLS COUNTRY CLUB**
- #08-101 AUTHORIZING PAYMENT OF BILLS**
- #08-102 ACCEPTING MONTHLY REPORTS**

Mr. Sooy moved approval of Resolutions #08-97 to #08-102. Mr. McDowell seconded the motion and a call of the roll followed:

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

Resolution #08-96, APPROVING MEMBERSHIP IN THE FIRE COMPANY, was discussed. Mr. Dooley expressed a concern about a prospective member who lives away from Bernardsville and asked if the individual is a uniformed member? Mr. Rossi said that the individual in question is proposed as an administrative member.

Resolution #08-103, AUTHORIZING EMERGENCY TEMPORARY

APPROPRIATIONS, was discussed. Mr. Rossi requested an explanation. Mr. Maresca said this resolution would provide temporary funds until the 2008 Municipal Budget is adopted on June 23. Mr. Dooley asked about the budget for gasoline. Mr. Maresca said the line item was increased about \$20,000 over 2007, and if that amount is still not adequate, transfers can be made in November of 2008.

Resolution #08-104, AUTHORIZING MAYOR TO SIGN COPS "SECURE OUR SCHOOLS" GRANT APPLICATION, was discussed.

Mrs. Foster urged the group to approve this last minute addition to the agenda, authorizing a grant application with the Somerset Hills School District to provide for security technology in the public schools.

Mrs. Foster moved approval of **Resolutions #08-96, #08-103 and #08-104**. Mr. Rossi seconded the motion and a call of the roll followed:

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 report as of May 22 was discussed; he advised that one additional item will be addressed in Executive Session--the Professional Services contract with the Public Defender. Mr. McCrossan asked for a progress report on the Belcher property. Mr. Pidgeon said that the clean-up of the lead which was found in the soil on the property will commence soon, using the escrow account established at closing.

COUNCIL COMMITTEE REPORTS

Mrs. Foster reported that the Public Safety Committee will meet this week. Mr. McCrossan reported no new Finance Committee business, and advised that the Public Works Committee would review unfunded capital projects at their next meeting. Mr. Rossi asked the status of CMPTRA Replacement Aid (\$10,000)? Mr. Maresca responded that the additional funds could not be anticipated until the State budget is adopted. Mr. Rossi asked if the Borough’s bond rating will be affected by the low surplus in the 2008 budget? Mr. Maresca acknowledged that it is a concern, does not expect the rating to be affected, but will follow-up with bond counsel. Mrs. Foster reported that one personnel item will be discussed in closed session. It was reported that a meeting of the Engineering, Technology & Public Works Committee is scheduled for tomorrow.

ITEMS OF BUSINESS

Senior van schedule, rules and regulations

Draft rules and regulations for the senior van were discussed. Mrs. Foster explained these were patterned after rules and regulations in use in other municipalities, but are more flexible for Bernardsville on purpose. It was decided to carry further discussion to the June 9 meeting. In the meantime, Mrs. Foster agreed to provide backup information for consideration.

Donation from Citizens for a Better Bernardsville

Mr. Rossi moved acceptance of a donation of \$16,000 from Citizens for a Better Bernardsville (via the Thanksgiving Foundation) earmarked for improvements to the Thomas Peters Pine Street Park (in accordance with terms set forth in a letter from Mary Jane Canose dated May 17, 2008). Mr. McDowell seconded and a call of the roll followed:

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

Mr. Rossi advised that an additional \$1,000 has been offered to be used for tree pruning.

Passaic River Coalition membership

The Coalition works on water related issues in the Passaic River Basin. Via a letter dated May 6, Bernardsville was encouraged to join for 2008. A membership contribution in the amount of \$125 was considered. No motion was offered.

Cistern Well Sharing proposal/Lancor Subdivision

The owner (J. G. Gutjahr) of Lot 11.02 in Block 6, is constructing a home adjacent to an existing fire cistern/well and proposes to use the well for his domestic water along with "it's current use for the cistern", and claims three benefits (he would pay for the electric service for the well indefinitely, assume maintenance responsibilities for the well, and provide daily monitoring). The Fire Prevention Bureau voted unanimously not to accept the proposal. The Planning Board Attorney provided an opinion that this sharing would constitute an amendment of terms or conditions of the previously approved subdivision and should be returned to the Planning Board for review, after proper notice. Following due consideration of the request and the responses from Fire Prevention and the Planning Board, Mrs. Foster moved that the proposal from Mr. Gutjahr not be approved. Mr. Rossi seconded the motion, which was approved with six yes votes.

