

**OFFICIAL MINUTES  
BOROUGH OF BERGENFIELD  
MAYOR AND COUNCIL WORK SESSION  
SEPTEMBER 1, 2020**

PRESENT: Mayor Arvin Amatorio and Council President Rafael Marte (arrived at 8:10 p.m.), Council members Buddy Deauna, Ora Kornbluth, Hernando Rivera, and Marc Pascual (arrived at 8:28 p.m.)

ABSENT: Council member Thomas A. Lodato

ALSO PRESENT: Borough Administrator Corey Gallo  
Borough Attorney John Schettino  
Borough Clerk Marie Quinones

Mayor Amatorio called the meeting to order at 8:04 p.m. with the reading of the Open Public Meetings Act Statement, "In compliance with the Open Public Meetings Act, the notice requirements have been satisfied. Meeting dates for the year are confirmed at the Annual Meeting. The Annual Notice is sent to the Record, Star Ledger, Twin Boro News, and Cablevision, placed on two Municipal Bulletin Boards and is on file in the Office of the Borough Clerk."

The Salute to the Flag was led by Councilperson Deauna.

**AGENDA CHANGES**

Motion offered by Councilperson Kornbluth, second by Councilperson Rivera to move resolution 20-270 to closed session. All present voting in favor. None opposed.

**PRESENTATIONS**

None.

**CAPITAL IMPROVEMENTS/BOROUGH ENGINEER**

A. Engineering & Inspection Status Report

Borough Engineer Robert Klein stated the road programs for this year are up and running. There are two contractors working on the roads. The work on West Clinton Avenue should be done in 2-3 weeks. The other roads are Rose Street, northern part of Windsor Rd, Sunset, Melrose Avenue, Clinton Avenue and N. Prospect Avenue. The same contractor should be done by the end of October. They are starting the concrete work now and the expectation is to be done by Halloween.

Mayor Amatorio inquired if all the roads mentioned will be paved.

Mr. Klein confirmed the road program is on schedule.

**ORDINANCES**

A. Adoption of Ordinances

The following ordinance published herewith was first read by title only on March 3, 2020 and posted on the bulletin board of the municipal center. **(TABLED 3-17-20)**

Mayor Amatorio read the title of the ordinance into the record:

**ORDINANCE 20-2561 – AN ORDINANCE TO ESTABLISH THE SALARY RANGES OF EMPLOYEES NOT SUBJECTED TO UNIONIZED CONTRACTUAL UNITS OF THE BOROUGH OF BERGENFIELD**

Public comments on Ordinance 20-2561.

No action taken.

#### UNFINISHED BUSINESS

None.

#### NEW BUSINESS

##### A. An Ordinance Amending Article V of the Code of the Borough of Bergenfield, Entitled "Retail Food Establishments"

Borough Administrator Gallo stated that an ordinance was created for food establishments. Mr. Gallo explained food retail trucks were missing from the ordinance and parts of the ordinance needed to be changed or modified. The ordinance defines who the vendors are and what they can sell. Mr. Gallo inquired if the Council will like to set a limit on the number of food trucks permitted. He stated some towns have 10 and other towns have 100. Mr. Gallo stated the council needs to decide the number of vendors there should be. A food vendor would have to get a food license issued by the department of Health, a Certificate of Registration, and an operating permit from the health department annually. In addition, they need to have insurance and need to go for training. Mr. Gallo stated they need to decide where the food trucks can operate. All vendors can operate in commercial, industrial, office and private property areas. Mr. Gallo stated they can be limited to certain zones. It is proposed in the ordinance that a vendor should be at least 100 feet away from any licensed restaurant. Hackensack has over 100 food vendors. Bergenfield had only 1 hot dog truck.

Mayor Amatorio inquired why the ordinance was changed in 2007 and if there were any health issues. Mayor Amatorio inquired if the food truck needs to be stationary. Mayor Amatorio stated there are some commercial properties that are already negotiating with potential applicants. Property owners can't lease their property to food vendors if the restriction is 300 feet. Mayor Amatorio stated a draft ordinance be drafted and the governing body members to submit their input to discuss at the next meeting.

