

Mayor Fernandes called the meeting to order and requested those present to join her in the Flag Salute.

2. OPENING STATEMENT.

GOOD EVENING LADIES AND GENTLEMEN. THIS MEETING IS NOW CALLED TO ORDER. IN LINE WITH THE BOROUGH OF SEA BRIGHT'S LONGSTANDING POLICY OF OPEN GOVERNMENT, AND IN COMPLIANCE WITH THE "OPEN PUBLIC MEETINGS ACT", I WISH TO ADVISE YOU THAT ADEQUATE NOTICE OF THIS CLOSED SESSION MEETING HAS BEEN PROVIDE TO THE HUB, ATLANTICVILLE, LINK AND TWO RIVER TIMES ON AUGUST 25, 2009 AND POSTED ON THE BULLETIN BOARD IN THE BOROUGH OFFICE. IN EACH INSTANCE, THE DATE, TIME AND LOCATION OF THIS MEETING WERE PROVIDED IN THE NOTICE. THIS MEETING IS OPEN TO THE PUBLIC."

3. ROLL CALL:

PRESENT: Bills, Keeler, Kelly, LoBiondo, Long, Murphy, Mayor Fernandes, Attorney Oxley, Attorney Arnette Chief Financial Officer Bascom, Borough Administrator Smeltzer, Attorney Giacobbe arrived at 6:55 p.m.

ABSENT: Kelly

4. Councilwoman Long introduced and offered for adoption the following resolution at 6:30 p.m.:

**RESOLUTION NO. 197-2009
EXECUTIVE SESSION
BOROUGH OF SEA BRIGHT**

WHEREAS, N.J.S.A. 20:40.12 et seq. provides for closed session of the Council as appropriate; and,

WHEREAS, the Public Meetings Act provides for closed session of the Council; and,

WHEREAS, the matter to be discussed involves potential litigation.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Sea Bright, New Jersey, that they meet in closed session to discuss the issue as herein set forth and when the need for confidentiality no longer exists the decisions made therein will be made available to the public.

BE IT FURTHER RESOLVED, that the Mayor and Council may come back into Regular Session to conduct additional business.

Second by Councilwoman Bills and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

Mayor Fernandes called the meeting to order and requested those present to join her in the Flag Salute at 7:35 p.m..

Mayor Fernandes requested for a moment of silence for the passing of Stanley Aronson:

"GOOD EVENING LADIES AND GENTLEMEN. THIS MEETING IS NOW CALLED TO ORDER. IN LINE WITH THE BOROUGH OF SEA BRIGHT'S LONGSTANDING POLICY OF OPEN GOVERNMENT, AND IN COMPLIANCE WITH THE "OPEN PUBLIC MEETINGS ACT", I WISH TO ADVISE YOU THAT ADEQUATE NOTICE OF THIS REGULARLY SCHEDULED MEETING HAS BEEN ADVERTISED IN THE ASBURY PARK PRESS ON JANUARY 9, 2009 AND POSTED ON THE BULLETIN BOARD IN THE BOROUGH OFFICE. IN EACH INSTANCE, THE DATE, TIME AND LOCATION OF THIS MEETING WERE PROVIDED IN THE NOTICE. THIS MEETING IS OPEN TO THE PUBLIC."

3. ROLL CALL:

PRESENT: Bills, Keeler, Kelly, LoBiondo, Long, Murphy, Mayor Fernandes, Attorney Oxley, Chief Financial Officer Bascom, Borough Engineer Hoder, Borough Administrator Smeltzer

ABSENT: Kelly

4. CERTIFICATES OF APPRECIATION: Mayor Fernandes and Councilwoman Long Chairperson of the Education Committee presented the certificates and thanked them for their many years of dedicated service serving as members of the Sea Bright Board of Education.

SEA BRIGHT BOARD OF EDUCATION MEMBERS

- TRUDE ARNETTE
- SEREFINA BANICH
- LINDA BOYCE
- DIANA BURICH
- NANCY CUNNINGHAM
- NANCY DESCENZA
- MARIANNE MCKENZIE
- HARRIET PRIMACK
- CAROL SCHUSSHEIM

5. PRESENTATION: James R. Nelligan - NJ Temporary Disability Benefits Proposal. Mr. Nelligan said that Sea Bright's employees would be enrolled in Zurich's temporary disability benefits program. The town would save money and the employees would pay into the tax deferred program which would benefit them by receiving temporary disability checks within 2-3 days rather than the state's 2-8 week wait. As long as 50% plus one employee signature is received then the program could be effective January 1, 2010.

6. Attorney Oxley called for the Second Reading, by Title Only, of the following Ordinance, which was introduced and approved at the Council Meeting of August 4, 2009.

A. Councilwoman Long moved to approve this Ordinance upon Second Reading.

A1. Planning Board Letter

A2. Zoning Officer's response

A3.

ORDINANCE NO. 18-2009
AN ORDINANCE AMENDING CHAPTER 130 LAND USE
ARTICLE XI SIGNS
OF THE CODE OF SEA BRIGHT

BE IT ORDANINED by the Mayor and Council of the Borough of Sea Bright as follows:

The following shall be added to Chapter 130 Article XI Signs Section 71 General Regulations:

Paragraph R. Portable Business Signs:

(a) An annual permit along with an annual permit fee of \$75.00 is required for the installation of any portable sign which will be valid for one calendar year beginning January 1 and ending December 31. Business owners shall sign a disclaimer that indemnifies the Borough of any liability for use of the public right-of-way.

(b) A site plan/survey with a sketch or photograph including dimensions, content, materials and location of the portable sign must be attached to the permit application. The permit application must be approved and signed by the Zoning Officer before the portable sign may be displayed.

(c) The portable sign shall not obstruct pedestrian movement.

(d) The portable sign shall be brought indoors when the business is closed.

(e) Portable signs shall be maintained in a safe condition and in good repair.

Number of Signs:

One (1) portable business sign, limited to sandwich boards, pedestal signs, 'A' frame signs, and wind/spring signs, shall be allowed for each business.

Area.

Signs shall not exceed an area of six (6) square feet per face including any border or trim, and there shall be no more than two (2) faces. Businesses without a 40' frontage will be permitted a 12 sf sign.

Height.

Sandwich board signs and 'A' frame signs shall not extend more than three (3) feet above the ground on which it is placed.

Pedestal

signs shall not extend more than four (4) feet above the ground on which it is placed. A freestanding wind/spring sign shall not

extend more than five (5) feet above the ground on which it is placed.

Placement.

No portable business sign shall be constructed and placed so as to interfere with pedestrian ingress and egress. Portable signs placed in violation of this section will result in immediate removal of the sign and the business's temporary sign permit privileges will be denied for the remainder of that year.

Portable signs displayed without approved permits shall be disposed of at owner's expense. Portable signs placed within the public right-of-way may be moved/removed by the Borough for municipal purposes. (i.e. code enforcement, snow removal,

traffic issues, maintenances, public health and safety matters, etc.)

