

THE COMMON COUNCIL OF THE CITY OF BEVERLY
February 28, 2017
7:30PM

MINUTES

CALL TO ORDER

Council President Bancroft called the meeting to order at 7:30PM.

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 6, 2017 advance written notice of this meeting was posted on the Official Bulletin Board in the City Hall, was emailed to THE BURLINGTON COUNTY TIMES, and emailed to the CAMDEN COURIER POST, was filed with the Municipal Clerk, and was mailed to all persons who requested and paid for such notice.*

FLAG SALUTE

Mr. Bancroft led those present in the Flag Salute.

ROLL CALL

Present:

Mayor: Randy H. Miller
Council President: Robert H. Bancroft

Robert E. Lowden, Jr.
Mark A. Schwedes
Robert D. Thibault

Solicitor: Thomas J. Coleman, III
Raymond/Coleman/Heinold/Norman, LLP
Administrator/Director of Public Safety: Richard A. Wolbert
Municipal Clerk: Donna F. Snyder, RMC/CMR/CPM

Absent:

Council Member: Lawrence F. Carlbom

APPROVAL OF MINUTES

February 14, 2017 Regular Session Minutes
February 14, 2017 Executive Session Minutes
The aforementioned Minutes were approved as submitted with a Motion by Schwedes and a Second by Lowden. Roll Call Vote - All Ayes, except Carlbom-Absent. Motion Carried.

PUBLIC COMMENT ON AGENDA ITEMS ONLY

Please state your name and address clearly for the record.

Bernadine Williams, 215 Laurel Street, asked for clarification on Ordinance 2017-3. Mr. Wolbert advised that the original Ordinance 2016-3 lacked language relating to gambling which is now being added by the amending Ordinance 2017-3. This will assist in the City's effort towards successful prosecutions under the Nuisance Ordinance.

Maureen Esaia, 607 Lee Avenue, asked for clarification on Resolution 2017-37, RCA Agreements. Mr. Wolbert advised that this Resolution would be postponed to Council's March 14, 2017 meeting so that all agreements could be completed. Twenty-three units remain. Once the agreements are signed, the units will be brought up to Code. There are five units left with pro forma. There are other improvements to take place for ten units under Small Cities.

Sam Esaia, 607 Lee Avenue, asked if the RCAs could be used for seniors only. Mr. Wolbert advised that income eligibility applies and that same cannot be restricted to seniors as long as it is an income-qualified program.

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

ORDINANCE 2017-01: Tabled from Council's 2/14/17 Meeting

SECOND READING/PUBLIC HEARING/ADOPTION

An Ordinance of the City of Beverly, in the County of Burlington, and State of New Jersey, adopting certain regulations of Drone Technology and Unmanned Aircraft in the City of Beverly.

At this point, Mr. Thibault stated that at Council's last meeting he had asked to have a discussion for a substantial change to said Ordinance, and that the Law and Ordinance Committee had prepared a rough Draft Amendment to Ordinance 2017-01, which he distributed to Council. Solicitor Coleman asked if Mr. Thibault wanted to Motion to take the Second Reading on Ordinance 2017-01 to Council's March 14 meeting, as, subject to discussion this evening, we would have to re-Introduce. Mr. Thibault then made a Motion to Table this Ordinance to Council's March 14 meeting; Second by Schwedes.

At this time, Council President Bancroft asked that discussion be moved to the "Old Business" portion of the meeting, as Second

Reading includes Public Hearing/Comment, and all can be done at the same time. All were in Favor.

*After discussion of Ordinance 2017-01, review of the Law and Ordinance draft amendments to same, and Public Hearing (see discussion under "Old Business" below), Motion to Table said Ordinance to Council's March 14, 2017 meeting was made by Lowden; Second by Schwedes. Roll Call Vote - All Ayes, except Carbon-Absent. Motion Carried.

ORDINANCE 2017-02: SECOND READING/PUBLIC HEARING - DATE CHANGE DUE ADVERTISING DELAY.

An Ordinance of the City of Beverly, in the County of Burlington, and State of New Jersey, amending Ordinance 2014-2, Chapter VI, Section 6-1 entitled: "Solicitors and Peddlers".

Ordinance 2017-02 was Approved on Introduction and First Reading at a meeting of the Common Council of the City of Beverly held on February 14, 2017 at 7:30PM, at Beverly City Hall.

NOTE:

Due to advertising delay, said Ordinance will come before Council for Second Reading, Public Hearing, and Adoption at their meeting to be held on **March 14, 2017** at 7:30PM at Beverly City Hall, 446 Broad Street, Beverly, NJ 08010 at which time and place all those wishing to be heard on same will be so heard. Copies of said Ordinance are available for review in the Office of the Municipal Clerk during regular business hours, M-F, 9AM-5PM at the aforementioned location.

ORDINANCE 2017-3: INTRODUCTION/FIRST READING

An Ordinance of the City of Beverly Amending Ordinance 2016-3, "An Ordinance Amending Chapter V of the City of Beverly Code to include Provisions Prohibiting Acts Defined as a 'Public Nuisance'" to add "Gambling".

