

THE COMMON COUNCIL OF THE CITY OF BEVERLY
AUGUST 12, 2014
7:00PM

MINUTES

CALL TO ORDER

The meeting was Called to Order at 7:04PM by Council President Bancroft.

OPEN PUBLIC MEETINGS ACT STATEMENT

Mr. Bancroft read the following statement into the Minutes: *In compliance with the Open Public Meetings Act, NJSA 10:4-6, this is to announce that Adequate Notice of this meeting was provided in the following manner: On January 12, 2014 advance written notice of this meeting was posted on the Official Bulletin Board in the City Hall, was emailed to THE BURLINGTON COUNTY TIMES for publication and emailed to the CAMDEN COURIER POST for advise, was filed with the Municipal Clerk, and was mailed to all persons who requested and paid for such notice. The proceedings of all meetings are electronically and manually recorded, and Minutes will be on file in the office of the Municipal Clerk.*

FLAG SALUTE

Mr. Bancroft led those present in the Flag Salute.

ROLL CALL

Present:

Council President: Robert H. Bancroft

Council Members:

Lawrence F. Carlbon

Robert E. Lowden, Jr.

Mark A. Schwedes

Robert D. Thibault

Engineer: William H. Kirchner (Attendance not required.)

Municipal Clerk: Donna F. Snyder, RMC/CMR/CPM

Administrator/Director of Public Safety: Richard A. Wolbert

Solicitor: Brian M. Guest, Parker McCay

Absent:

Mayor: Randy H. Miller

APPROVAL OF MINUTES - July 22, 2014 Regular and Executive Session Minutes. Regular and Executive Session Minutes were Approved as Submitted with a Motion by Schwedes; Second by Lowden. Roll call Vote - All Ayes, except Carlbon-Absent. Motion Carried.

PUBLIC COMMENT ON AGENDA ITEMS ONLY

Public Comment was had by:

John Haaf regarding clarification on Ordinance 2014-1 relative to abatement of assessments or a payment in lieu of taxes, and on Ordinance 2014-7 regarding the enforcement process.

Rick Knudson regarding clarification on Ordinance 2014-7. He was advised that the City owns up to the sidewalk and has a right-of-way for the street, but measurements matter - you have to look at the width of the streets. Care for trees adjacent to sidewalks is the responsibility of the homeowner, even if the homeowner did not plant them.

There being no further comment, this portion of the meeting was closed.

PRESENTATION:

BURLINGTON COUNTY JOINT INSURANCE FUND - 2015 MEMBERSHIP RENEWAL
PAUL FORLENZA, DEPUTY EXECUTIVE DIRECTOR, J.A. MONTGOMERY

Mr. Forlenza stated that the last time he was at a Council meeting it was five years ago when the City was going through many problems. He stated that Beverly was now on the right track and that the BURLCOJIF was happy to offer the City a 3 year membership renewal. He then reviewed the JIF's success, the promotion of membership involvement, good Risk Management, and supporting Rich and Donna in their jobs as Fund Commissioner, Safety Coordinator, and Claims Coordinator along with their attendance at meetings (see Handout).

ORDINANCES

ORDINANCE 2014-1 - Second Reading/Public Hearing/Adoption
AN ORDINANCE OF THE CITY OF BEVERLY ESTABLISHING A PROGRAM PURSUANT TO N.J.S.A. 40A:21-1 ET SEQ. FOR CERTAIN ABATEMENT OF REAL PROPERTY TAXES IN AREAS IN NEED OF REHABILITATION OR REDEVELOPMENT. Open for Public Hearing.

Luis Crespo requested clarification on various sections of said Ordinance relative to how it applies to his rebuilding of his home which was destroyed by fire in January 2013. He questioned re his qualifying for the abatement as to improvements, his combination of his two lots to one, under what does his demolition and rebuilding fall, clarification re "Area in Need of Redevelopment". He questioned how many changes to the Ordinance were made since January, 2014. Mr. Wolbert advised that there were about six revisions, some minor, some more and that there were at least four or five variations. Mr. Crespo

questioned the Fee Schedule - is it limited to the construction costs? Solicitor Guest stated that since Mr. Crespo was doing the building that he should submit receipts and keep track of his time as well.

