

**BOROUGH OF BERGENFIELD  
MAYOR & COUNCIL REGULAR MEETING**

**8:00 p.m.  
July 21, 2020**

**PRESENT:** Mayor Arvin Amatorio and Council President Rafael Marte, Council members Thomas Lodato, Buddy Deauna, Ora Kornbluth, Hernando Rivera, and Marc Pascual

**ABSENT:** No one.

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

Mayor Amatorio called the meeting to order at 8:05 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. Notice has been sent to the Record, Star Ledger, Twin Boro News and Cablevision and posted on two municipal bulletin boards and the Borough website."

The Salute to the Flag was led by Council President Marte.

**AGENDA CHANGES**

Motion by Councilperson Kornbluth to add Police Department promotions to presentations to administer the Oath of Office to Lt. Richard Ramos, add Ordinance 20-2566 to amend Chapter 299 "Vehicles and Traffic" for introduction under Ordinances, add Resolution #20-236 to award paving and approve contract for 2020 Road Program and Resolution #20-237 to approve change order no. 1 for the 2019 Road Improvement Program under Consent, add request from Congregation Beth Abraham to place a tent at John Pall Park for high holidays under Correspondence, and add resolution to approve the Economic Development Committee and appoint Tommy O' Reilly, Linda Libonati, Nahshon Bolton, Elgin Buenconsejo, Ricky Enriquez, Joy Guevarra, Mayobanex Javier, Scott Lieberman, and Renee Seidman, and governing body members Mayor Arvin Amatorio, Council President Rafael Marte, and Borough Administrator Corey Gallo. Second by Councilman Pascual. All present voting in favor, none opposed.

**Resolution 20-240/**To Establish Economic Development Committee and appoint members.

Motion by Council President Marte, second by Councilperson Kornbluth, that Resolution #20-240 be approved.

Councilperson Lodato:	<i>aye</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>

**APPROVAL OF MINUTES**

**MOTION OFFERED** by Council President Marte, **SECOND** by Councilperson Lodato, to approve minutes of the June 16, 2020 Regular Public Meeting, June 16, 2020 Closed Session Meeting (not to be disclosed), and June 24, 2020 Emergency Public Meeting. All present voting in favor, none opposed.

**PRESENTATIONS**

A. Proclamation – Donny Perlman

Mayor Amatorio stated that the proclamation for Mr. Perlman will be rescheduled for the next meeting.

B. Police Department Promotion

1. Oath of Office to Richard Ramos

- ❖ Biography of Sgt. Ramos read by Police Chief Mustafa Rabboh

Chief Rabboh thanked the Mayor and Council for all their support as it is recognized and appreciated. He further stated that he would be remiss if he did not thank all the officers in the department as this has been a trying year with the pandemic and mass protests. Chief Rabboh commented that these officers showed up to work each and every day and gave their utmost professionalism, and therefore thanks them and commends them on a job well done.

Chief Rabboh read Sgt. Ramos biography into the record.

- ❖ **Resolution 20-215**/To Promote Richard Ramos to the Rank of Lieutenant in the Bergenfield Police Department.

Motion by Council President Marte, second by Councilperson Kornbluth, that Resolution #20-215 be approved.

Councilperson Lodato:	<i>aye</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>

Mayor Amatorio administered the Oath of Office to Lieutenant Ramos.

Lt. Ramos thanked the Mayor and Council, Chief Rabboh, Deputy Chief Massey, Captain Maggi and his fellow coworkers for their support.

COUNCIL COMMENTS

Councilperson Deauna extended his congratulations to Lt. Ramos for his promotion in one of the best departments. He commented that Bergenfield is rated the 5<sup>th</sup> safest town, which is due to the Police Department.

Council President Marte congratulated Lt. Ramos and his family on the promotion, and thanked him for choosing Bergenfield, especially for his courageous decision.

Councilperson Kornbluth congratulated Lt. Ramos and his family on the promotion, and thanked him and all the officers for their service, helping the residents 24/7, always on call during emergencies and expressed that she hopes they all have a long and safe career with us.

Councilperson Pascual congratulated Lt. Ramos and thanked him for his work and wished him a continued and safe career.

Councilperson Lodato congratulated Lt. Ramos and wished him continued success in the Bergenfield Police Department and thanked him for his service to the residents of Bergenfield.

Councilperson Rivera thanked Lt. Ramos for being part of this great family in Bergenfield and congratulated him and his family this marvelous promotion, which cannot take place with the help and support of the family.

Mayor Amatorio congratulated Lt. Ramos and his family for this achievement, and thanked him for his service to the community. He stated that he echoes the comments of the council, the Borough is the 5<sup>th</sup> safest community in the United States, which is a testament to the tenacity and achievement of the department. He extended his congratulations to Lt. Ramos' family and all the officers in the Police Department. He wished Lt. Ramos a safe and long career in Bergenfield.

On a motion by Councilperson Kornbluth, second by Councilperson Rivera, and all present voting in favor, the meeting was recessed for five minutes. The meeting reopened at 8:26 p.m.

Diana Flagg, resident, requested a point of order and stated she would like to speak on the items that will be voted on.

On a motion by Councilperson Kornbluth, second by Councilperson Rivera, and all present voting in favor, Verbal Communications I is moved to the first item of the agenda.

VERBAL COMMUNICATIONS I

Mayor Amatorio opened the meeting and invited the public for comments on agenda items only, limited to five minutes per speaker.

Diana Flagg, resident, inquired why the Borough is hiring a Qualified Purchasing Agent. She further inquired if the Qualified Purchasing Agent will receive a pay cut, since she will no longer be serving in the position. Ms. Flagg also inquired the purpose for hiring a Purchasing Consultant.