General Limitations

Signs shall be anchored, supported, or designed as to prevent tipping over and becoming air born in gusty winds, which reasonably prevents the possibility of signs becoming hazardous to the public health and safety. Signs shall not be illuminated or contain any electrical component. No objects shall be attached to a portable sign such as but not limited to balloons, banners, merchandise, and electrical devices. Portable business signs shall be removed at the daily close of business. These signs are prohibited while the business is closed. In consideration of the benefit the Business derives from the display and use of said portable signage, the Business shall indemnify and hold harmless the Borough of Sea Bright, its officers, agents and employees from any claim arising out of the presence of the portable sign. Evidence of insurance for property damage and personal liability shall be required naming the Borough of Sea Bright as an additional insured when portable signs are located on borough property.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon its adoption, passage and publication according to law and moved the Public Hearing to be held. Second by Councilman Murphy and approved by the following vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy
NAYS: None
ABSTAIN: None
ABSENT: Kelly

There being no members of the Public who wished to be heard a motion to close the Public Hearing was made by Councilman Murphy. Second by Councilwoman Long and approved by the following voice vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy
NAYS: None
ABSTAIN: None
ABSENT: Kelly

Councilman Murphy made a motion to approve Ordinance No. 18-2009 on its Third and Final Reading and advertise it according to law. Second by Councilwoman Long and approved upon the following roll call vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy
NAYS: None
ABSTAIN: None
ABSENT: Kelly

Attorney Oxley called for the Second Reading, by Title Only, of the following Ordinance, which was introduced and approved at the Council Meeting of August 4, 2009.

B. Councilman Murphy moved to approve this Ordinance upon Second Reading.

**ORDINANCE NO.19-2009
AN ORDINANCE REPLACING
CHAPTER 115 FLOOD DAMAGE PREVENTION
OF THE CODE OF SEA BRIGHT**

BE IT ORDAINED that the following Flood Damage Prevention Ordinance replaces Chapter 115 of the Code of Sea Bright in its entirety, as follows:

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Sea Bright Governing Body of the Borough of Sea Bright, of Monmouth County, New Jersey does ordain as follows:

1.2 FINDINGS OF FACT

[1] The flood hazard areas of the Borough of Sea Bright are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- [1] To protect human life and health;
- [2] To minimize expenditure of public money for costly flood control projects;
- [3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] To minimize prolonged business interruptions;
- [5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- [6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- [1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or

which result in damaging increases in erosion or in flood heights or velocities;

[2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;

[3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

[4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,

[5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

ARTICLE II

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Appeal" means a request for a review of the Construction Code Official's interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Areas of special flood related erosion hazard" is the land within a community which is most likely to be subject to severe flood related erosion losses. After a detailed evaluation of the special flood related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

"Development" means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Digital Flood Insurance Rate Map" (DFIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Elevated building" means a non-basement building (i) built in the case of a building in a Coastal High Hazard Area to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

"Erosion" means the process of the gradual wearing away of landmasses.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- [1] The overflow of inland or tidal waters and/or
- [2] The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Study" (FIS) means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

[a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily

determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in States without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

"Recreational vehicle" means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of Construction" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

[1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

[2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

ARTICLE III

GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Sea Bright, Monmouth County, New Jersey.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Sea Bright, Community No. 345317, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1.) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009.

- (a) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009
- (b) Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34025C0088F, 34025C0201F; whose effective date is September 25, 2009

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 1167 Ocean Avenue, Sea Bright, New Jersey 07760-2206.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined as provided in Chapter 1, General Provisions, Article I Section 1-14 General Penalty of the Code of Sea Bright, unless otherwise specified in this Chapter. Nothing herein contained shall prevent the Borough of Sea Bright from taking such other lawful action as is necessary to prevent or remedy any violation involved in the case. Nothing herein contained shall prevent the Borough of Sea Bright from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- [1] Considered as minimum requirements;
 - [2] Liberally construed in favor of the governing body;
- and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Sea Bright, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE IV

ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Construction Code Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

[1] Elevation in relation to North American Vertical Datum (NAVD) 88, of the lowest floor (including basement) of all structures;

[2] Elevation in relation to North American Vertical Datum (NAVD) 88 to which any structure has been floodproofed.

[3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and,

[4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Code Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Code Official shall include, but not be limited to:

4.3-1 PERMIT REVIEW

[1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

[2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

[3] Review all development permits to determine if the proposed development is located in the floodway.

[4] Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.

[5] Review plans for walls to be used to enclose space below the base flood level in accordance with Section 5.3-2 (4).

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Code Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 5.2-1, SPECIFIC STANDARDS, Residential Construction, and 5.2-2, SPECIFIC STANDARDS, Nonresidential Construction.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

[1] Obtain and record the actual elevation in relation to North American Vertical Datum (NAVD) 88 of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation in relation to North American Vertical Datum (NAVD) 88; and

[ii] maintain the floodproofing certifications required in Section 4.1 (3).

[3] In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 5.3-2(1) and 5.3-2(2)(i) and (ii) are met.

[4] Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 APPEAL BOARD

[1] The Sea Bright Unified Planning Board as established by the Borough of Sea Bright shall hear and decide appeals and requests for variances from the requirements of this ordinance.

[2] The Sea Bright Unified Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Code Official in the enforcement or administration of this ordinance.

[3] Those aggrieved by the decision of the Sea Bright Unified Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided in New Jersey Statutes.

[4] In passing upon such applications, the Sea Bright Unified Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of Section 4.4-1 [4] and the purposes of this ordinance, the Sea Bright Unified Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

[6] The Construction Code Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

4.4-2 CONDITIONS FOR VARIANCES

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 4.4-1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the

public as identified in SECTION 4.4- 1[4], or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 SUBDIVISION PROPOSALS

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which

contain at least fifty (50) lots or five (5) acres (whichever is less).

5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

(1) **Specific Standards.** In all areas of special flood hazard, where base flood elevation data has been provided, the following provisions are required for new construction or substantial improvement of any residential structure:

i(a). In Areas of Special Flood Hazard, as established in the prevailing NFIP Flood Map for the Borough, shall have the lowest horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE).

or

i(b). In "AO" Zones as established in the Borough's prevailing NFIP Flood Map, new construction or substantial improvement of any residential or nonresidential structure shall have the lowest horizontal structural member, including basement, together with attendant utility and sanitary facilities, built above the highest adjacent grade at least two additional feet (2') above the depth number specified in feet (if no depth number is specified use a depth number of at least two feet). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

and the following

ii. The total height of the structure should not exceed thirty-eight feet (38') in height as measured from the crown of the road fronting the structure.

iii. The BFE shall be as identified in the current Flood Insurance Rate Map (FIRM) as prepared for or by the Federal Emergency Management Agency (FEMA).

iv. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

5.2-2 NONRESIDENTIAL CONSTRUCTION

(1) **Specific Standards.** In all areas of special flood hazard, where base flood elevation data has been provided, the following provisions are required, for new construction or substantial improvement of any commercial, industrial or other nonresidential structure:

i(a). In Areas of Special Flood Hazard, as established in the prevailing NFIP Flood Map for the Borough, shall have the lowest horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE).

or

i(b). In "AO" Zones as established in the Borough's prevailing NFIP Flood Map, new construction or substantial improvement of any residential or nonresidential structure shall have the lowest horizontal structural member, including basement, together with attendant utility and sanitary facilities, built above the highest adjacent grade at least two additional feet (2') above the depth number specified in feet (if no depth number is specified use a depth number of at least two feet). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

and the following

ii. The total height of the structure should not exceed thirty-eight feet (38') in height as measured from the crown of the road fronting the structure.

iii. The BFE shall be as identified in the current Flood Insurance Rate Map (FIRM) as prepared for or by the Federal Emergency Management Agency (FEMA).

iv. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

or

i(c). Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

ii(c). Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

iii(c). Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 4.3-3 [2] [ii].

5.2-3 MANUFACTURED HOMES

[1] Manufactured homes shall be anchored in accordance with Section 5.1-1(2).