As there was no additional comment at this time, Public Hearing was closed. **Motion to Adopt by Thibault; Second by Schwedes. Roll Call Vote - All ayes. Motion Carried.**

ORDINANCE 2014-5 - Second Reading/Public Hearing/Adoption

AN ORDINANCE OF THE CITY OF BEVERLY TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14). Note that said Ordinance was Motioned to "Table" upon Second Reading/Public Hearing on April 22, 2014 due to the City awaiting notification from the State on their 2014 Transitional Aid.

Motion to take from Table by Thibault; Second by Carlbon. All in Favor. Motion Carried. Call for Public Hearing. There being no Public comment, Public Hearing was closed. **Motion to Adopt by Thibault; Second by Schwedes. Roll Call Vote - All Ayes. Motion Carried.**

ORDINANCE 2014-7 - Second Reading/Public Hearing/Adoption

AN ORDINANCE REGARDING THE CONSTRUCTION, REPAIR AND MAINTENANCE OF SIDEWALKS AND REGULATION OF TREES ADJACENT TO SIDEWALKS IN THE CITY OF BEVERLY. Call for Public Hearing.

Public Comment was had by Mary Ellen Knudson stating that, relative to Ordinance 2014-7, notification with only 30 days to repair was too short and that for the record it was felt that residents should not be told what to plant or not to plant, and that it was a stupid Ordinance.

Becky Carlbon commented that she was tired of the State pushing these things on to the homeowners, saying that cities don't want to be liable. Cooper Street is ugly and Pine Street is ugly without trees. Although it's the trend, this is wrong. She stated that in Highland Park there is a Class Action suit against that city re passing this law. If Beverly is sued the City will have to defend itself in Court. How will citizens be notified? We can't afford to replace sidewalks. Ms. Carlbon also spoke about the potholes on Perkins Lane (Street) saying that the street is almost sinking. She reminded Council that Amy Bent has been in here several times to talk about it. She said that in the future maybe the State will change on this, but right now she's not happy with it.

Luis Crespo commented that the sidewalk is in the City's right-of-way; the City owns the sidewalk. It's not fair to the resident; if

homeowners have to replace same then the Ordinance should say what can be planted. The property line stops at the sidewalk. There's a resident being sued in another case for a fall on the sidewalk and the individual won as it was found that it was the town's property. The majority of town can't afford to fix their houses, so how can they afford to fix the sidewalks?

John Haaf advised of some minor "housekeeping" notes in the Ordinance relative to Section numbers and typos that needed changing.

Rick Knudson asked how enforcement is done on vacant homes. Mr. Wolbert clarified same saying that in pre-foreclosure a Property Maintenance violation begins the process, stating that we have to start somewhere to make it better.

Council Member Carlbon stated that the Ordinance is still a bit vague. What constitutes the need for a new sidewalk? When would it need patch or re-grouting? We shouldn't be paying the Engineer to tell us what to plant. There is a need for a Tree Committee. Mr. Wolbert advised that we have a list of the trees provided by the licensed Landscape Architect from ERI at no charge to the City. Mr. Carlbon said that he would be willing to find interested parties for a Tree Commission if Council so chooses.

Mr. Thibault stated that he understands the concerns of the burden imposed on property owners. It's been understood for many years that you don't own the property to the curb; it's not new that you have to maintain these areas. The Governing Body has a responsibility to the town as a whole. Maintenance is part of ownership. It will be a judgment call. It may seem to be unfair, but many times that's just the way it is.

Mr. Carlbon asked who will be responsible for corners. Mr. Wolbert stated that Handicapped Ramps are done through road projects; the City can reset the bricks. Mr. Wolbert said he would take a look at Church and Jennings Streets for Mr. Carlbon.

Mr. Lowden stated that this is to put the onus on property owners to take care of these issues when they happen. In the older parts of the town there are trees everywhere. Owners need to keep their properties clean and safe.

There being no further comment, Public Hearing was closed. **Motion to Adopt by Lowden; Second by Thibault. Roll Call Vote - All Ayes, except Carlbon - Nay. Motion Carried.**

Mr. Schwedes stated that a Tree Committee was discussed previously. Does this Ordinance preclude us from having an Advice Panel or a Shade Tree Commission. The Solicitor advised that it would not stop the

City from having same. Mr. Wolbert reminded Council that there are special requirements for the establishment of a Shade Tree Commission.