Said Ordinance will come before Council for Second Reading, Public Hearing, and Adoption at their meeting to be held on March 14, 2017 at 7:30PM at Beverly City Hall, 446 Broad Street, Beverly, NJ 08010, at which time and place all those wishing to be heard on same will be so heard. Copies of said Ordinance are available for review in the Office of the Municipal Clerk during regular business hours, M-F, 9AM-5PM at the aforementioned location.

Mr. Schwedes asked what happened to "n" as the 2016-3 Ordinance only goes up to "m", and the amending Ordinance 2017-3 is amending with the letter "o". Mr. Wolbert advised that inadvertently, the wrong Ordinance was attached to the amending Ordinance. Mr. Schwedes then questioned if there was enforcement by the NJ Legalized Games of Chance Control Commission. Solicitor Coleman advised that, no, enforcement is deferred to the Municipalities to handle. Mr. Schwedes stated that his concern was regarding notifying the State to come in.

Mr. Wolbert then advised that "n" in Ordinance 2016-3 states, "It shall be unlawful, and shall be a public nuisance, for any property owner or other responsible party to allow any of the above conduct on his/her property".

At this point, Motion to Approve upon Introduction by Thibault; Second by Schwedes. Roll Call Vote - All Ayes, except Carlbon-Absent. Motion Carried.

RESOLUTIONS

RESOLUTION 2017-35

A Resolution authorizing submission of the 2016 Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection.

Motion to Approve by Thibault; Second by Schwedes. Roll Call Vote - All Ayes, except Carlbon-Absent. Motion Carried.

RESOLUTION 2017-36

A Resolution authorizing the Beverly City CMFO to refund the Escrow balance of \$442.00 to Domenic Astemborski, per letter of request from the Beverly City Joint Land Use Board, as Mr. Astemborski has chosen not to go forward with his initial application.

Motion to Approve by Thibault; Second by Schwedes. Roll Call Vote - All Ayes, except Carlbon-Absent. Motion Carried.

RESOLUTION 2017-37

A Resolution approving the 2017 Proposed RCA Unit Agreements relative to various designated properties within the City of Beverly.

Administrator Wolbert stated that said Resolution would be postponed to Council's March 14, 2017 meeting so that the remaining Agreements can be completed.

OLD BUSINESS

1. Discussion on Beverly City Code 2.1: "Standing Committees". Mr. Wolbert asked Council if they wanted to go forward with the revised Standing Committee list that was distributed at their February 28, 2017 meeting and which is in their packets this evening. Mr. Thibault said that he had no objection to the consolidation. Mr. Wolbert recommended that the Health Committee remain on the list as an indicator of support for the City's "Healthy Community Master Plan Element". All were in favor.

2. ***Drones:**

Mr. Thibault stated that the amendments the Law and Ordinance Committee was proposing to Ordinance 2017-01 would accomplish certain things; it exempts non-invasive use of Drones by people who don't mean to be invasive. He said they tried to come up with a way to having an acceptable allowance of use on three public properties for personal recreational use. He said in his research he even found Drone Clubs. His submitted list indicates the amendments he wants included in 2017-01 (see attached).

Administrator/Public Safety Director Wolbert advised that Drones could not be used in close proximity to the School, Government buildings, critical infrastructure, or mass transit systems. Since 9/11, the rules and regulations would generate a report to Homeland Security regarding same.

Mr. Lowden reminded all that the Waterfront is an "Eagle Fly Zone", 50 feet from the river. Mr. Wolbert stated that there are setbacks for development and there might also be setbacks for other activities, he wasn't sure, but he will check. Mr. Lowden added that to have to police this area would be next to impossible. Kids will go wherever. The current Ordinance up for adoption is easier for the Police to monitor. He said that the problem at Third and Laurel is allegedly where the Drone came from. Mr. Thibault stated that we have to strike a balance. Mr. Lowden said that he doesn't want people going out taking pictures of everything and everyone. Mr. Thibault said that there is no investment here and Council needs to see the bigger picture as this being non-invasive. Mr. Lowden asked how many feet away from Channel Markers do they need to be.

Mr. Wolbert read a July 8, 2015 State Park Service Policy that states such activity is not permitted over any State Park lands or waters. He further added that the American Civil Liberties Union research advised that the Drone issues need to be dealt with now before we have a mess on our hands. It should be handled at the local level. He added that Governor Christie pocket vetoed a bill last year, leaving it up to the Municipalities to regulate Drones.

Mr. Schwedes asked if the additional amendments by Law and Ordinance are not included tonight, how soon after could we amend the Ordinance.

Mr. Thibault stated that outlawing an activity doesn't eliminate it. He said that this is a cheap activity for the kids in an area or controlled use. This is the intent of the amendments. There are organized events where people do use them responsibly. He said that he would be hopeful that this consideration would be given to that.

Mr. Wolbert further stated that we can't enforce FAA rules. Federal law is enforced by Federal authorities like the FBI. Mr. Lowden stated that the County doesn't allow Drones. Allowing them in certain spots in Beverly only invites people here from other towns who use Drones. If you try to legislate everything to a standstill, it doesn't work.