Borough Administrator Gallo stated that there is a Purchasing Agent on staff, but the license of the employee will no longer be used. He stated that the duties were never included in her last contract, therefore her salary will remain the same. The Deputy CFO will serve as the Purchasing Agent, but has not taken the exam. He will serve as the interim and will receive guidance from the Consultant, not to exceed \$3,000. Mr. Gallo stated the Purchasing Consultant will be serving as the back-up in case anyone has questions regarding purchasing.

Barry Doll, resident, stated that he would like information on the salary ranges of employees included in Ordinance 20-2561. He inquired the information is somewhere for the public to see, such as the ranges, and inquired whether the percentage increases will be 3%, 10% or 20%. He commented that the salaries should not be raised any percentage since we are in tough times. He further commented that contracts that were entered into several months ago should be evaluated. Mr. Doll stated that the taxpayers have to foot the bill, but have no bottomless pit for money.

Borough Administrator Gallo stated that he will email Mr. Doll the information. He also stated that the percentage increase varies based on the position. He commented that the employees have worked very hard during the pandemic, but the ordinance is currently tabled until the governing body takes action.

There being no one else who wishes to be heard, Mayor Amatorio closed Verbal Communications I.

C. Department Hires & Appointments

**20-216/To Appoint Interim Qualified Purchasing Agent – Kent Christner**

Motion by Councilperson Kornbluth, second by Council President Marte, that Resolution #20-216 be approved.

Councilperson Lodato:	<i>aye</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>

**20-217/To Promote to Full-time Laborer – Juan Valencia**

Motion by Councilperson Deauna, second by Council President Marte, that Resolution #20-217 be approved.

Councilperson Lodato:	<i>aye</i>	Councilperson Kornbluth:	<i>aye</i>
Councilperson Deauna:	<i>aye</i>	Councilperson Rivera:	<i>recused</i>

Council President Marte: *aye* Councilperson Pascual: *aye*

**20-218/To Hire Part-time Purchasing Consultant to the Qualified Purchasing Agent – Sherry Arvanitakis**

Motion by Councilperson Deauna, second by Council President Marte, that Resolution #20-218 be approved.

Councilperson Lodato:	<i>aye</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>

#### CORRESPONDENCE

A. Gillen/the Black Poster Project	<b>RE:</b> Silent Memorial to Bring Awareness to Overdose Awareness Month
B. Congregation Beth Abraham	<b>RE:</b> Request to reserve John Pall Park and place tents during the high holidays from September 18, 2020 to September 29, 2020

**MOTION OFFERED** by Councilperson Pascual, **SECOND** by Councilperson Kornbluth, to approve Correspondence items A and B. All present voting in favor, none opposed.

#### 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**

No action taken.

##### B. Introduction of Ordinances

Motion by Council President Marte that the following ordinance be introduced and passed on first reading and setting Tuesday, August 18, 2020 at 8:00 p.m. or as soon thereafter as the matter can be heard as the date and time and the Council Chambers of the Bergenfield Borough Hall as the place for a hearing on said ordinance. Second by Councilperson Deauna.

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

**ORDINANCE 20-2566 - AN ORDINANCE AMENDING CHAPTER 299 OF THE CODE OF THE BOROUGH OF BERGENFIELD, ENTITLED “VEHICLES AND TRAFFIC”**

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

Councilperson Lodato:	<i>aye</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>

#### A. CONSENT AGENDA

**CONSENT RESOLUTION 20-219.** 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.

Councilperson Kornbluth requested that item k. be voted on separately.

Borough Administrator Gallo stated that the term "new" should be removed from item p. He confirmed that the updated heating system will be in the current municipal building.

- a. **20-220/**To Approve Bill List
- b. **20-221/**To Approve Liquor License Renewals for License Term 2020-2021
- c. **20-222/**To Approve Bergen County Cares Act Municipality Reimbursement Agreement
- d. **20-223/**To Approve On-site Document Destruction Services – InfoShield
- e. **20-224/**To Approve Change Order No. 1 – West Clinton Avenue Sanitary Sewer Cleaning & Video Inspection – National Water Main Cleaning Company
- f. **20-225/**To Approve Insertion of Special Item of Revenue (Chapter 159) – Alcohol Education Rehabilitation Fund Grant
- g. **20-226/**To Approve Insertion of Special Item of Revenue (Chapter 159) – Clean Communities Grant
- h. **20-227/**To Approve Outdoor Dining and Street Closure on Washington Avenue – Saturday, July 25, 2020 and Saturday, August 29, 2020
- i. **20-228/**To Oppose Construction of NJ Transit Transitgrid Traction Power System
- j. **20-229/**To Appoint Liaison to Fair Share Housing Center – Corey Gallo
- k. ~~**20-230/**To Approve Phase II Environmental Study -232 N. Washington Avenue/19 Daggett Street - First Environment~~
- l. **20-231/**To Authorize Veterans Tax Exemption and Tax Refund – 28 Oak Place
- m. **20-232/**To Approve Insertion of Special Item of Revenue (Chapter 159) – Bergen County Census Grant
- n. **20-233/**To Award Bid and Approve Contract – 2020 NJDOT West Clinton Avenue Roadway Rehabilitation Project – DLS Contracting
- o. **20-234/**To Award Bid and Approve Contract – 2019 NJDOT N. Prospect Avenue Roadway Rehabilitation Project – AJM Contractors
- p. **20-235/**To Authorize Bid – New Municipal Building - Heating System Update
- q. **20-236/**To Award Bid and Approve Contract – 2020 Road Program – AJM Contractors
- r. **20-237/**To Approve Change Order No. 1 – 2019 Road Improvement Program – AJM Contractors

Motion by Council President Marte, second by Councilperson Deauna, that the Consent Resolution be approved as amended.