ORDINANCE 2014-9 - Second Reading/Public Hearing/Adoption

AN ORDINANCE REPEALING ORDINANCE 2011-2 REGARDING THE "DOWNTOWN COMMERCIAL PARKING TRUST". Call for Public Hearing.

Public Comment was had by Luis Crespo who asked why the Ordinance was being repealed. Mr. Wolbert advised that the Ordinance was illegal and should never have been adopted. Mr. Crespo asked if there were any funds currently in said Trust Account. Mr. Wolbert advised that since 2009 there were no Impact Fees allowed, and that no one has paid into this Trust Account since its adoption. There being no further comment, the Public Hearing was closed.

Motion to Adopt by Thibault; Second by Lowden. Roll call Vote - All ayes. Motion Carried.

RESOLUTIONS

RESOLUTION 2014-56, the 2014 Beverly City Municipal Budget, was Introduced on March 11, 2014, with Second Reading/Public Hearing held on April 22, 2014 at which time said Resolution was Motioned to "Table" until State notification was received regarding Beverly City's 2014 Transitional Aid Application in the requested amount of \$303,300. Notice of receipt of 2014 Transitional Aid in the amount of \$300,000 was received on July 11, 2014. Due to State Aid reduction of \$3,300 said Introduced Budget will now be amended to include this reduction. Note that, according to law, this Budget Amendment does not require re-advertising. 2014 Budget Adoption will be completed as follows (Ref: N.J.S.A. 40A:4-4):

1. **Motion to remove Resolution 2014-56 from the "Table";**
Motion by Carlbon; Second by Thibault. Roll call Vote- All Ayes. Motion Carried.
2. **Open Public Hearing** for any further Public Comment and then Close Public Hearing. There was no Public Comment at this time. Public Comment was closed.
3. **RESOLUTION 2014-122**
Motion to Amend the Beverly City 2014 Municipal Budget to include the reduced Transitional Aid amount of \$300,000. Motion to Approve by Thibault; Second by Lowden. Roll Call Vote - All Ayes. Motion Carried.
4. **Motion to Adopt RESOLUTION 2014-56, the Beverly City 2014 Municipal Budget as Amended.** Motion to Adopt by Thibault; Second by Schwedes. Roll Call Vote - All ayes. Motion Carried.

RESOLUTION 2014-123

A Resolution approving **Discharge of Mortgage** for Beverly City property located at 504 Wheatley Avenue, also known as Block 13/Lot 15 (now known as Block 313/Lot 15) pursuant to a Springfield Township Regional Contribution Agreement. Motion to Approve by Thibault; Second by Carlbon. Roll Call Vote - All Ayes. Motion Carried.

RESOLUTION 2014-124

A Resolution adopting the State Mitigation Planning Committee's "**Hazard Mitigation Plan**" as the official plan of the City of Beverly. Motion to Approve by Lowden; Second by Schwedes. Roll Call Vote - All Ayes. Motion Carried.

RESOLUTION 2014-125

A Resolution renewing the City of Beverly's three-year membership in the **Burlington County Municipal Joint Insurance Fund** effective January 1, 2015. Motion to Approve by Thibault; Second by Schwedes. Roll Call Vote - All ayes. Motion Carried.

OLD BUSINESS - None at this time.

NEW BUSINESS - None at this time.

BILL LIST

Review and Approval of the August 12, 2014 Bill List. Upon clarifications, Motion to Approve by Thibault; Second by Schwedes. Roll Call Vote - All Ayes. Motion Carried.

CORRESPONDENCE - *(Note that all Correspondence will be handled/filed by and in the Office of the Municipal Clerk.)*

In the absence of May Miller, Council President Bancroft read the following notices of Correspondence into the Minutes:

1. Edgewater Park Planning Board - Notice of Public Hearing - 8/21/14 7PM, Edgewater Municipal Building, 400 Delanco Road, for MPT-6 Trash Compactor Unit and associated utilities at Wawa, Inc. at 4167, Rte. 130, Edgewater.