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the lowest

horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE).

5.3 COASTAL HIGH HAZARD AREA

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in Section 3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

5.3-1 LOCATION OF STRUCTURES

[1] All buildings or structures shall be located landward of the reach of the mean high tide.

[2] The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

5.3-2 CONSTRUCTION METHODS

[1] ELEVATION

All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE), with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in SECTION 5.3-2(4).

[2] STRUCTURAL SUPPORT

(i) All new construction and substantial improvements shall be securely anchored on piling or columns.

(ii) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(iii) There shall be no fill used for structural support.

[3] CERTIFICATION

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of SECTION 5.3-2 [1] and 5.3-2 [2] (i) and (ii).

[4] SPACE BELOW THE LOWEST FLOOR

(i) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.

(ii) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a

design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

(a) breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,

(b) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

(iii) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(iv) Prior to construction, plans for any breakaway wall must be submitted to the Construction Code Official for approval.

5.3-3 SAND DUNES

Prohibit man-made alteration of sand dunes within Zones VE and V on the community's DFIRM which would increase potential flood damage.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon its adoption, passage and publication according to law and moved the Public Hearing to be held. Second by Councilman Keeler and approved by the following vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy

NAYS: None

ABSTAIN: None

ABSENT: Kelly

There being no members of the Public who wished to be heard a motion to close the Public Hearing was made by Councilman Murphy. Second by Councilwoman Long and approved by the following voice vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy

NAYS: None

ABSTAIN: None

ABSENT: Kelly

Councilwoman Long made a motion to approve Ordinance No. 19-2009 on its Third and Final Reading and advertise it according to law. Second by Councilman Murphy and approved upon the following roll call vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy

NAYS: None

ABSTAIN: None

ABSENT: Kelly

Attorney Oxley called for the Second Reading, by Title Only, of the following Ordinance, which was introduced and approved at the Council Meeting of August 4, 2009.

C. Councilman Murphy moved to approve this Ordinance upon Second Reading.

**ORDINANCE NO. 20-2009
AN ORDINANCE AMENDING
CHAPTER 130 LAND USE
SECTION 130-47 FLOOD DAMAGE PREVENTION
OF THE CODE OF SEA BRIGHT**

BE IT ORDAINED that Chapter 130 Land Use, Section 130-47 Flood Damage Prevention of the Code of Sea Bright be replaced in its entirety as follows:

A. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES:

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Sea Bright Governing Body of the Borough of Sea Bright, of Monmouth County, New Jersey does ordain as follows:

1.2 FINDINGS OF FACT

[1] The flood hazard areas of the Borough of Sea Bright are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

[1] To protect human life and health;

[2] To minimize expenditure of public money for costly flood control projects;

[3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

[4] To minimize prolonged business interruptions;

[5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;

[6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

[7] To ensure that potential buyers are notified that property is in an area of special flood hazard; and

[8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

[1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

[2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;

[3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

[4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,

[5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

B. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Appeal" means a request for a review of the Construction Code Official's interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Areas of special flood related erosion hazard" is the land within a community which is most likely to be subject to severe flood related erosion losses. After a detailed evaluation of the special flood related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

"Development" means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Digital Flood Insurance Rate Map" (DFIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Elevated building" means a non-basement building (i) built in the case of a building in a Coastal High Hazard Area to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

"Erosion" means the process of the gradual wearing away of landmasses.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- [1] The overflow of inland or tidal waters and/or
- [2] The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Study" (FIS) means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- [a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the

Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in States without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

"Recreational vehicle" means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as

temporary living quarters for recreational, camping, travel, or seasonal use.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of Construction" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

[1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

[2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

C. GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Sea Bright, Monmouth County, New Jersey.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Sea Bright, Community No. 345317, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1.) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009.

(c) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009

(d) Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34025C0088F, 34025C0201F; whose effective date is September 25, 2009

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 1167 Ocean Avenue, Sea Bright, New Jersey 07760-2206.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined as provided in Chapter 1, General Provisions, Article I Section 1-14 General Penalty of the Code of Sea Bright, unless otherwise specified in this Chapter. Nothing herein contained shall prevent the Borough of Sea Bright from taking such other lawful action as is necessary to prevent or remedy any violation involved in the case. Nothing herein contained shall prevent the Borough of Sea Bright from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

[1] Considered as minimum requirements;

[2] Liberally construed in favor of the governing body;

and,

[3] Deemed neither to limit nor repeal any other powers granted under State statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Sea Bright, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

D. ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Construction Code Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

[1] Elevation in relation to North American Vertical Datum (NAVD) 88, of the lowest floor (including basement) of all structures;

[2] Elevation in relation to North American Vertical Datum (NAVD) 88 to which any structure has been floodproofed.

[3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and,

[4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Code Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Code Official shall include, but not be limited to:

4.3-1 PERMIT REVIEW

[1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

[2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

[3] Review all development permits to determine if the proposed development is located in the floodway.

[4] Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.

[5] Review plans for walls to be used to enclose space below the base flood level in accordance with Section 5.3-2 (4).

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Code Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 5.2-1, SPECIFIC STANDARDS, Residential Construction, and 5.2-2, SPECIFIC STANDARDS, Nonresidential Construction.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

[1] Obtain and record the actual elevation in relation to North American Vertical Datum (NAVD) 88 of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation in relation to North American Vertical Datum (NAVD) 88; and

[ii] maintain the floodproofing certifications required in Section 4.1 (3).

[3] In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 5.3-2(1) and 5.3-2(2)(i) and (ii) are met.

[4] Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 APPEAL BOARD

[1] The Sea Bright Unified Planning Board as established by the Borough of Sea Bright shall hear and decide appeals and requests for variances from the requirements of this ordinance.

[2] The Sea Bright Unified Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Code Official in the enforcement or administration of this ordinance.

[3] Those aggrieved by the decision of the Sea Bright Unified Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided in New Jersey Statutes.

[4] In passing upon such applications, the Sea Bright Unified Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of Section 4.4-1 [4] and the purposes of this ordinance, the Sea Bright Unified Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

[6] The Construction Code Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

4.4-2 CONDITIONS FOR VARIANCES

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 4.4-1(4) have been

fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

- (iv) a showing of good and sufficient cause;
- (v) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
- (vi) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in SECTION 4.4- 1[4], or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

E. PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 SUBDIVISION PROPOSALS

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

(1) Specific Standards. In all areas of special flood hazard, where base flood elevation data has been provided, the following provisions are required for new construction or substantial improvement of any residential structure:

i(a). In Areas of Special Flood Hazard, as established in the prevailing NFIP Flood Map for the Borough, shall have the lowest horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE).

or

i(b). In "AO" Zones as established in the Borough's prevailing NFIP Flood Map, new construction or substantial improvement of any residential or nonresidential structure shall have the lowest horizontal structural member, including basement, together with attendant utility and sanitary facilities, built above the highest adjacent grade at least two additional feet (2') above the depth number specified in feet (if no depth number is specified use a depth number of at least two feet). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

and the following

ii. The total height of the structure should not exceed thirty-eight feet (38') in height as measured from the crown of the road fronting the structure.

iii. The BFE shall be as identified in the current Flood Insurance Rate Map (FIRM) as prepared for or by the Federal Emergency Management Agency (FEMA).

iv. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

5.2-2 NONRESIDENTIAL CONSTRUCTION

(1) Specific Standards. In all areas of special flood hazard, where base flood elevation data has been provided, the following provisions are required, for new construction or substantial improvement of any commercial, industrial or other nonresidential structure:

i(a). In Areas of Special Flood Hazard, as established in the prevailing NFIP Flood Map for the Borough, shall have the lowest horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE).

or

i(b). In "AO" Zones as established in the Borough's prevailing NFIP Flood Map, new construction or substantial improvement of any residential or nonresidential structure shall have the lowest horizontal structural member, including basement, together with attendant utility and sanitary facilities, built above the highest adjacent grade at least two additional feet (2') above the depth number specified in feet (if no depth number is specified use a depth number of at least two feet). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

and the following

ii. The total height of the structure should not exceed thirty-eight feet (38') in height as measured from the crown of the road fronting the structure.

iii. The BFE shall be as identified in the current Flood Insurance Rate Map (FIRM) as prepared for or by the Federal Emergency Management Agency (FEMA).

iv. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

or

i(c). Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

ii(c). Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

iii(c). Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 4.3-3 [2] [ii].