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

Councilperson Lodato:	<i>aye</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>

**20-230/**To Approve Phase II Environmental Study -232 N. Washington Avenue/19 Daggett Street - First Environment

Motion by Councilperson Lodato, second by Councilperson Rivera, that Resolution #20-230 be approved.

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

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

## UNFINISHED BUSINESS

None.

## NEW BUSINESS

### A. Grant Application for a 2020 Bergen County Open Space, Recreation, Flood Plain Protection, Farmland & Historic Preservation Trust Fund Application

#### 1. Public Comments on Grant Application

On a motion by Councilperson Kornbluth, second by Council President Marte, and all present voting in favor, the public comment portion is open.

Barry Doll, resident, stated that he served on the Environmental Committee. He inquired the purpose of the farmland and historic preservation trust fund application.

Borough Administrator Gallo stated that the Borough will renovate part of Cooper's Pond. The borough worked on the drainage and now needs to improve the grass area of the park. Furthermore, the Borough will look to renovate part of the walkway, which has been broken-down, and sod some of the grass areas of the park, as well as re-do the drive way area up by the street, going down by the museum and renovate the back area of Cooper's Pond behind the building.

Mr. Doll stated that this area is on the national registry as a historic site, including the barn and stable. He commented that entire area is old and broken down and fits in. He further commented that before a shovel is put in the ground, the Borough will need to be in touch with the Historical Commission.

Borough Administrator Gallo explained that if the Borough is awarded the grant, the Borough will follow the necessary requirements to improve the park. He commented that this is the main park in the Borough, used by many people on a daily basis, and therefore needs to be maintained and improved.

Mr. Doll stated that leaves are better than grass, because the up keep will be more due to the geese. The funds should be put towards a gas furnace in the museum, instead of improvements to the lawn.

Mayor Amatorio stated that he understands the resident's concern, but the Borough is in the process of submitting the grant application. If awarded the grant, then the Borough can consider the project and necessary requirements.

On a motion by Councilperson Rivera, second by Councilperson Kornbluth, and all present voting in favor, the public comment portion on the grant application is closed.

#### 2. **Resolution 20-238**/To Authorize Submission of a Bergen County Open Space, Recreation, Flood Plain Protection, Farmland & Historic Preservation Trust Fund (Bergen County Trust Fund) Grant Application

Motion by Council President Marte, second by Councilperson Kornbluth, that Resolution #20-238 be approved.

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

Councilperson Lodato:                    *aye*  
Councilperson Deauna:                   *aye*  
Council President Marte:                *aye*

Councilperson Kornbluth:               *aye*  
Councilperson Rivera:                   *aye*  
Councilperson Pascual:                  *aye*

#### B. Liquor License Transfer

1. Hearing on the Person to Person Transfer of Liquor License No. 0203-33-008-009 located at 430 S. Washington Avenue; Matthews Diner Inc to Pantelis Investments LLC

On a motion by Councilperson Kornbluth, second by Council President Marte, and all present voting in favor, the hearing on the liquor license transfer is open.

No one came forward.

On a motion by Councilperson Pascual, second by Council President Marte, and all present voting in favor, the hearing on the liquor license transfer is closed.

2. **Resolution 20-239**/To Approve the Person to Person Transfer of Liquor License No. 0203-33-008-009 located at 430 S. Washington Avenue; Matthews Diner Inc to Pantelis Investments LLC

Motion by Council President Marte, second by Councilperson Deauna that Resolution #20-239 be approved.

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

Councilperson Lodato:	<i>aye</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>

#### C. Bergen County Municipal Joint Insurance Fund Lost Time Accident Frequency

Borough Administrator Gallo stated that throughout the pandemic, the Borough has continued to work. He explained that there have been accidents along the way, but the Borough has been improving in the number of lawsuits. He further explained that the number of employees being out has been lessening due to this process. The Safety Committee continues to meet and trainings continue to be held.

#### D. Fair Share Housing Settlement Update

Mayor Amatorio stated that the Borough has settled the Fair Share Housing matter in the courts, and requested that the Borough Attorney provide an update on the matter.

Borough Attorney Schettino stated that almost all municipalities in the State of New Jersey, including Bergenfield, have been involved with obtaining certification with regards to its affordable housing plan. The case protects the municipality from builder's remedy lawsuits, meaning that if the Borough does not have an affordable housing plan in place, the builders can argue there is no ordinance in place, and can seek to build significant density on property, and file it with the courts, instead of going to the Planning Board of Zoning Board of Adjustment for review. This settlement has been in the works for several years, and resulted in about 127 rehabilitation units, which means to secure funding or have existing dwellings renovated, which can include new roofs, new heating systems, and matters of that nature. The Borough also has a County senior building, Brookside Gardens, and is seeking to receive credit for this building, which has about 100 units. If the Borough can substantiate that funds have been put into those units during a specified time period, the Borough may receive credit for the units, which will significantly reduce the obligation. The Borough is in the process of obtaining the necessary documentation from the County, in hopes of receiving the reduction. He stated that with regards to the numbers moving forward, since there is no vacant land available, the Borough has to try to meet the obligation using existing developments in the community. The Borough has considered rezoning, using overlay zones on Washington Avenue from Clinton Avenue to the northern border towards Dumont, to allow for mixed used buildings at a height of 40 feet. This limitation essentially allows for a third story to be residential. He explained that for a community like Bergenfield, which has an essential business district, mixed used would be a benefit for the community, regardless of affordable housing. Mixed use zones revitalize the business district by

