

BOROUGH OF BERGENFIELD
MAYOR & COUNCIL REGULAR MEETING
MARCH 15, 2022
8:00 P.M.

PRESENT: Mayor Arvin Amatorio and Council President Buddy Deauna, Council members Thomas Lodato, Rafael Marte, and Marc Pascual

ABSENT: Councilmembers Ora Kornbluth and Hernando Rivera

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

Mayor Amatorio called the meeting to order at 8:08 p.m. with the reading of the Open Public Meetings Act Statement, "In compliance with the Open Public Meetings Act, the notice requirements have been satisfied. Meeting dates for the year are confirmed at the Annual Meeting. The Annual Notice is sent to the Record, Star Ledger, Twin Boro News, and Cablevision, placed on two Municipal Bulletin Boards and is on file in the Office of the Borough Clerk."

The Salute to the Flag was led by Councilperson Marte.

AGENDA CHANGES

Councilperson Pascual made a motion to add Ordinance 22-2598 - an ordinance to amend, supplement, and revise the code of the Borough of Bergenfield, Chapter 186 Entitled "Zoning" for introduction, resolutions 22-121 to approve LEAP Implementation Grant, resolution, resolution 22-122 to approve sale of surplus property in the DPW, and resolution 22-123 to approve proposal for PSE&G energy saver program for the fire houses to the Consent Agenda, and added the nomination of Jason Bergman to the Zoning Board of Adjustment to new business.

APPROVAL OF MINUTES

Motion by Council President Deauna to approve minutes of the February 15, 2022 Regular Meeting, February 15, 2022 Closed Session Meeting (not to be released), March 1, 2022 Work Session Meeting, March 1, 2022 Closed Session Meeting (not to be released). Councilperson Marte seconded the motion. All present voting in favor, none opposed.

VERBAL COMMUNICATIONS I

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

Barry Doll, resident, inquired what kind of lawsuits is the Borough in. He understands the details cannot be discussed, but the residents have a right to know who is suing who and what the outcome might be. It affects the community and taxes. He questioned resolution 22-119. Mr. Doll inquired if the increase in pay for the DPW part-time workers was included in the salary guideline. He stated that the residents should have the opportunity to ask follow up questions after the borough administrator provides answers during the public comment portion.

Borough Administrator Gallo stated there are some civil litigations that are discussed in the closed session because the council needs legal guidance on how to proceed on certain matters. Legal discussions with the attorney cannot be disclosed. The JIF and the re-insurance portion, which is the MEL, is involved with all legal lawsuits against the borough. If there is a claim, it gets registered, comes to the borough, and issued to the insurance company. The insurance company

then selects the lawyer that is going to represent the borough. The lawsuit can be a trip and fall, litigation, or personnel matter that can be contractual. There are several things that come into play. Mr. Gallo stated that Resolution 22-119 is retaining Chasan, Lamparello, Mallon & Cappuzzo as they are working on cases that are ongoing. They are required by the consent decree to report statistics of the employees to the federal court and as such, the town was billed for the services. He stated that the firm was not re-appointed at the reorganization meeting as special counsel. The resolution is memorializing the work they have been doing since 2019. They retain two cases for the borough. The salary for part-time public workers was included in the salary guideline, and are now authorizing the salary to be \$20 an hour and is being memorialized.

Mayor Amatorio stated they are very cautious with the expenses with the number of projects going on. The finances have been kept in a good position. The council is doing their best to make the community better and are solid in terms of finances and programs.

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

PRESENTATIONS

None.

CORRESPONDENCE

a.) Nuñez/Shade Tree Committee

RE: Request to Reserve Cooper's Pond to Distribute Seedlings/Friday, April 22, 2022/10:00 a.m. to 1:00 p.m.

Motion by Councilperson Pascual to accept Correspondence Item A. Councilperson Lodato Seconded the motion. All present voting in favor, none opposed.

ORDINANCES

A. Adoption of Ordinances

Mayor Amatorio read the following into the Record:

The following ordinances published herewith were first read by title on February 1, 2022 and posted on the bulletin board of the municipal center.