Councilperson Kornbluth stated they don't want to give out 100 licenses, because it can adversely affect the businesses in town. It needs to be limited. Councilperson Kornbluth inquired if the location should be limited. Councilperson Kornbluth suggested a property owner leasing their property to a food vendor 500 feet away should not be the same type of vendor. Councilperson Kornbluth stated they have to look out for the business owners. They are having a hard time as is and to allow food trucks on the avenue, who are not paying rent, is not fair to the business owners for the food trucks to take over. Councilperson Kornbluth requested a list of towns that have food trucks and the number of vendors there are.

Council President Marte stated the vendors should be assigned to a certain area away from the business district. Bergenfield is a small town and 100 feet is not a lot. Council President Marte stated there should be a schedule with the specific times vendors are allowed to sell.

Borough Attorney Schettino stated it can be limited to certain streets. Mr. Schettino stated they typically allow food trucks by the parks and the schools. They need to get a lease if they are on a property. They only need a permit if the food truck is on the street.

##### B. Bicycle Safety Ordinance

Borough Administrator Gallo stated during the traffic safety committee meeting, there were concerns about the bicycle safety ordinance for the town. Police officer Mader made recommendations ranging from a person having a light on their bike. Mr. Gallo stated in the last 5 years, Bergenfield had 84 incidents of bicycle or pedestrian accidents which is significantly more than other towns. Some of them were due to people not adhering to the rules, safety issues,

carelessness, pedestrians and bicyclists not crossing properly. The high number caused the traffic committee to look at bicycle safety. The traffic safety committee and the police department are working to put together a bicycle safety awareness package for youth and adult bike riders. There are a lot of things they are looking to do for bicycle awareness. Mr. Gallo stated bikes will not be allowed in the business district between 9am-9pm, and will not be permitted on Washington Avenue as it is a county road. Mr. Gallo stated the governing body should send their comments to him.

Councilperson Kornbluth inquired if every adult will be required to have a bell on their bike. The light at night makes sense but having every adult put a bell on their bicycle does not make sense. Councilperson Kornbluth inquired if there are businesses that use bicycles to make deliveries and if helmets would be required for everyone to wear.

Mayor Amatorio stated there will be an enforcement issue. It is going to be very expensive if the town has to put signs on Washington Avenue stating bikes are off limits. Mayor Amatorio commended the Police Department and the traffic safety committee for their recommendations.

#### ADMINISTRATOR'S REPORT

Borough Administrator Gallo stated the County will be mosquito spraying again on September 3<sup>rd</sup>, 2020 from 4-6am. The information is on the website and there will be a reverse 911 call tonight and tomorrow night. Small businesses are going to be allowed to serve at 25% capacity effective Friday. Schools will be starting remotely. There has been a push to keep kids active and provide recreation activities. In support of that, Little League baseball was allowed. They had to create state guidelines that was approved by the Board of Health that included spraying and social distancing. It worked well with no cases. There will be no football. They will be submitting plans for soccer and the league will be submitting plans for softball in the fall. Recreation is running a fall basketball league to give kids some activity. Mr. Gallo explained prior to COVID-19, the food pantry would serve 15-25 people a week. The food pantry has really expanded to serving 175-250 people a week. Mr. Gallo stated they have been fortunate with having volunteers to help. There have been a lot of youth and members of the Council that help organize the food donations made from organizations and entities, such as Table 2 Table. Mr. Gallo noted that the demand is growing. Mr. Gallo stated they are close to finishing the food pantry at borough hall. The refrigerator is up and the freezer will be installed this week. The food pantry should be back at borough hall by next week. Mr. Gallo stated the county has created a task force that he has been asked to serve on. Mr. Gallo stated there is a need to create a committee that will be the foundation that will help in the future with the needs people will have in the next few months. Lastly, Mr. Gallo stated he received feedback that there was an enormous boost with the businesses during the closures on Washington Avenue for outdoor dining the past few weekends. The businesses were hopping this past Sunday. It was a big success and many of the businesses were very thankful to the governing body for their support. All protocols were followed and everything was handled properly. Mr. Gallo stated with the increase there has been some questions regarding what will be allowed to be able to serve outside. Mr. Gallo recommended the time restraints should still be adhered to. The hour of outdoor dining should cease at 10:00pm until weather permitting. Mr. Gallo stated he would like to close Washington Avenue for outdoor dining one more time in September. The Trunk or Treat was a massive event that united all the schools and kids together and at the same time helped the businesses. Mr. Gallo stated they will be unable to do it this year. Mr. Gallo stated he would like to do something in September or October. The DPW is there to do the cleanup and there is police presence also. The cleaning that was done by BSID is done by DPW now.

