

BOROUGH OF BERNARDSVILLE
Mayor & Borough Council Meeting Minutes
October 26, 2009

This meeting was called to order by Mayor Lee Honecker at 7:00 p.m. on Monday, October 26. Present were Council Members Joseph DeMarco, Charlotte J. Foster, John McCrossan, Joseph Rossi and Kevin Sooy. Also present were Borough Attorney John R. Pidgeon, Esquire, Sandra G. Jones, Borough Clerk/Assistant Administrator, and Ralph Maresca, Administrator/C.M.F.O. Council Member Edward McDowell was absent.

STATEMENT OF PRESIDING OFFICER

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 January 6, 2009.

PLEDGE OF ALLEGIANCE

PRESENTATIONS

(There were none)

APPROVAL OF MINUTES

Mrs. Foster moved approval, as presented, of minutes of meetings held September 28 and October 13. Mr. Sooy seconded and the motion was approved with five yes votes.

OPEN SESSION

Doug Kimmelman, 130 Overleigh Road, complained about that roadway, describing it as one half mile in length, with no curbing, and with an eroding surface and steep slopes which lead to gravel debris in the cul-de-sac. He said Overleigh residents are unanimous in their wish to have the entire length repaired at one time. Mr. Kimmelman also requested a sign indicating that Overleigh is a dead end street.

Jack Stinson, 9 Somerset Avenue, appeared again in regard to his concern, raised some months ago, that a dying tree in a right of way (known as Morris Avenue, paper street, Lot 10 in Block 72), and adjacent to his property, presents a danger to the neighborhood, and seeking assistance with removal of said tree. The Borough Attorney stated that the street appears to have been dedicated, but not accepted by the borough, and that the borough has no responsibility to maintain trees or anything else in the paper street; that responsibility remains with the owners in fee of the underlying properties, which in this case would be the owners of the adjoining properties on Somerset Avenue. Mr. Pidgeon advised that he has written to New Jersey American Water Company, which has a water line in a 25 foot wide easement located in the bed of the paper street, to alert them to the existence of this dead tree in case it may have an adverse effect on their water line. It was decided that Mr. Pidgeon would obtain a record owner search on Lot 10, Block 72. Mr. Rossi asked if the tree can be removed

if someone steps up to take it down? The conclusion was probably yes, after applying for a Shade Tree permit.

ORDINANCES

Mayor Honecker opened the public hearing on **#09-1523, ORDINANCE AMENDING AN EXCESS PROCEEDS REAPPROPRIATION ORDINANCE OF THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY, HERETOFORE ADOPTED ON MAY 27, 2009 (#08-1490)**. Without comments or questions from the public, the Mayor closed the public hearing. Mr. Sooy moved to pass on final reading and adopt as published. Mr. DeMarco seconded the motion. Mr. Rossi expressed concerns about ripples in the pavement and depressed storm sewer lids on Olcott Avenue, asked if money held can be used to fix those flaws, and complained that the work should not have been accepted. Mr. Macdowall, Public Works Manager, responded it was decided not to pursue those repairs and Mr. DeMarco stressed the importance of closing out the project in order to receive grant funds due the Borough. A call of the roll on Mr. Sooy's motion followed:

Mr. DeMarco	Yes	Mr. McDowell	Absent
Ms. Foster	Yes	Mr. Rossi	No
Mr. McCrossan	Yes	Mr. Sooy	Yes

Mayor Honecker opened the public hearing on **#09-1524, ORDINANCE PROVIDING FOR THE IMPROVEMENT OF OAK RIDGE ROAD IN AND BY THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY, AND APPROPRIATING \$95,000 THEREFOR, CONSTITUTING PROCEEDS OF BONDS OF THE BOROUGH HERETOFORE ISSUED**. Without comments or questions from the public, the Mayor closed the public hearing. Mr. DeMarco moved to pass on final reading and adopt as published. The motion was seconded by Mr. Sooy and approved upon roll call vote:

Mr. DeMarco	Yes	Mr. McDowell	Absent
Ms. Foster	Yes	Mr. Rossi	Yes
Mr. McCrossan	Yes	Mr. Sooy	Yes

Mr. McCrossan moved that **#09-1525, AN ORDINANCE CONCERNING OFF-ROAD VEHICLES AND SUPPLEMENTING AND AMENDING CHAPTER III OF THE BOROUGH CODE ENTITLED "POLICE REGULATIONS"**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., November 23, 2009. Mr. Rossi seconded and the motion was approved by five yes votes.