having customers living within the business district. The second area considered for an overlay zone is Foster Village. Foster Village has the capacity to be maxed out, and have 230 units added to the top of the retail space. Even though the owners have made no indication to develop the property, the Borough receives the credit. If they were to move forward with the project, this would satisfy the Borough's obligation through 2025. Mr. Schettino stated that the plan also includes existing sites, that are more or less senior type facilities, and will provide the Borough affordable housing credits. Affordable housing credits are determined based on the number of units and bedrooms. The Borough will receive credit for Landmark Development, which has 9 units and will provide affordable housing credits. The other development is 51 E. Main Street, which has not been constructed yet, but will provide the Borough 4 credits. The other major component of the agreement was the standard percentage throughout the State, in which any development of five or more new construction units, has to have a 15% set aside of their rentals, 20% set aside if they are condominiums, for affordable housing. He explained that if there are 5 units in the development, then 1 unit has to be affordable housing. He advised that everyone should bear in mind, Bergen County has a very high median income. Therefore, the eligibility income requirement for affordable units could be a public employee starting in their careers such as teachers, police officers, etc. Given the demographics in Bergenfield there is a significant number of residents that could qualify for affordable units, which will be a reduced rent, in a new apartment unit or condominium. He explained that part of the process includes adopting the ordinances, which the Planning Board reviewed and recommended their adoption. The Mayor and Council will review, introduce, and adopt the ordinances in the next coming council meetings. A liaison has to be appointed for affordable housing, and the liaison in Bergenfield will be the Borough Administrator. An administrator also had to be appointed to oversee affordable housing and ensure that the units are being built in accordance to the requirements and that anyone living in those units meets the eligibility requirements. These requirements will protect the Borough from a builder's remedy lawsuit and the special master has deemed the settlement fair and consistent with the affordable housing rules, regulations, and case law that have been established through the New Jersey Supreme Court.

E. Roy W. Brown 8<sup>th</sup> Grade Class of 2020 Picnic, Memorial Park – Sunday, August 23, 2020, Rain date – Sunday, August 30, 2020

Borough Administrator Gallo stated that under different circumstances, most requests for the parks would be accepted and approved by the Mayor and Council under correspondence. As the Borough Administrator, under these circumstances, this is a delicate situation and therefore he would like to confer with the governing body on this matter because when you consider an event with over 200 kids, with parents and family members, its too many people.

Councilperson Kornbluth inquired whether the Mayor and Council could legally approve such request, if the limit is 500 people.

Mr. Gallo expressed his reservations on this request because the event is too broad. He noted that since the event involves the students from Roy W. Brown Middle School, he wanted to it to bring it to the attention of the Council. He commented that as much as he supports the kids and understands the need to celebrate their graduation, he is concerned about an event of this size given the times.

Councilperson Kornbluth inquired whether the event can be limited to a certain number of people. She stated that perhaps the Borough can wait and see the number of people permitted on this date and have the Police Department review the request. She commented that her school held an outdoor graduation, but the event had to be approved by the Department of Education.

Mr. Gallo stated that the difference is that this is a graduation party, not the actual graduation.

Mayor Amatorio stated that is the problem and explained that the High School broke up their graduation into two days, in order to limit the number of people in attendance. He commented that if there are 200 kids with parents and family members, there will be more than 500 in attendance.

Councilperson Kornbluth stated that the request also states this is a picnic. She inquired if the organizers provided details as to how they will practice safety precautions.



Council President Marte inquired if the number of children can be limited by alternating the number of children and parents in attendance for the picnic.

Mr. Gallo stated that there is no way to monitor this since it is the permit holder's responsibility to maintain social distancing and adhere to the Borough's policy. In this instance, he is uncomfortable approving this request until he knows there is a plan in place for the safety of the residents.

Mayor Amatorio stated that since the event is in August, there is time to coordinate. Perhaps meet with the group to understand the plans they may have in place for safety precautions, to determine whether the event can be held. Otherwise, the parents can drop off their kids to limit the number of people in attendance.

Councilperson Kornbluth stated that chaperones will have to be in attendance to make sure the kids practice social distancing and leave their masks on.

Mr. Gallo expressed that is the problem since there will also be food served.

#### F. Bergenfield Welcome Sign Proposal

Borough Administrator Gallo stated that members of the Dominoes Club contacted him and expressed concern over the signage in town. He commented that the signs are old and deteriorated. Mr. Gallo stated that members from the Dominoes Club came up with a proposal, designed the artwork, and provided very nice signs similar to the signs in other towns. The Dominoes Club will donate the first sign, and down the road, the Borough can purchase another one.

Councilperson Kornbluth inquired if there is a cost to the Borough.

Mr. Gallo stated there is no cost to the Borough, and the Dominoes Club will donate the first sign.

Council President Marte thanked the Dominoes Club for their donation, and stated that he appreciates all their efforts.

Mayor Amatorio thanked the Dominoes Club for their service and volunteerism.

#### Committee/Department Reports

Motion offered by Council President Marte that the Committee/Department Reports be spread upon the minutes in full and filed. Second by Councilperson Rivera. All in favor, none opposed.

#### VERBAL COMMUNICATIONS II

Mayor Amatorio opened the meeting to Verbal Communications II and invited the public to comment on any subject, limited to five minutes per speaker.

John Smith, resident, read a statement into the record expressing concerns over the Zoning Board of Adjustment. He requested that his statement be included in the minutes.

Fred Sahlberg, resident, stated that the last Zoning Board of Adjustment meeting was horrible. He commented that the board approved an application to convert the building across the street from Borough Hall into apartments. The applicant referenced that one physician left and the other will retire. Mr. Sahlberg explained that one of the physicians is his personal doctor, who confirmed that he will not be retiring. Mr. Sahlberg commented that the applicant was less than truthful, and the board approved the application. The application also included an easement, but there is none. He commented that after hearing Mr. Smith's comments, he is concerned with the ethics of some of the members on the board. He further commented that the liaison should be involved in the matter. Mr. Sahlberg stated that since the VFW was used as a food distribution center, he would like to see the Council recognize the VFW, personally recognizing Tom Lang, and personally recognizing John Smith,

for all the time that they put into the food pantry. Mr. Sahlberg stated that he does not question the loyalty to the United States of America, but questions the knowledge of the American flag. He expressed that the flag is constantly displayed in an inappropriate manner. He commented that Governors cannot order the flags to be half-staff, unless its for the death of a soldier or congressman. Mr. Sahlberg stated that the President ordered for the flag to be lowered for Congressman Lewis, but this was never done. Mr. Sahlberg noted that the red KIA flag should be displayed only when a soldier from the State of New Jersey dies on active duty.