Mayor Miller stated that our first priority is to our residents. Drones are an invasive technology. While it's true you can't stop technology, you don't want to encourage this type of use. Mr. Thibault said that a closed course use is the idea.

Mr. Schwedes asked if language could be included that would let Council make the final determination. Mr. Wolbert stated he would rather leave that determination up to the Public Safety Director and Chief Law Enforcement Officer so it keeps with the purpose of the Ordinance - Public Safety. Mr. Wolbert will work with the Solicitor to propose language.

*As there was no further discussion at this time, Mr. Lowden withdrew his Motion to continue with the Current Ordinance 2017-01 and made a Motion to Table said Ordinance to Council's March 14, 2017 meeting; Second by Schwedes. Roll Call Vote - All Ayes, except Carlson-Absent. Motion Carried.

NEW BUSINESS

BILL LIST

Approval of the February 28, 2017 Bill List.

Upon clarification of several items for Mr. Schwedes by Administrator Wolbert, Motion to Approve was made by Lowden; Second by Thibault. Roll Call Vote - All Ayes, except Carlson-Absent. Motion Carried.

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

Mayor Miller read the only piece of additional Correspondence which was a "Notice of Public hearing by the Planning Board of the Township of Edgewater Park" advising that they would be re-examining their Master Plan and would hold a Public Hearing for same on Thursday, March 16, 2017 at 7PM at the Edgewater Park Township Municipal Building, 400 Delanco Road, Edgewater Park, NJ 08010. The Public Hearing is held pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40-55D-1 et seq.

REPORTS

Mayor

Mayor Miller had nothing additional at this time.

Council

Relative to Community Events, **Mr. Thibault** said that the Committee is still recovering from Mary Ellen and Rick Knudson moving and no longer serving on the Committee, but that Leigh Ann and Fran are now volunteering.

Regarding items from Law and Ordinance, Mr. Thibault said he had a question for the Solicitor. He wanted to know what the difference was between a "public nuisance" and a "disorderly person". For example, he stated, a resident came up to him and thanked him for her daughter's new schoolbooks (a prior situation that had already been resolved). He said that the resident said the City is killing her on Laurel Street. This hit home with him relative to Bernadine Williams' current issues on Laurel Street. He stated that the Ordinance says we can do something about it, or what are the parameters? And can we use the Curfew Ordinance to clear the streets. Why can nothing be done?

Mr. Wolbert replied that the Curfew Ordinance is for minors, not adults. To clear the streets of adults would be declaring Martial Law. He further stated that the issue is that the Officers have to witness the offense in order to write on it. Aggrieved residents who have witnessed same can come in a file a complaint and press charges. He said that this past weekend Officers wrote on this Ordinance and that we will continue to do so.

Mr. Thibault said that he understands the process, but can we do more? He said there is total disregard for the law by these people. Solicitor Coleman asked when was the most successful enforcement in the City, State Police? He further stated that it

is a question of timeliness of seeing. Mr. Thibault said that the perpetrators feel no intimidation. There is excessive consumption of Police services. Mr. Wolbert advised that we are already in the process of developing an Ordinance on same.

Mr. Lowden gave Council an update on the last Planning Board meeting relative to an applications asking for a Variance on Laurel Street. The Planning Board has to gather more information due to conflicting information on both sides. He additionally stated that we should contact Senator Diane Allen to ask for State Police assistance to help the City with the situation at Broad and Laurel, if it was felt that this would be appropriate.

Administrator/Public Safety Director

Mr. Wolbert stated that he had nothing additional at this time.

Professionals

Solicitor Coleman had nothing additional at this time.

Municipal Clerk

Clerk Snyder had nothing additional at this time.

PUBLIC COMMENT

Please state you name and address clearly for the record.

Bernadine Williams, 215 Laurel Street, advised that she has no problems whatsoever coming in to press charges if needed.

Maureen Esaia, 607 Lee Avenue, stated that it would be good for the State Police to come in. She said that she sees people loitering on the streets and they're up to no good. She questioned the Nuisance Ordinance regarding landlords. Rental Registration Regulations were clarified to her by Mr. Wolbert.

Mr. Schwedes said that Ms. Williams and Ms. Esaia should try to obtain a Plate number prior to calling Dispatch and this would give the Police probable cause to investigate.

Mayor Miller reminded all that undercover Police have come from the County in the past to make a buy, and they can't. This is also true in Edgewater Park and in several other River communities. These individuals choose to be criminals, and they are very effective in leaving evidence of that.

EXECUTIVE SESSION - No Executive Session.

RESOLUTION 2017-

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 Litigation**
- Personnel Matters**
- Review of Executive Session Minutes**

ACTION TAKEN AFTER EXECUTIVE: Yes _____ No _____ N/A X

ADJOURNMENT

There being no further business, Motion to Adjourn at 9:03PM was made by Thibault; Second by Schwedes. All in Favor except Carlbon-Absent. Motion Carried.

Respectfully submitted,

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

Date