Mr. Pidgeon discussed an October 24 revision to the ordinance, to make it clear that in addition to obtaining annual permits, landlords also must obtain permits whenever there is a new tenant. Mr. Rossi moved that **#09-1526, AN ORDINANCE CONCERNING INSPECTION OF RESIDENTIAL RENTAL PROPERTIES AND AMENDING CHAPTER XI OF THE BOROUGH CODE ENTITLED "PROPERTY MAINTENANCE CODE"**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., November 23, 2009. Mrs. Foster seconded and the motion was approved by five yes votes.

Mr. DeMarco moved that **#09-1527, AN ORDINANCE CONCERNING NOTARY FEES AND AMENDING CHAPTER II OF THE BOROUGH CODE ENTITLED "ADMINISTRATION"**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., November 23, 2009. Mr. McCrossan seconded and the motion was approved by five yes votes.

RESOLUTIONS

- #09-166 CALLING UPON THE STATE LEGISLATURE TO ADDRESS THE INEQUITY IN THE COURT DECISION OF HOMES OF HOPE VERSUS TOWNSHIP OF EASTHAMPTON**
- #09-167 APPROVING CHANGE ORDER NO. 1 TO CONTRACT FOR LIBRARY LIGHTING UPGRADE WITH TATBIT COMPANY**
- #09-168 AWARDED A CONTRACT FOR OAK RIDGE ROAD CURB AND DRAINAGE IMPROVEMENTS**
- #09-169 AWARDED A CONTRACT FOR MUNICIPAL PARKING LOT SNOW PLOWING AND SIDEWALK CLEARING**
- #09-170 APPROVING CHANGE ORDER NO. 4 TO CONTRACT FOR OLCOTT AVENUE ROAD AND DRAINAGE IMPROVEMENTS-FINAL**
- #09-171 AUTHORIZING RECYCLING OR DESTRUCTION OF EQUIPMENT NO LONGER NEEDED FOR PUBLIC USE**
- #09-172 ACCEPTING MONTHLY REPORTS**
- #09-173 AUTHORIZING PAYMENT OF BILLS**

#09-174 APPROVING CHANGE ORDER NO. 2 TO CONTRACT FOR 2009 RESURFACING PROGRAM

#09-175 AUTHORIZE SIGNING OF ERI NOTIFICATION FORM TO THE HIGHLANDS COUNCIL

Mr. McCrossan moved that **RESOLUTIONS #09-166 through #09-169 and #09-171 through #09-173**, listed herein by title, be hereby adopted. Mr. Sooy seconded and the motion was approved upon a roll call vote:

Mr. DeMarco	Yes	Mr. McDowell	Absent
Ms. Foster	Yes	Mr. Rossi	Yes
Mr. McCrossan	Yes	Mr. Sooy	Yes

Mr. Rossi discussed his objections to Resolutions **#09-170** and **#09-174**. Terry Thompson, Planning Board Member and Highlands committee representative, spoke about Resolution **#09-175**, saying "It has no effect on the Borough unless we decide to opt into the Highlands...and that this step is a means of getting better documentation of our block and lots, superimposed on the Highlands Environmental maps, which are of excellent high quality." In answer to a question about cost, Mrs. Thompson said she did not believe the Borough study, and related costs, on whether or not to opt into the Highlands would exceed available grant funds.

Mr. DeMarco moved that **RESOLUTIONS #09-170, 174 and 175**, listed above by title, be hereby adopted. Mr. Sooy seconded and the motion was approved upon roll call vote:

Mr. DeMarco	Yes	Mr. McDowell	Absent
Ms. Foster	Yes	Mr. Rossi	Abstained
Mr. McCrossan	Yes	Mr. Sooy	Yes

REPORT OF THE MUNICIPAL ATTORNEY

Mr. Pidgeon's report as of October 21 was accepted.