22-2592 - AN ORDINANCE AMENDING SPECIFIED PORTIONS OF THE EXISTING AFFORDABLE HOUSING ORDINANCE OF THE BOROUGH OF BERGENFIELD TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

22-2593 - AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, LAND USE, CHAPTER 186 ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF BERGENFIELD" (20 Percent Set Aside)

22-2594 - AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED "ZONING" (Revised Inclusionary Housing Zone)

**22-2595 - AN ORDINANCE ADOPTING REDEVELOPMENT PLAN INCLUDING AREAS BLOCK 344, LOT 4 - 358 SOUTH WASHINGTON AVENUE
BLOCK 258, LOT 5 - 314 SOUTH WASHINGTON AVENUE
BLOCK 133, LOT 20 - 60 WEST MAIN STREET
BLOCK 133, LOT 1 - 16 SOUTH FRONT STREET**

**BLOCK 133, LOT 2 – 11 VAN HOUTEN STREET
PREPARED PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW
N.J.S.A. 40A:12A-1 ET. SEQ.**

Public Comments on Ordinances 22-2592, 22-2593, 22-2594, and 22-2595.

Barry Doll, resident, inquired, what the 20% set aside is.

Borough Attorney Schettino stated if a developer has new construction over five units, 20% of the new units have to be set aside for affordable housing.

Mary Sullivan, resident, inquired if all of the locations listed in Ordinance 22-2595 are for housing.

Mayor Amatorio stated the planner conducted the study in these areas and reviewed them with the Planning Board. The Planning Board approved the redesignation and endorsed the plan. He explained that the designation of these addresses as redevelopment areas, does not mean there will be developments in all of these areas. He stated that if the owner of the property wants to redevelop, they can apply for approval. Most of the areas have been designated as mixed use commercial and residential as per the master plan.

Motion by Councilperson Pascual, second by Councilperson Marte, to pass Ordinances 22-2592, 22-2593, 22-2594, 22-2595 on second and final reading, are hereby adopted, and notice of same shall be published according to law.

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

Mayor Amatorio read the following into the Record:

The following ordinances published herewith were first read by title on February 15, 2022 and posted on the bulletin board of the municipal center.

ORDINANCE 22-2596 - AN ORDINANCE TO ESTABLISH THE SALARY RANGES OF EMPLOYEES NOT SUBJECTED TO UNIONIZED CONTRACTUAL UNITS OF THE BOROUGH OF BERGENFIELD

Public Comments on Ordinance 22-2596.

Barry Doll, resident, inquired if there is any information on the percent of increase over the current salaries.

Borough Administrator Gallo stated the salary ordinance is just being adjusted. The salary ordinance was already passed. There were a couple of numbers that were off and were not aligned, like the salary for the Deputy Clerk. The ordinance is being amended to reflect the proper salary. The Municipal Housing Liaison position never existed and needs to be created by code. There is a range for that position. The confidential assistant to the clerk position never existed. There is an employee in the clerk's office that will be retiring, who is part of the white-collar contract and does not have confidentiality status, which is separate from a clerk's position. They are now creating a confidential position to fill the position of the person who is retiring. It is making corrections to an existing ordinance.

Motion by Council President Deauna, second by Councilperson Marte, to pass Ordinances 22-2596 on second and final reading and are hereby adopted and notice of same shall be published according to law.

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

B. Introduction of Ordinances

Motion by Council President Deauna that the following ordinances be introduced and passed on first reading and setting April 5, 2022 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 Lodato.

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

ORDINANCE 22-2597 – AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK

ORDINANCE 22-2598 – AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF BERGENFIELD, CHAPTER 186 ENTITLED “ZONING”

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

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

A. CONSENT AGENDA

CONSENT RESOLUTION 22-107. All matters listed below are considered by the Governing Body to be routine in nature. There will be no separate discussion of these items. If any discussion is desired by the Governing Body, that item will be removed from the Consent Agenda and considered separately.