5.2-3 MANUFACTURED HOMES

[1] Manufactured homes shall be anchored in accordance with Section 5.1-1(2).

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the lowest horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE).

5.3 COASTAL HIGH HAZARD AREA

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in Section 3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

5.3-1 LOCATION OF STRUCTURES

[1] All buildings or structures shall be located landward of the reach of the mean high tide.

[2] The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

5.3-2 CONSTRUCTION METHODS

[1] ELEVATION

All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member including basement, together with attendant utility and sanitary facilities, built to a minimum of two feet (2') above the base flood elevation (BFE), with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in SECTION 5.3-2(4).

[2] STRUCTURAL SUPPORT

(i) All new construction and substantial improvements shall be securely anchored on piling or columns.

(ii) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being

equaled or exceeded in any given year (100-year mean recurrence interval).

(iii) There shall be no fill used for structural support.

[3] CERTIFICATION

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of SECTION 5.3-2 [1] and 5.3-2 [2] (i) and (ii).

[4] SPACE BELOW THE LOWEST FLOOR

(i) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.

(ii) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

(a) breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,

(b) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

(iii) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(iv) Prior to construction, plans for any breakaway wall must be submitted to the Construction Code Official for approval.

5.3-3 SAND DUNES

Prohibit man-made alteration of sand dunes within Zones VE and V on the community's DFIRM which would increase potential flood damage.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon its adoption, passage and publication according to law and moved the Public Hearing to be held. Second by Councilwoman Long and approved by the following vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy

NAYS: None

ABSTAIN: None

ABSENT: Kelly

There being no members of the Public who wished to be heard a motion to close the Public Hearing was made by Councilman Keeler. Second by Councilman Murphy and approved by the following voice vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy

NAYS: None

ABSTAIN: None

ABSENT: Kelly

Councilman Keeler made a motion to approve Ordinance No. 20-2009 on its Third and Final Reading and advertise it according to law. Second by Councilwoman Long and approved upon the following roll call vote:

AYES: Bills, Keeler, Long, LoBiondo, Murphy

NAYS: None

ABSTAIN: None

ABSENT: Kelly

D. Attorney Oxley read by title only and Councilman Keeler introduced an Ordinance entitled:

ORDINANCE NO. 21-2009
AN ORDINANCE REVISING CHAPTER 39 POLICE DEPARTMENT
OF THE CODE OF SEA BRIGHT

and moved the same be approved upon first Reading, held over for Second Reading and Public Hearing to be held on September 15, 2009.

Second by Councilwoman Bills and approved upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long

Nays: None

Abstain: Murphy

Absent: Kelly

7. CONSENT AGENDA: A Certification of Funds supports any items requiring expenditure; any items requiring discussion will be removed from the Consent Agenda:

A. Councilman Keeler introduced and approved for adoption the following:

RESOLUTION NO.185-2009
PAYMENT OF BILLS 09-01-2009

WHEREAS, the following listed vouchers have been audited and found to be correct.

NOW, THEREFORE, BE IT RESOLVED, that these vouchers totaling \$ 810,421.28 are to be paid; and

BE IT FURTHER RESOLVED, that proper Officers are hereby authorized to execute and issue warrants for payments of said vouchers, but only if and when conditions of the Borough Treasury shall permit, and the said vouchers be approved by the proper Committees.

01578	AMERICAN MESSAGING		
	09-04776 07/31/09 DPW-AUG 2009 PAGER SERVICE	Open	74.09
01170	ANDY K'S DAIRY & DELI		
	09-03590 03/17/09 A&E-FOOD/MISC:MEMORIAL DAY	Open	350.07
	09-04190 04/06/09 BEACH-FOOD:2009 CLEAN SHORES	Open	435.24

			785.31
00003	ASBURY PARK PRESS		

09-00010	01/20/09	MUNI CLERK-BLANKET:NOTICES	Open	389.88
01241		BAIN'S HARDWARE, INC.		
09-04839	08/13/09	JUL 2009 PURCHASES	Open	783.27
01957		BENEMAX BENEFIT MANAGEMENT CO.		
09-04793	08/06/09	08/09 DENTAL PLAN MANAGEMENT	Open	312.00
00884		BORO OF SEA BRIGHT PETTY CASH		
09-04824	08/11/09	MULTI DEPTS-REIMB PETTY CASH	Open	64.95
01525		BOROUGH OF SEA BRIGHT		
09-04785	08/03/09	REC-9/12 POLICE SPECIAL DUTY	Open	228.00
01565		BOROUGH OF SEA BRIGHT		
09-04850	08/14/09	T/F ADMIN FEE:8/14/09 PAYROLL	Open	406.00
09-04851	08/14/09	T/F ADMIN FEE:08/14/09 PAYROLL	Open	4,884.00

				5,290.00
01974		BOROUGH OF SEA BRIGHT COURT		
09-04840	08/13/09	COURT-07/09 CREDIT CARD REIMB	Open	179.06
01546		C.I.T. c/o SHORE BUSINESS		
09-01950	02/12/09	POLICE DEPT-2009 FAX LEASE	Open	62.15
09-04349	04/27/09	POLICE DEPT-2009 COPIER LEASE	Open	147.72

				209.87
00230		CERTIFIED SPEEDOMETER		
09-04497	05/26/09	POLICE DEPT-CALIBRATE VEHICLES	Open	144.00
00063		CHESAPEAKE EXTERMINATING CO.		
09-04831	08/13/09	BLDGS/GRNDS-JUL 2009 EXTERM	Open	30.00
00886		CHESSMAN, SHARON		
09-04668	07/08/09	REC-YOGA CLASSES:07/11-08/15	Open	360.00
0198		COMCAST		
09-04826	08/12/09	A&E-INTERNET:AUG 2009	Open	95.00
09-04863	08/18/09	POLICE DEPT-INTERNET:AUG 2009	Open	95.00

				190.00
09-04843	08/13/09	MAY 2009 NATURAL GAS	Open	444.71
00333		D.G. COMPUTER SOLUTIONS, LLC		
09-04343	04/27/09	POLICE DEPT-BLANKET:IT SERV	Open	65.00
09-04791	08/06/09	A&E-6/16,8/4/09 IT SERVICES	Open	414.95
09-04852	08/17/09	A&E-8/10/09 IT SERVICES	Open	185.00
09-04853	08/17/09	P/L BOARD-8/10/09 IT SERVICES	Open	65.00

				729.95
01320		DEMAIO, R.N.		
09-04220	04/06/09	BEACH-BLANKET:JANITORIAL SUPP	Open	347.41
0.00		B		
09-04809	08/11/09	BEACH-BLANKET:JANITORIAL SUPP	Open	53.21