Borough Administrator Gallo stated that the announcements are sent to three places. He commented that the alert is sent to his assistant, the Police Department, and Department of Public Works. He commented that he will follow-up on the matter.

Diana Flagg, resident, inquired who paid for the DJ when Washington Avenue was closed. She commented that the taxpayers should not pay for this, as this would have been paid by the BSID. She further commented that the BSID used to also pay for the PR firm. She expressed that she noticed that flags from other countries are being flown at Borough Hall and inquired why the flags from other nations being flown off Borough Hall. Ms. Flagg commented that there are 293 countries recognized by the United Nations, and only two are not recognized, but happen to have a seat at the U.N. She further commented that if the Philippines flag is going to be flown, and whatever other flag is displayed today, then every other American citizen's flag should be displayed, including the Indian nations. Ms. Flagg also stated that she has been looking at the Borough website, and inquired when the Borough has bingo, and commented that the Borough does not have a community center. She commented that the information is all old. She inquired who marched for Black Lives Matter. She commented that everyone is brave enough to march but not brave enough to admit it to a taxpayer. Ms. Flagg stated that the only goal of Black Lives Matter is for government to disrupt the Police Department. She commented that the members marched with Black Lives Matter and should be ashamed of themselves.

Bochy Lora, resident, thanked the Mayor and Council for making Bergenfield inclusive, and thanked the Council for making his kids feel like they belong, for standing up for what is right, and appreciates the work they do in town.

Carolyn Schmelz, resident, stated that she brought up the ordinances for Coopers Pond at one of the meetings, and signs were put up even though there was no indication to change the ordinances. She expressed that even though she has no problem with kids riding their bikes in the park, but there are more kids than ever riding their bikes at Coopers Pond. She commented that she is confused as to why the ordinances set forth are never enforced. She commented that another issue is parking on the street. She explained that this is an issue for everyone, when everyone is home. She inquired how many incidents occurred when parking was permitted. Mrs. Schmelz stated that emergency vehicles are referenced, but during the day time when the streets are packed, emergency vehicles are able to drive down the streets. She also stated that people park illegally on the sidewalks. She commented that the ordinances should be enforced, otherwise mixed messages are being sent out. Mrs. Schmelz also stated that there are many more people looking for work, congregating in different parts in town. She recalls the Borough providing them with a designated area to seek work, but now she sees them congregating at 7-11 and other areas in town. Mrs. Schmelz commented that she even saw two people sleeping on a bench. She commented that perhaps they can be given a designated area to congregate. Mrs. Schmelz also commented that she emailed all six councilmembers, and never received an answer. She sent a second email with regards to the ordinances at Coopers Pond and never received a response.

Mary Sullivan, resident, stated that she has been attending the meetings for many years and has witnessed how the ordinances are constructed and adopted, from parking to building height and paving stones. She stated that three years ago, she started attending the Planning and Zoning Board of Adjustment meetings to see how the ordinances are applied. Ms. Sullivan stated that she understands the Zoning Board of Adjustment's purpose is to help residents comply with the ordinances or approve modifications. Ms. Sullivan commented that she has witnessed a complete disregard for the ordinances, as the board continues to violate the ordinances. She further commented that incomplete or inaccurate plans are disputed by some members, yet the application

is voted on in unison. She expressed that the residents' concerns are summarily dismissed. Ms. Sullivan stated that the Board Attorney sometimes defers to the Board Chairman on disputes, instead of offering legal advice. She stated that she seldomly sees any members review any of the plans. She commented that the members should be replaced by members that take the position seriously, and strive to stay within the guidelines set by the Mayor and Council. She further commented that residents elect the Mayor and Council, and they in turn appoint members to the Zoning Board of Adjustment. She stated that the Mayor and Council should ensure that the board acts in the best interest of the entire town, instead have opened up the town to violations. Ms. Sullivan stated that when she raised the inquiry about the Black Lives Matter protest, she was never expressing her support or opposition to the protest. She objected the fact that notice was never placed on the website. She commented that several of her neighbors were hoping to see a parade, and then saw all the people marching down the street. She stated that the March should have been up posted on the site and the residents should have been notified.

Barry Doll, resident, stated that he has been involved with the board, has attended many meetings, and has witnessed the bullying that has taken place. Mr. Doll stated that he is unsure if the board is breaking the law, but they reviewed the application for the building across the street, discussed the parking, but never made note of the affordable housing requirement, until the board member Mr. Smith reminded them of it. Mr. Doll commented that the affordable housing is needed, and should have been number one on the list. He further commented that the inept of irresponsible on a key item as such bothers him. Mr. Doll also stated that another example is when the board was reviewing the application of a resident that wants to install a pool on Regent Court, a neighbor of the chairman, but the application was dated 2016. He explained that the resident was given an extension for one year until 2017, she built the home, but never installed the pool, and now wants to use the same permit to build the pool. He commented that four years have gone by without a new plan or changes to the regulations. Mr. Doll stated that board member Mr. Smith requested new plans, but the board disregarded the request, and the application was voted on a 4-3 vote. Mr. Doll stated he is unable to go in front of the board because the board has an attorney and an engineer, but as a resident, he is on his own. He commented that the board believes they are there to go around the law. Mr. Doll stated that the board should look review the plans, consider the variance, and approve if it is within the confines of the law. Mr. Doll stated that the Chairman should be called upon and presented with these comments and the responsibilities of the board, and advise him that he needs to comply with the laws.