COUNCIL STANDING COMMITTEE REPORTS

Public Safety

Mr. Rossi said the committee discussed Old Fort Road and the Safe Walks program. Mayor Honecker asked for a recommendation from Public Safety on the Old Fort Road project. Mr. Rossi said the committee was not ready; that a traffic expert had not yet been consulted. Mr. Rossi said the committee is looking at the possibility of a Crossing Guard for Olcott Square, and discussing concerns at Mine Mt. Road and the five corner intersection at Claremont Road.

Finance

Mr. McCrossan reported that the committee reviewed budget expenditures and found that no problem areas exist as of September 30. Line item transfer opportunities will be available starting November first.

Personnel

Mr. Sooy said personnel matters will be discussed in closed session.

Engineering, Technology & Public Works

Mr. DeMarco said paving will be done soon on Garibaldi, Hill, Maple, West Prospect and Thompson. Overleigh was already discussed, and the neighbors and Mr. Kimmelman will be informed of what that project will entail. The Oak Ridge project was approved tonight, via Ordinance #09-1524. Drainage and curbing may get done this Fall, but paving may not occur until next year. Mullens Lane was approved for a DOT grant of \$250,000. Bob Brightley suggested it qualified for more and he was correct. Residents are already placing leaves at curbside, which creates problems with walkways and roads. Mr. Rossi suggested beginning leaf pick-up earlier, around October 15. The additional cost of that possibility was briefly discussed but no conclusion was reached. Enforcement options for leaves were discussed, and Mr. Pidgeon read from Borough ordinance (3-22.2) regarding "Yard waste collection", which states that "Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven (7) days prior to a scheduled and announced collection, and shall not be placed closer than ten (10') feet from any storm drain inlet." It was noted that the regulations could be enforced by the code enforcement officer and/or the Police Department.

ITEMS OF BUSINESS**Old Fort Road**

Mr. DeMarco said a decision must be reached as to where the sidewalk will be placed. Mayor Honecker acknowledged the presence of School Board members, and Linda Kragie said the Board unanimously prefers the lower loop.

The Mayor opened the meeting for public comment and Tom Clendenny, Old Fort Road resident, said whatever is done, scarce resources must not be squandered. He also expressed concerns about what he has heard this evening regarding enforcement with regard to leaves and walking routes. Mrs. Clendenny said she teaches at the high school and has observed students walking three abreast on Old Fort Road.

Mr. DeMarco moved to authorize the engineer to proceed with plans for Old Fort Road road improvements, with sidewalks on the lower loop, so that a contract can be awarded in January, targeting work by July of next year. Mr. McCrossan seconded and the motion was approved by four yes votes. Mr. Rossi voted no.

Sussmann Bench

The Chamber of Commerce has collected donations to purchase a bench and memorial plaque in honor of Sid Sussmann, a merchant who operated a store in Bernardsville for many years, and who recently passed away, and they requested permission to place said bench in Nervine Park. This was discussed; other locations suggested. Mr. Rossi said the Nervine Park location was selected with Mrs. Sussmann's blessing, but he agreed to double check that fact. Consent was given to placing the bench in Nervine Park.

OPEN SESSION

Mr. Clendenny, Old Fort Road resident, commented that the downtown improvements are a welcome improvement, and complained that newspaper kiosks along the street are an eyesore. Mr. Pidgeon explained that the Borough is unable to limit placement due to freedom of speech issues, unless the kiosks create a traffic or safety hazard.

CLOSED SESSION

Mr. McCrossan moved to adjourn to an executive session to consider contract and personnel matters, and that the time when and circumstances under which the matters can be disclosed to the public is when they are finally resolved. Motion was seconded and duly adopted.

REOPEN AND ADJOURNMENT

Moved and seconded at 9:30 p.m.

BC102609.MIN

keywords: oak-ridge-off-road-rental-notary-change-order-library-lighting-curb-drainage-snow-plowing-olcott-resurfacing-leaf-pickup-old-fort-sidewalk-sussmann-bench