				400.62
00091		DIGIROLAMO, LOUIS		
09-04807	08/10/09	2009 PYMT 09/12 HEALTH REIMB	Open	1,769.93
00615		DMR LAWNS & LANDSCAPES, INC.		
08-03830	03/25/08	LANDSCAPE LIBRARY & IMBRIE PL	Open	2,952.00
09-04306	04/16/09	BLDGS/GRNDS-2009 WEED CONTROL	Open	925.00

				3,877.00
01754		EDMUNDS & ASSOCIATES, INC.		
09-04772	07/30/09	TAX COLL-2009/2010 TAX BILLS	Open	376.90
01215		EICHHORN II, HARRY		
09-04619	06/29/09	BEACH-REPAIRS:LIFEGUARD BOAT	Open	475.00
02118		ELECTRONIC MEASUREMENT LAB INC		
09-04760	07/29/09	SEWER-CALIBRATE GAS DETECTOR	Open	129.70
00077		FLEET SERVICES		
09-04877	08/20/09	GASOLINE - AUG 2009	Open	3,696.78
02181		GATEWAY PRESS		
09-04702	07/15/09	BUSINESS CARDS:S.BRANAGAN	Open	38.00
01297		HATCH, MOTT & MACDONALD, LLC		
09-04592	06/22/09	PREPARE COASTAL GENERAL PERMIT	Open	400.00
09-04795	08/07/09	MISC ENGINEERING-6/19-7/10/09	Open	605.10

				1,005.10
01097		HIGHTECH SIGNS		
09-04761	07/29/09	BEACH-SIGNS:JR LIFEGUARD PRGM	Open	492.20
01363		IRON MOUNTAIN, INC.		
09-01620	02/05/09	A&E-VAULT:SERVER BACKUPS	Open	120.00
00297		JESSE A. HOWLAND & SONS, INC.		
09-04825	08/11/09	GARAGE RENT - SEP 2009	Open	1,737.00
09-04832	08/13/09	DPW-ADDT'L GARAGE RENT-SEP'09	Open	875.00

			2,612.00
00895	JOHNNY ON THE SPOT, INC.		
09-03780	03/23/09 12 PORTO-POTS 7/1-7/6/09	Open	1,140.00
09-04813	08/11/09 PORTO-POTS - AUG 2009	Open	409.20

			1,549.20
00270	JOHNSON, KENNETH		
09-04808	08/10/09 2009 PYMT 09/12 HEALTH REIMB	Open	948.13
00770	LAKWOOD BLUECLAWS		
09-01520	02/03/09 REC-50 TICKETS:8/7/09 GAME	Open	450.00
00779	LINE SYSTEMS, INC.		
09-04882	08/21/09 LOCAL/LONG DISTANCE:JUL 2009	Open	1,244.16
00275	M & S WASTE SERVICES, INC.		
09-04608	06/26/09 DUMPSTER+DISP FEE:4TH OF JULY	Open	276.95
09-04734	07/22/09 DUMPSTER+DISP FEE:STREET SWEEP	Open	1,410.54
09-04735	07/22/09 DUMPSTER+DISP FEE:DRIFTWOOD	Open	500.00
09-04820	08/11/09 JUL 2009 LANDFILL TIPPING FEES	Open	9,695.25
09-04821	08/11/09 07/09 GARBAGE/RECYCLING PICKUP	Open	8,691.67

			20,574.41
01801	MASER CONSULTING, P.A.		
09-04862	08/18/09 ENGINEERING-RETAINER:SEP 2009	Open	250.00
00351	MASON, JR., PATRICK		
09-04680	07/13/09 BEACH-RADIO BATTERIES/REPAIR	Open	165.00
00106	MGL FORMS-SYSTEMS, LLC		
09-04670	07/08/09 FINANCE-1000 A/P CHECKS	Open	265.00
01985	MOBILE MINI, INC.		
09-04757	07/29/09 MOBILE OFFICE STAIRS	Open	1,250.00
09-04796	08/07/09 POLICE-TRAILER 2009 PYMT 09/13	Open	278.00
09-04797	08/07/09 COURT-TRAILER 2009 PYMT 09/13	Open	268.00

			1,796.00
00174	MONMOUTH COUNTY FLEET SERV DIV		
09-04510	05/27/09 OEM-TOW/MECHANICAL EVALUATION	Open	248.38
01456	MR. SCOTT MUSIC, LLC		
09-04547	06/10/09 LIBRARY-MUSIC PERFORMANCE	Open	200.00
00137	MUNICIPAL CAPITAL CORPORATION		
09-04611	06/29/09 A&E-2009 COPIER LEASE	Open	450.40
00190	MUNICIPAL CLERKS' ASSOC OF NJ		
09-04770	07/30/09 MUNI CLERK-11/18/09 BREAKFAST	Open	30.00
00339	NAPA AUTO PARTS		
09-04376	04/30/09 DPW-BLANKET:VEHICLE MAINT	Open	119.68
00019	NJ AMERICAN WATER		
09-04790	08/04/09 JUL 2009 HYDRANTS	Open	2,143.96
09-04866	08/18/09 JUL 2009 WATER UTILITY	Open	1,698.29

			3,842.25
00529	NJ DIVISION OF FIRE SAFETY		
09-04803	08/07/09 2009 ANNUAL LIFE HAZ USE REG	Open	148.00
00300	NJ STATE ASSN CHIEFS OF POLICE		
09-04543	06/08/09 POLICE DEPT-ORAL TESTING	Open	1,625.00
00502	NJ STATE LEAGUE/MUNICIPALITIES		
09-04860	08/18/09 LEAGUE CONFERENCE REGISTRATION	Open	315.00
01309	OCEANPORT BOARD OF EDUCATION		
09-04827	08/12/09 GRADE SCHOOL TAX - JUL 2009	Open	74,912.67
09-04828	08/12/09 GRADE SCHOOL TAX - AUG 2009	Open	74,912.67
09-04829	08/12/09 GRADE SCHOOL TAX - SEP 2009	Open	74,912.67

			224,738.01
00743	OFFICE MAX, INC.		
09-04786	08/03/09 SEWER-SUPP FOR NEW COMPUTER	Open	123.10
00081	PERRY'S TROPHY CO., INC.		
09-04703	07/15/09 A&E/FIRE DEPT-PLAQUE,NAMEPLATE	Open	75.40
09-04771	07/30/09 BEAUTIFICATION-BENCH PLATES	Open	71.00

			146.40
00164	RAIN, WILLIAM		
09-04810	08/11/09 2009 PYMT 09/12 HEALTH REIMB	Open	713.67
01092	RED BANK RECYCLING & AUTO		
09-04773	07/31/09 DPW-TIRE DISPOSAL FEE	Open	9.00
00788	SCARINCI & HOLLENBECK, LLC		
09-04861	08/18/09 LEGAL-SEP 2009 RETAINER	Open	1,666.67
09-04865	08/18/09 LEGAL SERVICES-JUL 2009	Open	11,556.80