Mike Shanahan, resident, stated that back in December 2018 the Council passed ordinance 18-2534 entitled Fire Department, to create mandatory training, above those required by the New Jersey Division of Fire Safety. He explained that the membership was told that the training would be handled in town, as opposed to traveling to Mahwah for training. He further explained that to this date, only one training course has been held in town, and the others were cancelled due to the pandemic. Mr. Shanahan stated that as per the ordinance, the training courses have to be completed by September 1<sup>st</sup> of this year. He stated that the department meeting, the membership was told that administration stated the requirement is what it is, and no consideration will be made to Covid-19 and the inability to train. Mr. Shanahan inquired if no consideration will be given to their inability to take or complete the training. Mr. Shanahan stated that there are people that have not been afforded the opportunity to take the classes, because they were unable to take them in Mahwah due to cancellations, and the trainings have not been provided in Bergenfield. He commented that there will be people in January that will no longer be able to serve in the position because of the inability to take the courses. He commented that at the department meeting, they were told that administration said it is what it is.

Mayor Amatorio stated that the comments on the Zoning Board of Adjustment will be taken into consideration and the Borough Attorney will review the information provided.

Council President Marte stated that as the liaison to the Zoning Board of Adjustment, he brings information to the Mayor and Council. The information is discussed. He explained that there are matters in which the governing body must limit themselves, because the board operates with their own attorney, chairman, and engineer. He further explained that he understands the appointments are made by the Council, but the board operates as autonomous. He stated that he can assure the public the comments will be reviewed and addressed.

Mayor Amatorio stated that once a decision made it becomes legal, because the applicant has legal rights. He further stated that the Borough Attorney will need to look into the matter.

Councilperson Lodato stated that in addition to the comments made by the residents, the key question is what authority, short of disbanding the board, does the Council have in correcting the errors of the board.

Mayor Amatorio stated that he agrees with the appoint, and inquires whether the Building Department must issue the permit to proceed with construction, if the board acted beyond their power. Mayor Amatorio understands that action was never taken in the past, but given the testimony and the information provided, the Council will look into the matter.

Mr. Smith stated that another issue is that the resident decided they want their application reviewed in person. He commented that the board should be able to meet in person to review the application. He stated that members from the Planning Board can serve on the Zoning Board of Adjustment.

Mayor Amatorio stated that the VFW will be honored, as well as many others that are on the list to receive proclamations and recognition. He expressed that he has been very thankful to the commander and the VFW organization, especially Mr. Smith, for all his efforts. He commented that the Borough will also be assisting the VFW with the expenses. He thanked the resident for raising the issue with regards to the flag, and commented that the Borough will be conscious of this matter. Mayor Amatorio stated that different flags are raised to recognize diversity in the Borough, to recognize the residents of Bergenfield that are decedents of those nations. He commented that this is not unique to Bergenfield, as it is done in many other towns, the State and the County. He further commented that there is no disrespect to the United States, and does not make them any less a United States citizen. Mayor Amatorio stated that overnight parking has been a battle with arguments on both sides. He stated that number of incidents can be obtained from the Police Department, and the statistics can be used to make a decision.

Borough Administrator Gallo stated that part of the problem with overnight parking is enforcement, which is similar to the situation with the bikes. Mr. Gallo stated that he has been to Coopers Pond several times during the week, and has never seen anyone with a bike. He commented that the problem is enforcement, which is the responsibility of the Police Department, and shared between the department and the residents. He further commented that residents should call the desk and report the problem. Mr. Gallo stated that as for overnight parking, there were issues, as there were instances in which DPW and Fire Department had difficulty traveling on certain streets. He stated that the other problem is that residents park on both sides of the street.

A resident inquired whether it is the Police Department's responsibility to enforce a vehicle parked on the lawn.

Mr. Gallo stated that during the day time opens, the Construction Code office can receive the complaint and will enforce it. However, in the evening hours, at 3:00 a.m., the Police Department is responsible to enforce it. Mr. Gallo also stated that the reason for being in attendance at the march, were quite candidly and straight forward, to ensure the well being and safety of the community. He commented that their attendance was in no disrespect to the Police Department, and it is insulting that a resident would insinuate that point, on a night when a Sergeant was promoted to Lieutenant. He explained that he received information on the protest from the first group, but there was no communication with the second group. He expressed that there was no idea of the particulars of the protest. He commented that information was posted on the website, social media sites, and reverse 911.

Mayor Amatorio stated that before the march, there were a lot of security issues and preparations involved with the Police Department. He stated that he understands the concerns from the residents. The Borough recognizes the information was never put on the website, but the Borough was trying to ensure the cooperation from the organizers. Mayor Amatorio stated that the Borough received more cooperation from one group than another, and the Police Department was involved in the organizing

with one group, and not the other. He understands that there were desires that the information be placed on the site, but there were reasons as to why the information was not there.

Borough Administrator Gallo stated that in terms of the ordinance that was passed, but in terms of the requirements and structure, there were no conversations regarding this matter. He stated that he recently inquired what will happen in January, and was informed that everything will remain the same. He further stated that no discussions have been held with regards to training during the pandemic. Mr. Gallo stated that no one has approached him with regards to the ordinance, and that he is unaware as to who will be impacted or the table of organization of the department.

Mayor Amatorio stated that the Fire Committee should follow-up with the Fire Department for more information.