Mayor Amatorio noted that 95% of the food given to the residents are donations. The supplemental purchases made also comes from monetary donations. It's not coming from the taxpayers. The money donated is put in the borough's trust fund that is used to make purchases.

Council President Marte stated he had spoken with a few business owners and they are more than willing to do Trunk or Treat. They are also willing to do the cleanup after events.

#### MAYOR & COUNCIL REPORT

Councilperson Deauna

stated the Shade Tree committee distributed seedlings in May. The removal of dead trees and trimming of trees continues. The meetings are held virtually. The Board of Health meetings are also held virtually via Zoom. Topics that were discussed are contact tracing, delays in test results, and hours of the nurses. There are currently 987 cases of COVID-19 in Bergenfield. There was one satisfactory food establishment and 8 food establishments were conditionally satisfactory.

Council President Marte

no reports. He officially retired from his regular 9am-5pm work on July 31, 2020.

Councilperson Kornbluth

stated OEM was busy with the storm and clean up. The calls for BVAC has significantly gone down but they are still busy.

Councilperson Pascual

no report

Councilperson Rivera

no report

Mr. Gallo stated there will be a small 9/11 ceremony at Alert Fire House at 7 p.m. on September 11, 2020. The ceremony next year will be more expansive as it will be the 20<sup>th</sup> anniversary.

Mayor Amatorio stated the Bergenfield schools just opened and will be remote up until October 16, 2020 and then will try to start hybrid sessions. Mayor Amatorio stated they have started to give permits to organizations and individuals for the use of the parks. They have to observe social distancing which is being enforced by administration. He stated they had worked with the tax collector and the State to restore the veterans tax credit for a widow of a veteran. There has been a lot of interest in Bergenfield for development. There were some areas designated in the master plan for potential development. It will be brought to the council if the developers are serious.

#### CORRESPONDENCE

None.

#### PUBLIC COMMENT

Johnny Opatovsky, Veterans Committee, stated they would only be doing the food truck temporarily just to create an income. They would like to start in a week or two from now. Mr. Opatovsky stated they need to find a way to keep the chapter in the green.

Mr. Gallo told Mr. Opatovsky to call him tomorrow so he can help him with the plan and to expedite it.

Mayor Amatorio stated Mr. Gallo can help him facilitate a special event permit.

John Smith, resident, stated on July 21<sup>st</sup>, 2020 the council paid for 9 MLUL books for the Planning Board members. Mr. Smith inquired if the same books can be purchased for the Zoning Board members. Mr. Smith had complained about a tree that borders his property approximately 18 years ago and nothing was done. He stated in 2013 his neighbor showed him his cancelled homeowner's policy because the tree's roots were pulling up the sidewalk. In November, it broke up the sidewalk. Mr. Smith the sidewalk fell 4 inches and his by 2 ½ inches. It is the ugliest tree, hanging on wires, and is rotting. The Shade Tree committee says it is a healthy tree. Mr. Smith stated he is