- a. **22-108/**To Approve Bill List
- b. **22-109/**To Approve Temporary Emergency Appropriation
- c. **22-110/**To Authorize Tax Refund – 19 Legion Drive
- d. **22-111/**To Authorize Tax Refund for Tax Court Judgements for Several Properties
- e. **22-112/**To Approve Proposal – Professional Services as Administrative Agent for Settlement Agreement with Fair Share Housing – Community Grants, Planning and Housing, LLC “CGP&H”
- f. **22-113/**To Approve Pay Certificate No. 5 Final – 2017 Utility Infrastructure Repairs – Jo-Med Contracting Corp.
- g. **22-114/**To Appoint Labor Counsel – John Shahdanian, Esq. to Trenk Isabel Siddiqi & Shahdanian, P.C.
- h. **22-115/**To Approve Preliminary Application for Water Service – SUEZ Water New Jersey Inc.
- i. **22-116/**To Approve Proposal – Energy Efficiency Update – PSE&G Energy Saver Program
- j. **22-117/**To Authorize Bid – 2022 Speed Hump Project
- k. **22-118/**To Authorize Bid – Marcotte Lane Road Improvements Project
- l. **22-119/** To Appoint Special Counsel and Approve Contract – Chasan, Lamparello, Mallon & Capuzzo PC
- m. **22-120/**To Approve Salary Increase for Part-Time Department of Public Works Employees

Mayor Amatorio stated the \$25 average for homeowners for the budget is to ensure there is enough to stay where they currently are. Prices have changed. He stated that another revenue is needed to fulfill all services and needs. Mayor Amatorio stated that hopefully with better revenues, they will be able to go back to another zero the following year.

Motion by Councilperson Marte, second by Council President Deauna, that Resolution #22-124 be approved

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

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

Committee/Department Reports

Motion offered by Council President Deauna that the committee and department reports be spread upon the minutes in full and filed. Councilperson Lodato seconded the motion. 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.

Judy DePommier, resident, requested clarification on resolution #22-122. She stated that there is a DARE program in town, in which police visit the schools and teach drug awareness. She commented that now there is going to be a factory in town that is going to manufacture products considered to be drugs. Ms. DePommier inquired how that is going to be finessed to the kids. Washington Avenue is disintegrating. There are no magnet stores and no parking available to bring in businesses. She would like to see the plans to create a municipal lot and offer businesses to come in.

Borough Administrator Gallo stated that resolution #22-122 are for vehicles and equipment no longer beneficial to the borough that are being auctioned off on a website called GovDeals.

Jacqueline Romney, resident, stated Bergenfield was one of the towns that had opted out of having any kind of cannabis and inquired what the difference is in having a warehouse. Ms. Romney stated in the past there have been numerous reports of teenagers arrested for carrying, distributing, and selling cannabis in the community. She stated that the police officers' lives were put in danger in trying to stop them. She inquired what studies and analyses have been completed regarding this. There have been 43 car crashes, some of them involving pedestrians and cyclists. The traffic safety committee was formulated to try to address these issues and inquired why the traffic safety committee has not been active in raising awareness in reducing car crashes.

Pat Noseworthy, resident, stated she worked at the Bergen County Police Department and has seen many people addicted to marijuana. The DARE program is to teach children to stay away from drugs. There should be no marijuana factory in Bergenfield.

Barry Doll, resident, stated the budget sounds good. He inquired if the developer received the marijuana license. Mr. Doll stated that he looked at some numbers on the borough website that shows the cost of the building is going to be \$40 million over 20 years with the interest on bonds. He inquired what the cost of the building is going to be.

- n. **22-121**/To Approve LEAP Implementation Grant (LEAP) – Department of Community Affairs, Division of Local Government Services
- o. **22-122**/To Approve Sale of Surplus Property on GovDeals
- p. **22-123**/To Approve Proposal - Energy Efficiency Update – PSE&G Energy Saver Program for Bergenfield Fire Department Houses

Motion by Council President Deauna to approve the Consent Resolution. Councilperson Pascual seconded the motion.

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

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

UNFINISHED BUSINESS

None.

NEW BUSINESS

A. Nomination and Appointments to the Zoning Board of Adjustment

Motion by Councilperson Marte, second by Councilperson Pascual, to appoint Jason Bergman as a member of the Zoning Board of Adjustment.