Borough Attorney Schettino stated that he missed part of the meeting, but heard the points that were made, and will review the information, especially the extension of the application. Mr. Schettino stated that when the Zoning Board of Adjustment makes a decision that is not done correctly, someone can file an appeal through the court. He stated that the Zoning Board of Adjustment is an independent board, in which the Council appoints the members. He further stated that it does not preclude the Council from questioning the board. He explained that if the board is not adhering to the proper procedures, processes, and statutes, the Council can have a discussion with the board. Mr. Schettino suggested that a conversation be held with the Zoning Board Attorney or Chairman. He explained that it would be effective to have a committee from the governing body meet with a committee from the Zoning Board of Adjustment, and share with them the issues raised by the public. He commented that the information appears to be blatant and there seems to be no justification for it. He further commented that when a member recuses themselves from a matter, the person has to completely recuse themselves and cannot make a statement or comment whatsoever. He also explained that when someone receives a permit from an approval that was given, before month 12, the person has to submit a request for an extension. He further explained that if the person takes too long, then it has to be handled like a new application. Mr. Schettino stated that these issues are not up to the Mayor and Council to challenge, it is on the members of the public and residents to file the appropriate appeal with the superior court. He explained that the appeal is not up to the Mayor and Council. Mr. Schettino stated that a discussion can be held with representatives of the board.

Mayor Amatorio inquired if the board can correct itself, if they realize the decision was made in error, can they recall the period.

Borough Attorney Schettino stated that within a certain period of time, the board has time for reconsideration, but there are certain time constraints. He explained that if the board acts in contrary to the state statute, then approval is invalid. Therefore, no favors are done if someone wants to skirt the process, because it would be deemed an invalid approval. He commented that in many cases, it's a lack of awareness and of what the proper rules are. He further commented that if the members of the board continually ignore the mandatory requirements, rules and procedures, then the Borough would be in a hard place to continue to allow them to serve on the board.

Council President Marte inquired if the board chairman should address the matter.

Borough Attorney Schettino stated that he recommends a committee meeting between members of the governing body and the Zoning Board of Adjustment. He advised that a committee with less members should represent this board, and send a letter to the chairman requesting that they establish a committee to meet with the governing body to discuss issues that were brought to the governing body, concerning the operations of the board.

Councilperson Kornbluth stated that the Zoning Board of Adjustment Attorney and the Zoning Board of Adjustment Engineer should be in the meeting as well.

Borough Attorney Schettino stated that their attorney and engineer should be involved to discuss these issues with them and see if these issues can be resolved.

Mayor Amatorio inquired if the applicant needs to go back to the board before obtaining the permit from the building department.

Borough Attorney Schettino confirmed that the approval must be memorialized by resolution in order to obtain the permit from the building department.

Mayor Amatorio inquired if the building department can deny the permit.

Borough Attorney Schettino suggests that the meeting be held. He commented that he can reach out to the board attorney to set up the meeting. He further commented that if there is an issue, the board has not memorialized the resolution, and therefore can correct the issue, since there has been no affirmative act to serve as a detriment to anyone. Mr. Schettino explained that the board has the authority to grant variances. If there are issues, this has to be appealed solely by the interested party in the superior court, it cannot be done by the governing body. If the governing body feels that the board is too liberal in granting the variances, then they can act by appointing new members when their terms are up.

Councilperson Kornbluth commented that there seems to be a misconception, that the board is breaking the laws. She explained that the sole purpose of the board is to allow the residents to not abide by the laws, to seek relief for the variance.

Borough Attorney Schettino stated that is correct, the board assists the residents in seeking relief for variances. He commented that if someone wants to exceed the zoning requirements, then the board assists with relief.

John Smith, resident, inquired whether the applicant can decide to have their application heard in person.

Borough Attorney Schettino stated that if the board is holding the meetings remotely, then the applicant has to comply how the Zoning Board of Adjustment wants to consider the application.

There being no one else who wishes to be heard, Mayor Amatorio closed Verbal Communications II.

#### COUNCIL COMMENTS

Councilperson Lodato thanked everyone for coming to the meeting and stated that it is good to see everyone in person.

Councilperson Rivera thanked everyone for attending the meeting with wished the best to all.

Councilperson Deauna stated that the Filipino flag was raised in commemoration of Philippine-American Friendship Day. He commented that many Filipino soldiers died in the world wars against the Japanese and fought with honor. He further commented that the Borough means no disrespect by raising the flag, as it honors soldiers and proud immigrants who live and die in the country. Councilperson Deauna personally thanked John Smith and the VFW for the services rendered at the food pantry, and requested that everyone join him in applauding Mr. Smith's efforts.

Council President Marte thanked everyone for attending the meeting and wished all a good night.

Councilperson Kornbluth thanked everyone for attending the meeting and wished all a good night.

Mayor Amatorio thanked everyone for attending the meeting and wished all a good night.

#### CLOSED SESSION

**RESOLUTION 20-041/**Authorizing the Governing Body to Enter into Closed Executive Session to discuss:

A. Attorney-Client Privilege and Collective Bargaining Agreements

1. PBA Local 309 Contract Update
2. DPW Employee's Association Contract Update

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 10:30 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 11:16 p.m.

Respectfully submitted,

Marie Quinones  
Borough Clerk

## Zoning Board of Adjustment

Over the past few years I have stood before this Governing body, advising everyone of the various issues taking place with the Bergenfield Zoning Board of Adjustment. As a member appointed and approved by this Governing Body, I feel the issues I raise are adversely affecting the future well being of this community and Board's ability to effectively hear future appeals.

I have observed and reported to this governing body, numerous instances where the Zoning Board Chairman, Shimmy Stein, has been untrustworthy and acted in a manner contrary to that expected by the residents of Bergenfield.

Chairman Stein's actions were never more erroneous than what occurred on the July 6, 2020 Zoning Board of Adjustment meeting, I believe the governing body, should be made aware of which could hardly be considered "misstatements" or simply ignored by the governing body, and based on these actions as described below, as a member of this Board, appointed by each of you, these actions require this Council to review and impose sanctions.