Solicitor Guest advised that relative to this Notice, towns will forward same not only to those within 200 feet of the property in question, but forward also to all neighboring municipalities.

2. Burlington County Board of Chosen Freeholders - Notification of Application to NJDEP for a Flood Hazard Area Individual Permit, Freshwater Wetlands General Permit 1, and Freshwater Wetlands

General Permit 15, allowing the Burlington County Mosquito Department to conduct mosquito control management projects.

3. NJDEP - International Coastal Cleanup Advisory - 9/20/14

COMMENTS/REPORTS

Mayor - Absent

Council

Mr. Thibault stated that relative to the Law & Ordinance Committee it is good to have tonight's Ordinances now on the books. He said that it's important to have rules that can be enforced. Regarding the Police Committee he stated that monitoring continues in order to provide the most effective coverage. Updating on the Community Events Committee, Mr. Thibault stated that a representative from our Risk Management Consulting Firm, Hardenbergh Insurance, was present at their last meeting stating that "Community Day" was a low risk event and that food vendors would be subject to County rules. Additionally, Beverly City T-Shirts are available for \$10 to raise funds for various community events. Also, tickets are still available for the 8/23/14 Riversharks event. Please support these events whether you can go or not. Mr. Thibault then thanked all Committee members for their efforts.

Mr. Carlbon stated relative to the Economic Development Committee that the Farmer's Market is beginning to show people driving through town what we're doing. We're getting the word out and people are coming down. Things are going well, and we are creating community. The Market is on Thursdays from 3PM to dusk.

Mr. Schwedes advised that we not forget the bus trip scheduled on September 7, 2014 - Renault Winery and Resorts Casino. There are 2 tickets left!

Administrator/Public Safety Director

Mr. Wolbert stated that the County Tax Administrator will be having a meeting in September to discuss how the County is looking at adopting the Monmouth County Model for County-Based Tax Assessment. We will have to budget for costs. This is a County wide system. Every year the Assessor will be responsible for revaluating 20% of the town, so that in five years the entire town will be completed.

He additionally reported that a meeting is scheduled the beginning of September with ERI and NJDOT regarding Grants and payout procedures. He stated that we are closing out the Playground Rehab Grant, and that all of the Grants should be paid back this year.

Relative to Safety, we are looking to bring in another Police Officer. Our O&E is taking a hit this year. A lot of repair dollars have gone out on the Police vehicles. Mr. Carlbon commented that "Walking" should be re-addressed with the Officers, also looking at getting "Bike" Officers back. Mr. Wolbert advised that this is already being discussed.

Professionals - Nothing at this time.

Municipal Clerk - Nothing additional at this time.

Municipal Court Administrator - Accepting Court Report for July 2014. It was stated that the Court is in good shape under the current Court Administrator; cleanup is still in progress. Motion to Accept by Thibault; Second by Carlbon. All in Favor. Motion Carried.

PUBLIC COMMENT - 8:35PM

Please state you name and address clearly for the record.

Luis Crespo stated that he would like to reiterate that Sidewalks are not the people's property. He also asked Council the status regarding kids playing baseball being asked to leave the park at the Waterfront. Mr. Wolbert advised that Risk Management had assessed this Park as not being safe for organized play.

There being no further comment, this portion of the meeting was closed at 8:36PM.

EXECUTIVE SESSION - Yes.

Resolution 2014-126:

A Resolution of the Common Council of the City of Beverly to hold Executive Session in accordance with the Open Public Meetings Act, P.L. 1975, Chapter 231, permitting the exclusion of the Public from a meeting in certain circumstances which the Governing Body deem now exist:

- Attorney Client Privilege**
- Contractual Matters**
- Current and/or Possible Litigation**
- Personnel Matters**
- Review of Executive Session Minutes**

Motion to Approve at 8:38PM by Thibault; Second by Schwedes. All in Favor. Motion Carried.

ACTION TAKEN AFTER EXECUTIVE: _____YES X NO _____N/A

ADJOURNMENT

There being no further business, Motion to Adjourn at 9PM was made by Thibault; Second by Carlbon. All in Favor. Motion Carried.

Respectfully submitted,

Donna F. Snyder, RMC/CMR/CPM
Municipal Clerk

Date

APPROVED:

Randy H. Miller, Mayor

Date