			13,223.47
00341	SCHWARZ, CHARLES		

09-04388	05/04/09	DPW-CATCH BASIN REPAIRS	Open	675.00
01134		SEA BRIGHT BUSINESS ALLIANCE		
09-04783	08/03/09	REC-DONATION:BEACH MOVIES	Open	500.00
00456		SEA BRIGHT SENIOR CITIZENS		
09-04775	07/31/09	WEDDINGS PERFORMED BY MAYOR	Open	1,000.00
00027		SEABOARD WELDING SUPPLY, INC.		
09-00910	01/21/09	DPW - 2009 CYLINDER RENTAL	Open	12.70
01658		SEASHORE DAY CAMP & SCHOOL		
09-04782	08/03/09	REC-(5) BUS TRIPS	Open	950.00
00213		SEELY EQUIPMENT & SUPPLY		
09-04649	07/06/09	BLDGS/GRNDS-RECYCLING SIGNS	Open	226.07
09-04830	08/12/09	DPW-"DO NOT ENTER" SIGNS	Open	204.60

				430.67
00053		SHORE REGIONAL HIGH SCHOOL		
09-04768	07/30/09	HIGH SCHOOL TAX - SEP 2009	Open	151,680.00
00975		SMACK, EDWARD		
09-04806	08/10/09	2009 PYMT 09/12 HEALTH REIMB	Open	713.67
00285		STAPLE'S, INC.		
09-04697	07/15/09	POLICE DEPT-LASER/INK CARTS	Open	546.08
00656		TAYLOR FENCE CO., INC.		
09-04764	07/29/09	BEACH-SNOW/DUNE FENCE & POSTS	Open	5,475.00
01400		THE ARNETTE LAW FIRM, LLC		
09-01570	02/04/09	2009 SPECIAL LITIGATION	Open	712.50
01285		THE HOME DEPOT		
09-02650	02/27/09	BLDGS/GRNDS-BLANKET:MISC SUPP	Open	245.04
09-04859	08/17/09	BLDGS/GRNDS-BLANKET:MISC SUPP	Open	40.94

				285.98
00352		THE WALL STREET JOURNAL		
09-04819	08/11/09	LIBRARY-1 YR SUBSCRIPTION RNWL	Open	119.88
00228		THOMSON WEST/WEST GROUP		
09-04636	07/02/09	COURT-NJ CODE CRIMINAL JUSTICE	Open	89.00
02128		U.S. FILTER WASTEWATER		
09-04730	07/20/09	SEWER-650 GALLONS:BIOXIDE	Open	1,404.00
01960		VERIZON		
09-04856	08/17/09	DPW-DSL INTERNET:JUL 2009	Open	42.99
09-04857	08/17/09	BEACH-JUL 2009	Open	143.36

				186.35
02061		VERIZON WIRELESS		
09-04822	08/11/09	BLDG/FIRE/COURT:AUG 2009 BILL	Open	78.43
01150		W.W. GRAINGER, INC.		
09-04800	08/07/09	BLDGS/GRNDS-ADHESIVE SIGNS	Open	15.93
09-04805	08/10/09	BLDGS/GRNDS-TRASH LINERS	Open	475.44

				491.37
02177		WALSH, JOAN		
09-04777	08/03/09	LIBRARY-REIMB:7/31 BOOKS+MISC	Open	52.75
09-04804	08/07/09	LIBRARY-REIMB:7/29 BOOKS	Open	31.53

				84.28
01164		WATCHUNG SPRING WATER CO, INC.		
09-04823	08/11/09	AUG 2009 SPRING WATER	Open	419.17
01063		WEST MARINE		
09-04728	07/17/09	BEACH-BATTERY:YAMAHA JET SKI	Open	108.17
01671		WINNER FORD OF CHERRY HILL		
09-04591	06/22/09	POLICE-2009 FORD CROWN VIC	Open	30,525.35
01557		ZIMMERER ELECTRIC, LLC		
09-04798	08/07/09	ELECTRICAL:MOVE POLICE TRAILER	Open	290.00
AOL				18.99
Boro Of Sea Bright Payroll A/C (8/14/09 Payroll)				138,531.24
Cdw Government, Inc. (MCIA)				23,917.86
Maser Consulting (Escrow)				250.00
Monmouth County SPCA (July 2009 Boarding)				300.00
Nj Division Of Pensions/Benefits (Claim Experience)				2,000.00
NJSHBP (July 2009)				22,283.42
Red Bank Veterinary Hospital (Seagull)				40.00
Nj Dept Of Labor (2/Q/2009 Unemployment)				1,003.74
Td Bank (MCIA P&I Payment)				39,138.25
U.S. Bank (MCIA #2 P&I Payment)				87,777.60
TOTAL				810,421.28

Second by Councilman Murphy and approved upon the following roll call vote:

Ayes: Bills, Keeler, Long, LoBiondo, Murphy

Nays: None
Abstain: None
Absent: Kelly

B. Councilman Keeler made a motion approving the August 4, 2009 Council Meeting Minutes. Second by Councilman Murphy and approved upon the following roll call vote:

Ayes: Bills, Keeler, Long, LoBiondo, Murphy
Nays: None
Abstain: None
Absent: Kelly

C. Councilman Keeler introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 186-2009
BOROUGH OF SEA BRIGHT**

WHEREAS, there exists a need for additional Police personnel pursuant to a request from Chief William Moore.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Sea Bright, County of Monmouth that the following persons be appointed and receive the hourly rate of pay as specified below effective August 24, 2009:

SPECIAL OFFICER CLASS II	HOURLY RATE
Ralph Latham	\$10.00
Kelly Leimburg	\$10.00

CERTIFICATION OF FUNDS

I, Michael J. Bascom, Chief Financial Officer, of the Borough of Sea Bright, do hereby certify that funds are available in Dispatcher/Police Salaries & Wages for the purpose stated herein.

MICHAEL J. BASCOM, CFO

Second by Councilman Murphy and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy
Nays: None
Abstain: None
Absent: Kelly

E. Councilman Keeler introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 187-2009
BOROUGH OF SEA BRIGHT**

WHEREAS, the Monmouth County Board of Chosen Freeholders has established the Special Citizens Area Transportation System (SCAT); and

WHEREAS, the Borough of Sea Bright has requested that the County provide service to eligible residents; and

WHEREAS, the Borough of Sea Bright is desirous of entering into a Municipal Shopping Contract agreement for the calendar year January 1, 2010 through December 31, 2010; and

WHEREAS, under the terms of said Agreement, the Borough of Sea Bright will pay the Treasurer, County of Monmouth quarterly, the half day rate of \$78.00 per day on a per use basis for services.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough Sea Bright, Monmouth County, New Jersey, that the Mayor and Borough Clerk are hereby authorized to execute an Agreement for Special Citizens Area Transportation (SCAT) between the Borough of Sea Bright and the Monmouth County Board of Chosen Freeholders.

CERTIFICATION OF FUNDS

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright do hereby certify that funds are available in Parks & Playground OE appropriation for the purpose stated in the above resolution.

MICHAEL J. BASCOM, C.F.O.