Open Space Tax referendum

Mr. Pidgeon discussed draft questions regarding use of open space funds in Bernardsville. Comments from members of the public were allowed during the discussion (speakers were not identified for the record). Sherry Frawley, Chair of the Environmental Commission, spoke about the Commission's opinion, which is set forth in a letter dated May 8, 2008, provided for this meeting. It was agreed that Mr. Pidgeon would prepare another resolution posing a public question, for consideration on June 9. The question will contain no tax increase, will allow open space funds to be used for development but not maintenance, will allow development of certain specified properties already in the Borough's Open Space Inventory, as well as properties acquired in the future using open space trust fund money (collected after 1/1/09), and will propose a split of 80/20, meaning up to 20% can be used for development at Council discretion.

Proposed resolution concerning hearing and vision tests for school Crossing Guards

A resolution to repeal Resolution #07-134, and to adopt more reasonable standards for hearing and vision tests for School Crossing Guards was considered. Said resolution was given **#08-105**, entitled **CONCERNING HEARING AND VISION TESTS FOR SCHOOL CROSSING GUARDS**, and Mrs. Foster moved approval. Mr. McCrossan seconded the motion to adopt and the motion was approved with six yes votes.

County energy grant

This matter was briefly discussed, and Mayor Honecker asked for a letter from the Borough Council to the Somerset County Freeholders stating that Bernardsville, along with the Somerset Hills School District, will apply for the county energy grant when the grant application is available. The Borough Attorney was directed to prepare a letter for the Mayor's signature.

Board of Adjustment membership (recommendation from Mrs. Dee)

Mrs. Dee, Chair of the Board of Adjustment, in a letter dated May 21, 2008, recommended George "Pete" Peterson for appointment to the Board of Adjustment. Some members of Borough Council suggested holding a decision on this matter until the next meeting, allowing for time to consider all candidates who have expressed an interest. The vacancy has existed for six months Mr. McDowell commented, and aware that absences due to vacations are an issue for the Board, Mrs. Foster moved to appoint Mr. Peterson as an Alternate Member to the Board of Adjustment. Mr. Dooley seconded the motion and a voice vote followed. Mr. Dooley, Mrs. Foster and Mr. McDowell voted yes. Mr. Rossi voted no. Mr. McCrossan and Mr. Sooy abstained. The Borough Attorney advised that Mr. Peterson is appointed to the Board of Adjustment with three affirmative votes.

Fire Company events

Mr. Rossi voted to approve the requests from the Fire Company for use of the municipal pool for their annual family picnic on September 6, and use of train station parking lot for a fund raiser on October 18, 2008, subject to receipt of a hold harmless agreement and proof of insurance. Mr. McCrossan seconded and the motion was approved with six yes votes.

COAH regulations

Mr. McDowell discussed a draft resolution expressing intent to explore common litigation challenging the validity of COAH regulations. He said 18 towns have committed, Bernardsville at this point would be the 19th, and the estimated cost to proceed is \$5,000--an amount much lower than the cost to meet the new obligations. Another draft, **A RESOLUTION OPPOSING COAH'S THIRD ROUND REGULATIONS**, was discussed, given the number 08-106, and Mrs. Foster moved adoption. Mr. McDowell seconded the motion, which was approved with six yes votes. Mr. McDowell moved to express intent to join the litigation challenging the validity of COAH regulations. The possibility of placing a cap on the Borough spending was considered. Mr. McDowell agreed to contact the Mayor in the lead town and ask to review the legal services agreement for the litigation, and consideration of a formal resolution regarding same was tabled for more information. Mrs. Foster seconded the motion to express intent, and said motion was approved with six yes votes.

Appointment to Housing Committee

Mayor Honecker announced the appointment of Kerry Kroll, 78 Mount Airy Road, to the Housing Committee.

OPEN SESSION

The Mayor opened the meeting to the public. There were no comments or questions. The Mayor closed the public session.

CLOSED SESSION

Council Member Foster moved to adjourn to an executive session to consider the matters set forth below, and that the time when and circumstances under which the matters can be disclosed to the public is when they are finally resolved.

<u>Collective Bargaining:</u>	None
<u>Personnel:</u>	Public Defender's Contract
<u>Pending or Anticipated Litigation:</u>	Combe Fill South
<u>Property Acquisition:</u>	None

The motion was duly seconded and approved unanimously.

REOPEN AND ADJOURNMENT

Moved by Mrs. Foster, seconded by Mr. McDowell and approved with six yes votes.

BOROUGH CLERK

keywords: graffiti-olcott-tax-fireworks-finance-schools-police-grant-capital-budget-senior-van-donation-passaic-river-coalition-cistern-lancor-subdivision-open-space-tax-referendum-fire-company-coah-housing

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