After the roll call of the July 6, 2020 meeting, Chairman Stein, went to correspondence, where he stated, to the surprise of all those at the meeting, that he received an email from a resident by the name of Karen Kirschenbaum, residing at 35 Regent St Bergenfield, NJ. It should be noted that Mrs. Kirschenbaum is the neighbor of



Chairman Stein. Chairman Stein then communicates to the Board that Mrs. Kirschenbaum is requesting an extension on her original application dated in 2016, which requested to build a house and in the ground pool. Hilda Tavitian, the Board Clerk, stated she knew nothing about this email, and Board Secretary Mark Friedman confirmed he too knew nothing about this email. Since the application was not on the agenda at the time of the publication release to the newspaper, the public was not made aware of the application. Therefore, the application should not have been heard but rather should have been postponed to the next meeting. This is a continuation of the abuse of power of the Chairman Stein.

In addition, the board attorney, Ron Mondello should have advised the Board that the request for extension should not be heard for not being published as well as for the reason that 2016 application which was closed out in 2018 had also expired. When the information was being presented, I advised the Board, that the application as being presented, should not be heard due to the comments previously cited however, Mr. Wagner, who was the acting Chairperson stated that since they put a shovel in the ground to build the house they didn't need an extension which is completely incorrect. I further commented that the Board should review the plans to see if there are any changes from the original plans. The Board ignored my request and Mr. Wagner made a motion to grant the extension. Extension was granted by a 4-3 vote.

Special attention should be brought to the fact that Chairman Stein, even though he recused himself, on this matter, the Audio tape of the meeting will show, that Chairman Stein made numerous statements, during the discussion, and voted on the original application back in 2016 when he should have recused himself. Therefore, by Chairman Stein voting on the original application, he in fact voided said application. Furthermore, contrary to Bergenfield's ordinances, Zoning Board Attorney did not review and give his approval for the introduction of the applicants' extension request(Zoning By-law VII 3). The Governing body should realize that continued violations of the above mentioned state and local laws and ordinances is a reflection of the Chairman and the Board Attorney continued disregard of their duties.

Another example of their disregard of duties to the Board and to the Borough occurred during the application of 109 Westminster Avenue when Chairman Stein, Board Attorney Ron Mondello and Board Engineer Frank Rotonda blatantly disregarded the recent zoning law changes the Governing Body made.

During this hearing, the owner, Melissa Fried, dropped one variance request to build by shrinking the size of their pool. However, when it came time to review lot coverage, Board members did nothing to reduce improved lot coverage from the required of 35% to the applicant's proposed 79.2% improved lot coverage. Subsequently the Board approved this variance by a 6-1 vote. Once again, when it was my turn to comment, I mentioned that the new

plan submitted was not in accordance with Article VII #2, which states that all drawings submitted by applicant must be at least 24in x 36in, with readable legends, and the survey must be 11in x 17in in dimensions. Everything submitted must be legible and per building department application for zoning officer review, must be accompanied with a signed and seal plan by a NJ licensed engineer or architect with an updated and detailed survey included with plan. This was not completed.

Board Engineer, Frank Rotonda, stated it would be submitted later. I stated, it supposed to be available at time of hearing. Upon review of what was provided, I should note that the original plans call for 2 retention tanks to be moved from backyard to front yard. The new plan showed only one retention tank in the front of the property. When the board engineer was asked about this change, he stated that the retention tanks are on top of one another. I stated, the new plan does not show that as well the roof leaders and sump-pump not connected to retention tank. The Board Engineer, Rotonda, stated they will be. I further requested, that under the front lawn all of the drainage pipes from roof liters and sump-pump drain to the retention tank and all pipes directed to the curb be disconnected and removed. If you were to look at the current plans, one would clearly see that all of the referenced liters are designed to flow to into the street, which is a violation of the state and local laws. When I questioned this issue, I received no response from anyone. A vote was taken soon after and the application was approved by a 6-1 margin. I should also point out that I also raised the question that the pavers being used are

concrete and my concerns were promptly dismissed by Chairman Stein who stated, "is there anything else?"

Another example of the inconsistent views of the Board Chair, and its professionals occurred at the September 9<sup>th</sup> 2019 meeting when Board engineer Frank Rotonda stated, "the problem in this town is there aren't enough storm drains. He would like to see to an overflow to the street so the water relieves itself and doesn't affect the house or the neighbors in the event the seepage pit fails". Mr. Stein added that the overflow should be on the Quincy Lane side closer to the front of the property, so it can go easily into the road.

The above statement further supports the continued misconduct that Chairman Stein, Board Attorney Ron Mondello and Frank Rotonda have displayed. As the Board's Attorney, Ron Mondello should have advised Chairman Stein and engineer Rotonda that it is in fact against the law to have the water pumped out to the street. Again, Mr. Mondello remained silent.

Another example of this disregard occurred during the 88 Rector Court Application which appeared next on the agenda. I immediately raised questions that the square footage provided by the applicant was incorrect. The Board Engineer said that my math was in fact wrong. On the plans provided, the existing lot width listed was 60 feet but the drawings showed only 50 feet. The application is stating that they are using the square footage of 5,678+ but when you do the math, the square footage totals  $60 \times 95 = 5,700$ . If you include the square footage of the house

itself, it comes to 1,048.892. The actual square footage totals 6,748.892. I am still trying to comprehend how my math is wrong. I also brought up the fact that nowhere on the plan do they show they are using pavers. Drawing shows that masonry is being used. Once again I was blown off.

In view of the above, wrongful action of the Zoning Board Chairman, Acting Chairman, Board Attorney, and board engineer, I feel that that governing Body should take what I have said serious, and take action.