Second by Councilman Murphy and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

F. Councilman Keeler made a motion approving the request from Ancient Order of Hibernians to conduct 4th Polar Plunge on Jan. 10, 2010. Second by Councilman Murphy and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

G. Councilman Keeler introduced and offered for adoption the following resolution:

**RESOLUTION NO. 194-2009
RESOLUTION URGING ELIMINATION OF
STATE-IMPOSED UNFUNDED MANDATES**

WHEREAS, in 1995, New Jersey voters approved an amendment to the State Constitution that was supposed to curb lawmakers' penchant for mandating new programs for state and local governments without giving them the necessary funding; and

WHEREAS, in order to implement the law, the legislature established the Council on Local Mandates, whose job it is to review complaints from the local government entities and then make a determination on whether new statutory or regulatory impositions by the State constituted "unfunded" mandates; and

WHEREAS, under the law, if a statute or regulation is deemed by the Council to be an "unfunded" mandate, it ceases to be mandatory and expires; and

WHEREAS, 12 years later, the Council has made only eight decisions and in only two of those did the Council rule in favor of local governments. In one of those cases, the decision was pointless because the Council has no power to force the State to

comply and local governments have no right to seek redress in the courts; and

WHEREAS, clearly, this is not the reform that people thought they were voting for in 1995. Proof is that property taxes in New Jersey, which the people were seeking to control with the amendment, have nearly doubled since then; and

WHEREAS, the New Jersey Association of Counties (NJAC) has proposed that local and county officials join forces to push for a complete overhaul of the Council on Local Mandates, which in its view clearly has not satisfied the voters' desire for reform; and

WHEREAS, NJAC has also proposed the following:

- 1) Change the composition of the Council on Local Mandates because under the law, members of the Council are appointed by the Governor, the Legislature and the Chief Justice of the State Supreme Court, the makers of mandates.
- 2) A review of the obvious flaw that state appointees, such as judges and prosecutors, can force county governments to hire Court personnel and expand facilities, all without approval from voters or their elected representatives.
- 3) A review of the provision that states while State officials can appeal to the Courts, County and local officials don't have that option. Under the law, decisions made by the Council on Local Mandates are not eligible for judicial review. Furthermore, when the Council makes a decision in favor of a local government; the State is free to ignore it without consequence.
- 4) A complete review of the section "unfunded mandates" Law delineating the exemptions. This should included a top to bottom review of all State mandates that would require the State to repeal the outdated ones and pay for the rest.

NOW, THEREFORE, BE IT RESOLVED that the Borough of Sea Bright in the County of Monmouth urges the elimination of State - imposed unfunded mandates.

BE IT FURTHER RESOLVED that the Borough of Sea Bright strongly supports the New Jersey Association of Counties and all of its proposals to deal with the problems caused by unfunded mandates.

BE IT FURTHER RESOLVED that the Municipal Clerk forward certified true copies of this Resolution to Governor Jon Corzine, the Legislative Delegation representing Monmouth County, the Board of Chosen Freeholders in Monmouth County and the Mayors and governing bodies of every municipality in Monmouth County.

Second by Councilman Murphy and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

H. Councilman Keeler introduced and offered for adoption the following resolution:

**RESOLUTION NO. 195-2009
BOROUGH OF SEA BRIGHT**

BE IT RESOLVED, by the Mayor and Council of the Borough of Sea Bright, New Jersey that the following Application for a Liquor License was received, the license granted to sell alcoholic beverage, and the Clerk of the Borough is authorized to issue and deliver such license:

RETAIL CONSUMPTION LICENSES: FEE FOR RENEWAL: \$2,400.00

1343-33-003-003	150 Ocean Avenue Corp. 150 Ocean Avenue Sea Bright, NJ 07760
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Alcoholic Beverage Licensee Retail Tax Clearance Certificate pursuant to Chapter 161, Laws of NJ 1995 has been granted by the Division of Taxation to the within named.

Second by Councilman Murphy and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

8. OLD BUSINESS:

A. DISCUSSION - Church Street speed hump - Councilman LoBiondo introduced a motion to install a speed hump at Church Street. Second by Councilwoman Bills and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

B. DISCUSSION - OEM Truck. Councilman Keeler said that the present large OEM truck repair cost will be over \$11, 000. A new vehicle cost about \$18,000. There is another option which would be by purchasing a 4x4 pick up truck, ex-military with modifications cost \$8,000. He should have more information after Lt. Sorrentino has inspected them.

C. DISCUSSION - ARRA Grant Project Proposal - Engineer Hoder said that the proposal is to apply for a grant for additional work to the downtown area starting from Osborne to Peninsula to include submersible pump stations, additional drainage work and sanitary sewer work.

Councilman LoBiondo made a motion authorizing Engineer Hoder's proposal to apply for the ARRA grant not to exceed \$1,000. Second by Councilman Murphy and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

9. NEW BUSINESS

A. Councilman Murphy introduced and offered the following Resolution for adoption:

**RESOLUTION NO. 188-2009
BOROUGH OF SEA BRIGHT**

WHEREAS, the contract between Sea Bright Borough and M & S Waste includes a two year extension provision; and

WHEREAS, a request for a proposal from M & S Waste for the additional two year period for Solid Waste/Recycling collection was received.

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Sea Bright hereby authorize a two year extension over the current contract for the years 2010 and 2011 for Solid Waste/Recycling collection services to:

**M&S Waste Services, Inc.
P.O. Box 332
Middletown, NJ 07748**

<u>2010</u>	
Trash Services	\$78,000.00
Recycling Services	32,400.00
Total	<u>\$110,000.00</u>

<u>2011</u>	
Trash Services	\$ 81,900.00
Recycling Services	\$ 34,800.00
Total	<u>\$116,700.00</u>

CERTIFICATION OF FUNDS

WHEREAS, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright has certified that funds will be available in the 2010 and 2011 budgets.

MICHAEL J. BASCOM, CFO

Second by Councilman Keeler and approved upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

B. Councilwoman Bills introduced and offered for adoption the following resolution:

**RESOLUTION NO. 189-2009
RESOLUTION AUTHORIZING PARTICIPATION
BY THE BOROUGH OF SEA BRIGHT
IN THE LONG BRANCH COMMODITY RESALE SYSTEM**

WHEREAS, the City of Long Branch maintains a facility at its Public Works Yard for storage of bulk rock salt for use by its Public Works Department; and

WHEREAS, N.J.A.C. 5:34-7.15 et seq, authorizes contracting units to establish a Commodity Resale System for resale of certain commodities, and the City of Long Branch has applied for and received approval from New Jersey State Department of

Community Affairs to operate the Long Branch City Commodity Resale System, ID #99026-LBCRS; and

WHEREAS, the Borough of Sea Bright, in the County of Monmouth, has determined that it would be a benefit to its taxpayers to continue membership in the Long Branch City Commodity Resale System for the purchase of rock salt for use on Borough roadways.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright hereby authorizes participation in the Long Branch City Commodity Resale System for the purpose of purchasing rock salt for use by its Public Works Department, in accordance with the terms and conditions of the agreement annexed hereto, for a term through April 25, 2014.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the agreement, and the Municipal Clerk is directed to forward a certified copy of this resolution, along with the executed copies of the agreement, to the City Clerk of the City of Long Branch for signature by its Mayor.

Second by Councilwoman Long and approved upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

C. Councilman Keeler introduced and offered for adoption the following resolution:

**RESOLUTION NO.190-2009
BOROUGH OF SEA BRIGHT**

WHEREAS, the Governing Body of the Borough of Sea Bright wishes to amend Resolution No. 189-2008 Sea Bright Police Department Standard Operating procedures - Selection/Hiring process to include under Paragraph III Procedure, Minimum Application Qualifications that applicants can also "Be a full time New Jersey P.T.C. (Police Training Commission) certified police officer".

NOW, THEREFORE, BE IT RESOLVED that the Hiring Process Standard Operating Procedure be amended to include the above information.