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

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

B. 2022 Municipal Budget

22-124/To Introduce Municipal Budget for Calendar Year 2022 and Advertise Public Hearing to be held on April 19, 2022

CFO Richard Cahill stated the borough’s finances remain in great shape. The overall budget compared to the 2021 budget is just under 4%. The tax levy is up about \$300,000, which is 1% overall. The tax rate is going up less than 1%. The overall increase to the average property owner will be \$25 per home. The budget provides all the services provided in the past and they are aggressively paying down some of the borough’s debt.

Borough Administrator Gallo stated that the operating expenses is where the appropriations jump a little bit, as some of the salary and wages increase. Capital improvements stay in-line and the debt service goes down this year. Mr. Gallo explained that the reserve for uncollected taxes will remain the same. There is always a little room in a budget, which is important for the cost of goods and fuel continue going up. The cost of the collection and disposal of garbage and recycling has increased dramatically. They used to get paid for recycling and now the borough has to pay to dump recycling in excess of \$12,000-\$14,000 a month. Those expenses continue to rise. Mr. Gallo stated the borough has no control over the Board of Education. There have been four- zero tax increases on the borough’s side. Mr. Gallo stated they are being very diligent and prudent in the way the borough is operated as well as taking the proper measures to ensure there is money in surplus, if needed.

Mary Sullivan, resident, stated there was a resident from Highgate Terrace that complained about not being able to walk on the sidewalks a few months ago. Ms. Sullivan stated that she drove passed her house and the entire block, on both sides, have sidewalks. Ms. Sullivan further stated that the residents want everyone in town to put in sidewalks in front of their walkway. Mr. Sullivan also stated that the two other residents from Highgate Terrace that spoke about the summonses they received for parking on the street both have a garage. Ms. Sullivan stated that the one resident has four cars, but only has parking spaces for two. She inquired where they park their cars when it snows, and commented that they should apply for a variance to widen their driveways, since no one on Highgate Terrace ever is turned down. Ms. Sullivan inquired if the borough purchased the Ukrainian flag.

Mr. Gallo stated the flag is backordered. He stated that he looked at the paperwork and arrest report Ms. Romney provided dating back to 2016. The law has changed. The state of New Jersey has legalized marijuana. These are offenses the state has handled. The Borough of Bergenfield did not legalize marijuana, the State of New Jersey did. The application process is in status quo. The town is not spending any money on this matter, the borough will receive money if it comes through. It is a privately owned building and it's the owner of the building that is seeking the license.

Mayor Amatorio stated there seems to be some confusion that there will be sales on the property. There will be no sales of marijuana at the site. If the applicant is granted the license and if the Zoning Board approves their application, everything that comes out of the facility goes into an armored truck and goes to a location where the products will be sold. Kids will not be able to buy or have access to it. The product will go to pharmaceutical companies to produce medicinal products. They are not trying to push drugs onto kids. If kids want to get it, they will get it from illegal sales. Mayor Amatorio explained when the law was first passed by the state, they were required to make the decision to opt out or would have to automatically opted in. If they did not opt out, all types of licenses would have been allowed and the town would have lost control. The council is only allowing the growing of marijuana here to have it shipped out. The council responsibly made a decision and can avoid raising taxes due to the revenue received from it. It's about protecting the future of Bergenfield. It is not guaranteed that the license is going to be approved. Mayor Amatorio stated that passing the ordinance was the first step in the process.

Borough Administrator Gallo stated the ordinance that passed for the development and economic redevelopment of areas throughout Bergenfield, has to do with the disintegration of the avenue. There have been a series of these over the past couple of weeks and there will be more in the upcoming weeks. Mr. Gallo stated Washington Avenue, Legion Drive, Portland Avenue, and Main Street have been identified. The borough is interested in improving those areas. Some of those stores have not been renovated or upkept since the 1980's due to high rent. The purpose of the ordinance designating the areas as areas in need of redevelopment is to create new buildings so businesses are interested in coming to town. He referenced Foster Village as an example of an area that has been transformed and is thriving, which is the plan for the rest of the avenue.

Councilperson Pascual stated that unfortunately, you can purchase clothing and shoes online. However, you cannot purchase service online. It would be great to have a nice five-star restaurant in town, because that can't be purchased on the internet.