responsible for a borough tree causing damage to his sidewalk. Mr. Smith stated he asked the Shade Tree committee to look at it two years ago. There was a water main break on Hallberg Avenue and had asked the police to check it. Mr. Smith stated he has pictures showing vehicles parked on the grass. Nothing was done about it. DPW didn't even clean it up. The street cleaner never came down his street. Mr. Smith inquired about the Little League leases. Mr. Smith suggested putting PAL under the recreation department. The Domino Club used Memorial Park this past Saturday to mentor youth and children that have gotten into trouble and had to pay \$200 for the permit plus pay for liability insurance. Mr. Smith stated this is a group that has helped out. Mr. Smith inquired if every group has to pay for liability insurance, clean up, and obtain a permit. Mr. Smith stated that nothing has been done with all the paving that was done at a home on Wilbur Rd.

Councilperson Kornbluth inquired of Mr. Smith when he last asked the Shade Tree committee to take care of it.

Mr. Gallo stated the Little League is in good standing. They provided the borough their financials and necessary documentation. Little League is utilizing some of the PAL fields. Mr. Gallo stated that was not what was described to him for the use of the park by the Domino Club. It was never brought to his attention that they were mentoring children. They are a non-profit organization. All other groups have to meet requirements. They never described the basis of their event.

Barry Doll, resident, inquired if the council met with members of the Zoning Board to discuss the operations of the board and what was the result. Mr. Doll stated there should have been minutes kept at the meeting as it was official meeting. The governing body is sworn to uphold the laws of the town and to enforce.

Mayor Amatorio stated a meeting was set up with the Zoning Board. He, the Borough Administrator, the Borough Attorney, Council President Marte, Councilman Lodato, Zoning Board Chairman, board member Wenger, board member Friedman, the Zoning Board Attorney, and the Zoning Board Engineer were present at the meeting. The borough attorney's and the board attorney's opinion were that it is not illegal to insert an applicant into the agenda without the required publication and is allowed by the rules. Mayor Amatorio stated the perception might not look good to the public, but there were no rules violated. It is in the zoning board's power to approve 79%, regardless of it being excessive or too liberal in an R5 zone, where the maximum coverage should be 35%. The Zoning Board of Adjustment is an independent body the council does not have control over. They expressed that it's too much during the meeting. The council can't reverse the decision made. The council inquired what happened and both attorneys stated the rules allow it. It was expressed that approval of the 79% coverage was too liberal and questioned what would happen with the next application.

Mr. Gallo stated Mr. Smith had made an extensive list of issues. They went over item by item with the Zoning Board members at the meeting. Some of the items dealt with the engineer and some with the board attorney. Mr. Gallo stated they understood and they have a better understanding of what the perception of the council is and what the council wants. The Zoning Board is independent of the council. Mr. Gallo stated they gave their sentiment and they expressed they were unhappy about what was going on.

Council President Marte stated he sympathizes with all of the concerns. He commented that another issue that was brought up was that the drainage of a home being directed to the borough street. The explanation was that it was created as a result of an overflow in case there was an emergency.

Borough Attorney Schettino stated minutes were not kept of the committee meeting nor is there a report. It is unusual to have minutes taken at committee meetings, since it is not a formal committee. It was an investigate committee to raise issues with the board. This was not an established committee. Mr. Schettino stated when it comes to extensions, the Zoning Board is going to handle the process differently. He commented that they agreed to be a little more conservative with the coverage variances. He further commented that the Zoning Board had explanations for what they did. He explained that people may not agree with the zoning board decisions, but it is

their prerogative and they get to grant the variances. If someone wants to disagree that it is excessive, there is a process to follow. A complaint can be completed with the superior court. The governing body has no legal authority or right to overturn a board's decision.

Mayor Amatorio stated it was a Zoom meeting. The meeting was created for the purpose of communicating with the Zoning Board. The committee was not established by an ordinance or resolution. It was a directive from the Borough Attorney to communicate with the Zoning Board and inquire about what happened during the zoning board meeting and if there was a need for further investigation or inquiry. The governing body took the initiative and reached out to the zoning board when residents had concerns.