Second by Councilwoman Bills and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long

Nays: None

Abstain: Murphy

Absent: Kelly

D. Councilman Murphy made a motion approving a Social Affair Permit - SBFD - Fireman's Field Day September 27, 2009.

Second by Councilwoman Bills and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

E. Councilman Keeler introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 191-2009
BOROUGH OF SEA BRIGHT**

WHEREAS, the Mayor and Council of the Borough of Sea Bright is in need of Professional Engineering Services for Construction Observation for the Downtown Infrastructure Improvement Project; and,

WHEREAS, David Hoder, PE of Maser Consulting has submitted a proposal dated August 6, 2009 in the amount not to exceed \$4,500; and,

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute the proposal with Maser Consulting.

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright do hereby certify that funds are available in Engineering O/E for the purpose stated in the above resolution.

MICHAEL J. BASCOM, C.F.O.

Second by Councilman Murphy and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

F. Councilman Keeler introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 192-2009
BOROUGH OF SEA BRIGHT**

WHEREAS, the Mayor and Council of the Borough of Sea Bright is in need of Professional Engineering Services for improvements to mid block crosswalks at New and Church Streets; and,

WHEREAS, David Hoder, PE of Maser Consulting has submitted a proposal dated June 23, 2009 in the amount not to exceed \$2,200; and,

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute the proposal with Maser Consulting.

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright do hereby certify that funds are available in Engineering O/E for the purpose stated in the above resolution.

MICHAEL J. BASCOM, C.F.O.

Second by Councilwoman Bills and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

G. Councilman Murphy introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 193-2009
BOROUGH OF SEA BRIGHT**

WHEREAS, there exists a Reserve for Revaluation on the balance sheet of the Current Fund; and

WHEREAS, the fund creating this reserve has been investigated and it has been determined that this reserve should be canceled.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of Sea Bright, Monmouth County, New Jersey that the following reserve in the amount of \$1,867.50 be and the same is hereby canceled:

01-280-55-000-000 Reserve for Revaluation Exp \$1,867.50
Second by Councilman Keeler and adopted upon the following roll call vote:
Ayes: Bills, Keeler, LoBiondo, Long, Murphy
Nays: None
Abstain: None
Absent: Kelly

H1. Councilman Murphy made a motion approving a Request from Monmouth County Park System for triathlon race on September 13. Second by Councilwoman Long and adopted upon the following roll call vote:
Ayes: Bills, Keeler, LoBiondo, Long, Murphy
Nays: None
Abstain: None
Absent: Kelly

H2. Chief William S. Moore's response.

I. Councilwoman Long introduced and offered for adoption the following resolution:

RESOLUTION NO. 196-2009

A RESOLUTION OF THE BOROUGH OF SEA BRIGHT, NEW JERSEY, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LETTER OF REPRESENTATION AND A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY'S CAPITAL EQUIPMENT POOLED LEASE REVENUE BONDS, SERIES 2009 AND AUTHORIZING AN AUTHORIZED MUNICIPAL REPRESENTATIVE TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF SUCH BONDS.

WHEREAS, the Shore Regional Board of Education (the "Board") desires to lease and permanently finance the cost of acquisition of certain capital equipment (the "Equipment") from The Monmouth County Improvement Authority (the "Authority"); and

WHEREAS, the Authority will provide for the financing of the cost of the acquisition of the Equipment by the issuance of its Capital Equipment Lease Revenue Bonds, Series 2009 (Shore Regional Board of Education Project) (the "Bonds") payable from

rentals by the Board pursuant to a Lease and Agreement by and between the Board and the Authority (the "Lease"); and

WHEREAS, in order to induce the Authority to issue and deliver the Bonds and its Capital Equipment Pooled Lease Revenue Bonds, Series 2009, there has been prepared and submitted to the Borough of Sea Bright, New Jersey (the "Municipality") a Letter of Representation in the form attached hereto as Exhibit A; and

WHEREAS, there has been prepared and submitted to the Municipality a Continuing Disclosure Agreement in the form appended hereto as Exhibit B for execution by the Municipality if the Authority shall determine that the Municipality is or will be an "obligated person" with respect to the Authority's Capital Equipment Lease Revenue Bonds, Series 2009 within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission (an "Obligated Person");

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH OF SEA BRIGHT, AS FOLLOWS:

Section 1. That the Letter of Representation, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative (as that term is defined in the Lease) is hereby authorized to, and one of such officers shall execute the Letter of Representation, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the addressees designated on such Letter of Representation, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. That the Continuing Disclosure Agreement, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative is hereby authorized to, and one of such officers shall execute the Continuing Disclosure Agreement, with such additions, deletions or modifications as such officer shall approve, and to deliver the same upon the determination by the Authority that the Municipality is or will be an Obligated Person, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. That any Authorized Municipal Representative is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the sale, issuance and delivery of the Bonds, the Authority's Capital Equipment Pooled Lease Revenue Bonds, Series 2009 and all related transactions contemplated by this resolution.

Section 4. All resolutions or proceedings, or parts thereof, in conflict with the provisions of this resolution are to the extent of such conflict hereby repealed.

Section 5. This resolution shall become effective immediately.

Second by Councilwoman Bills and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

10. CORRESPONDENCE AND COMMUNICATIONS:

- A.** Monmouth County Planning Board letter dated July 30 regarding expansion of Monmouth County scenic byways

- B. Chief Financial Officer - June/July report.
- C. Monmouth County Regional Health Commission Minutes
- D. Chief of Police - July 2009 report
- E. Court Report - July 2009
- F. Planning Board Minutes - May 26, 2009
- G. Commendation letter from Rumson Police about Officer Kristi Jacobs heroism.
- H. Affidavit of Tax Mailing submitted by Tax Collector Spahr.
- I. Library Director - July 2009 report
- J. U.S. Fish and Wildlife Service Draft 2008 year-end report.
- K. Recreation Director - July report.

11. MAYOR FERNANDES - REPORT AND COMMUNICATIONS. Mayor Fernandes said that both the flu/pneumonia clinic and free rabies clinic schedules is available at Borough Hall. The Taste of Sea Bright's tickets are available www.visitseabright.com for more information.

Mayor Fernandes asked the Council to review both the Sea Bright Hook and Ladder extension agreement and the Sea Bright First Aid Inc. lease agreement. Councilman Murphy requested that the Mayor not sign the agreements until he has met with the grant consultant.

12. REMARKS FROM THE AUDIENCE: Georgine Arsons from the Sunrise Townhouse community said that she had concerns about gun shootings heard near her development.

There being no one else from the public who wished to be heard Councilman Keeler introduced and offered for adoption the following resolution at 8:43 p.m.:

**RESOLUTION NO. 198-2009
EXECUTIVE SESSION
BOROUGH OF SEA BRIGHT**

WHEREAS, N.J.S.A. 20:40.12 et seq. provides for closed session of the Council as appropriate; and,

WHEREAS, the Public Meetings Act provides for closed session of the Council; and,

WHEREAS, the matter to be discussed involves litigation.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Sea Bright, New Jersey, that they meet in closed session to discuss the issue as herein set forth and when the need for confidentiality no longer exists the decisions made therein will be made available to the public.

BE IT FURTHER RESOLVED, that the Mayor and Council may come back into Regular Session to conduct additional business.

Second by Councilman LoBiondo and adopted upon the following roll call vote:

Ayes: Bills, Keeler, LoBiondo, Long, Murphy

Nays: None

Abstain: None

Absent: Kelly

13. ADJOURNMENT: There being no further business before the Governing Body. Councilman Murphy made a motion to adjourn the

meeting at 8:50 P.M. Second by Councilman LoBiondo and approved upon unanimous voice vote.

Respectfully Submitted,

Maryann M. Smeltzer
Municipal Clerk