Mr. Gallo stated there just was a grand opening for Aloha Krab and he was shocked on how beautiful and impressive the facility is. The restaurant has great food and is a family inviting environment. It inspires everyone to carry on the vision to Washington Avenue, because stores like that are inviting to the community. Mr. Gallo stated part of the economic development has to do with parking. If a developer is going to come in and build a mixed-use building, they will need to have parking as people will need to park in their lots to visit the stores. Mr. Gallo stated that part of the problem is misinformation. Residents come to the Mayor and Council meetings and discuss issues that should be addressed through the administrator's office. The research is done once he has all of the information.

Mr. Susana stated that an inspector made him turn the lights off in his business. All of the businesses on the avenue are dead and need to be promoted. Lighting is needed to attract customers to the businesses.

Frank Rabboh, owner of Mini Mart, stated he has the same concern. He probably has paid over \$400,000, over the past 31 years, in taxes and thousands more in SID taxes. His lights have been there for the past 7-8 years. The white LED lights give him exposure and provide safety for his employees and customers. He stated that people who drive on Columbia Avenue wonder if they are open for business and he does everything he can to improve his business. He further stated there are over 34 stores out of business, which is a bigger issue to worry about. The past two years have been the hardest to run a business. He requested that they allow businesses to survive and not to squeeze them out. Mr. Rabboh stated that about six months ago, someone broke into his store. If it wasn't for the lights, they would not have been able to identify the person who broke into the store. According to the town ordinance, which created in 1979 and changed in 2000, businesses can have lights to illuminate the signs on the window, which he has.

Mr. Gallo stated he understands the issue with the lights, but there were a number of residents that came to a meeting and complained that the borough was not doing their job because people had LED lights in their storefronts that are annoying, disrespectful, and trashy. Mr. Gallo stated they looked at the ordinance and the ordinance reads that LED lights are not allowed. He had to address the issue because only one sign is allowed, and the lights on the window act as a second sign. He stated that the businesses that had LED lights on their window or any types of lights that were excessive were asked to shut them down. If they want them, they would have to apply to the zoning board for variance, which is the law. Mr. Gallo stated has the obligation to ensure the law is met unless the governing body or the zoning board wants to make a change.

Mayor Amatorio stated the ordinance has been in existence for a long time. Mayor Amatorio stated they will discuss it further to find a better solution between the residents and the store owners. They might be able to change the ordinance and make acceptable regulations for both businesses and the residents. People are always complaining the ordinance is not being enforced and there are people on the other side stating the town is making things difficult for the businesses. This is not meant to offend anyone.

Mr. Gallo stated a resolution was passed to approve a bid for speed humps in the borough. The Traffic Safety Committee is made up of primary professionals, and have met with the governing body. Signs were ordered and placed strategically all over town. Mr. Gallo explained the borough is going to add 20 speed humps throughout town. There will be a bicycle safety program in May in which Ms. Romney is involved with. There will be traffic safety notifications during Family Fun Day where thousands of people will be addressed. Traffic accidents have gone down over the last ten years as per the Police Chief. Mr. Gallo stated there is a plan in place. The hard cost of the contract for the building is \$15.6 million. They are bonding \$18 million because there are soft costs that includes asphalt paving around the building and moving the cell tower. They are going to bond for 20 years with 2% interest.

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

COUNCIL COMMENTS

The Mayor and Council thanked everyone for coming to the meeting.

CLOSED SESSION

RESOLUTION **22-125**/Authorizing the Governing Body to Enter into Closed Executive Session to discuss:

A. Attorney-Client Privilege

1. Bergen Realty Properties v. Borough of Bergenfield

B. Contracts/Agreements

1. Bid Analysis & Review

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 Pascual, second by Councilperson Marte, and all present voting in favor, the meeting was adjourned to the Closed Session in the Executive Chambers at 9:35 p.m.

ADJOURNMENT

There being no further business to come before the Mayor and Council, on a motion by Councilperson Pascual, second by Councilperson Marte, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:18 p.m.

Respectfully submitted,

Marie Quinones
Borough Clerk