Mary Sullivan, resident, stated a lot of time and effort went into the complaint. Mr. Smith did a phenomenal job putting it together. Ms. Sullivan stated they have been complaining about the zoning board for years and nothing has changed. Someone recused himself but continued to introduce correspondence and continued to fight for the correspondence. Ms. Sullivan stated the residents elected the council members and they nominate the board members. The council needs to make the change or get rid of the board.

Diana Flagg, resident, stated she left the July meeting early and offended some people with her statements. Councilperson Deauna should have never mentioned her name publicly. Mayor Amatorio mentioned her name in the August meeting when she was not present which should not have been mentioned. She would like to know if the meeting with the zoning board was done via Zoom and the date it was held. Ms. Flagg inquired how she can OPRA the Zoom tape if no one knows the date. Ms. Flagg asked Mr. Gallo what happens to the paper he signs when an employee is suspended.

Borough Attorney Schettino stated when someone gets suspended with or without pay, generally for any employee, there's a communication between the Borough Administrator or department head with payroll. It is put in the person's file for how long they are suspended for with or without pay. Mr. Schettino stated they cannot comment on any personnel information.

OFFICIAL BUSINESS TO BE ACTED UPON:

A. CONSENT AGENDA

**CONSENT RESOLUTION 20-258.** All matters listed below are considered by the Governing Body to be routine in nature. There will be no separate discussion of these items. If any discussion is desired by the Governing Body, that item will be removed from the Consent Agenda and considered separately.

- a. **20-259**/To Pay Bills
- b. **20-260**/To Support and Endorse Bergen County Community Development Grant Application – Vantage Health System, Inc.
- c. **20-261**/To Support and Endorse Bergen County Community Development Grant Application – Greater Bergen Community Action, Inc.
- d. **20-262**/To Approve Tax Settlement for tax years 2017 & 2018– 160 N. Washington Avenue
- e. **20-263**/To Approve Tax Settlement for tax year 2019 – 160 N. Washington Avenue
- f. **20-264**/To Approve Tax Refund – 178 Reid Avenue
- g. **20-265**/To Approve Tax Refund – 91 Morgan Street
- h. **20-266**/To Approve Tax Refund – 50 McDermott Place
- i. **20-267**/To Approve Tax Refund - Block 85 Lot 17.01 N Washington Avenue
- j. **20-268**/To Authorize Bid for the Lease of Real Property – Tennis Courts
- k. **20-269**/To Approve Veterans Advisory Committee

Motion by Council President Marte, second by Councilperson Rivera, to approve the Consent Resolution.

On a roll call, the vote was recorded as follows:

Councilperson Lodato:	<i>absent</i>	Councilperson Kornbluth:	<i>aye</i>
Councilperson Deauna:	<i>aye</i>	Councilperson Rivera:	<i>aye</i>
Council President Marte:	<i>aye</i>	Councilperson Pascual:	<i>aye</i>

## **B. Resolutions**

~~20-270/To Approve Agreement with PBA Local 309~~

### COUNCIL COMMENTS

The council thanked everyone for coming to the meeting and wished everyone an enjoyable long Labor Day weekend.

### CLOSED SESSION

**RESOLUTION 20-270**/Authorizing the Governing Body to Enter into Closed Executive Session to discuss:

- A. Attorney-Client Privilege
  - 1. 232 N. Washington Avenue
  - 2. PBA Local 309

Minutes will be taken of the meeting and released to the public at the time that the matter is resolved. After Closed Executive Session, the Mayor and Council will reconvene in the Executive Chambers to adjourn this public meeting.

On a motion by Councilperson Kornbluth, second by Councilperson Pascual, and all present voting in favor, the meeting was adjourned to the Closed Session in the Executive Chambers at 9:27 p.m.

### ADJOURNMENT

There being no further business to come before the Mayor and Council, on a motion by Councilperson Kornbluth, second by Council President Marte and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:52 p.m.

Respectfully submitted,

Marie Quinones  
Borough Clerk