

“GOD BLESS AMERICA”

REGULAR MEETING

SEPTEMBER 5, 2017

A Regular Meeting of the Mayor and Council of the Borough of Belmar held on the above date at 6:00 PM at the Belmar Municipal Building, 601 Main Street.

PRESENT: Mayor Doherty, Councilman Magovern, Councilman Brennan, Councilman Walsifer, Councilwoman Nicolay, Borough Attorney Greg Cannon, Esq., and Borough Clerk April Claudio

ABSENT: Business Administrator Colleen Connolly

“Adequate notice of this meeting has been provided to The Coast Star, the official newspaper of the Borough of Belmar, and the Asbury Park Press on December 7, 2016 notice of this meeting was prominently posted on the bulletin board of the Municipal Building and filed with the Clerk of the Borough of Belmar.”

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE: Our troops and their families

WORKSHOP DISCUSSION:

- Loko Redevelopment Modification: Block 57 Lot 4
 - o Mayor Doherty stepped off the dais.
 - o Jennifer Phillips Smith, special counsel to the Borough, explained she has been involved with the litigation involving Loko. A settlement agreement was made and memorialized in July. The project calls for mixed use but the settlement agreement said the council would consider the project being all residential. Mr. Wolfe, Loko’s attorney, will present their amended plans for the project.
 - o William Wolfe, attorney for Loko, stated the original proposal was for ten residential units and 11,000 square feet of commercial space. They would like to convert the first floor to residential making the new project a total of 16 residential units. Feels this is in the public interest and consistent with the redevelopment plan. It will help unify the downtown with the water front. The conversion of their plan creates less impervious coverage, more landscaping and more parking.
 - o Brett Yarusi, partner of Loko, stated they feel all residential units would be more sustainable for the area the property is in.
 - o Council member Nicolay noticed there are 38 parking spaces and asked if they would be open to the public. Mr. Wolfe stated they will all be dedicated to the site.
 - o Council member Brennan asked for clarification on how the impervious coverage will be reduced. Council member Brennan and Council member Nicolay were concerned about losing parking for the public.
 - o Council member Magovern stated he prefers the residential use over the mixed use. Will be less traffic problems.
 - o Council member Walsifer stated he would like to see residential too and thinks it will be good for the site.
 - o Ms. Phillips-Smith stated a resolution approving the plan to move forward to the planning board must be done at the next meeting but needs to know what plan to put in the resolution.
 - o Council member Magovern made a motion to approve the amended plan of all residential units, which was seconded by Council member Walsifer. The vote was as follows:
 - Ayes: Magovern and Walsifer
 - Nays: Brennan and Nicolay
 - o Mr. Cannon stated the motion fails.

- Council member Walsifer said he is all in favor of collecting donations for Rockport, Texas but asked what authority the Mayor had to authorize a free beach day without the Council voting on it. Mr. Cannon stated he will have to review the code.

PETITIONS: None

APPROVAL OF MINUTES: Council member Nicolay made a motion to approve the minutes of the August 1, 2017 meeting, which was seconded by Council member Nicolay and approved by the following vote:

AYES: Walsifer, Brennan, Nicolay, and Doherty

ABSTAIN: Magovern

REPORTS OF COUNCIL:

Council member Magovern: Historical Society fundraiser at the Shillelaghs last month was very successful. Found someone that can repair the Doughboy Statue.

Council member Walsifer: At the last Harbor Commission meeting they discussed concerns with the parasail business and the fact there are no regulations for how one does something similar.

Council member Brennan: Presented the reusable shopping bags that the Environmental Commission had made. They've been giving them out at the Farmer's Market. Other businesses will be giving them out and encouraging use of them instead of plastic bags.

Council member Nicolay: Loves the shopping bag. Happy we accepted donations for Rockport, Texas. Belmar Cares is holding an event called Mind and Body Balance on September 13th. Tomorrow is the first day of school. Hoped everyone had a great summer.

PUBLIC SESSION: Public Session on resolutions only on the Agenda. We will continue to have a Public Session at the end of this meeting.

Doug Walsh, Jersey Shore BBQ, stated his mother lives in Rockport, Texas, and wants to hold a fundraiser for them as well. Thanked Mayor and Council for the resolution supporting them. Him and other businesses are having a fundraiser at Beachaus Brewery on Friday and will be delivering a check to Rockport on Monday.

Mayor Doherty stated we collected \$56,766 this past weekend and we have commitments for another \$6,000 as well.

Mayor Doherty made a motion to close the public session, which was seconded by Council member Nicolay and approved unanimously.

RESOLUTIONS:

Council member Magovern offered, **2017-146, RESOLUTION AUTHORIZING PAYMENT OF BILLS**, which was seconded by Council member Brennan and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay, and Brennan

The Mayor abstained from voting on this Resolution by reason of his "General Ineligibility" as provided by Belmar Ord. No. 9-5.

PAYMENT OF BILLS: certification that the vouchers listed on the warrant register numbering 742 thru 900 are as follows and comply with requirements of State Law and Borough Ordinance as to content and form, that proper and sufficient appropriations exist for the payment to be made and that there is legal authority as provided in N.J.S. 40A: 5-17(a)(1) for the payment to be made.

01 General Account	\$1,225,599.73
05 General Capital Account	\$303,767.81
11 Water/Sewer Account	\$19,553.72
21 Beach Utility Account	\$48,711.95
41 Dog License Account	\$3,091.40
55 Trust Fund Account	\$79,873.41
61 Tourism Development Account	\$7,810.15
Total:	\$1,688,408.17

Council member Magovern offered, **2017-147, RESOLUTION AUTHORIZING THE ISSUANCE OF CLASS C LIQUOR LICENSE NO. 1306-33-002-004 TO TWO DAWGS, INC T/A THE BOATHOUSE BAR AND GRILL FOR PERIOD ENDING JUNE 30, 2018**, which was seconded by Council member Walsifer and approved by the following vote:

Council member Magovern asked why there is a restriction on jello shots on this license and not on others. He also asked about the restrictions regarding fake I. D's and notifying the police of fights. He was concerned how this affects their businesses.

AYES: Magovern, Walsifer, and Nicolay

ABSTAIN: Brennan

The Mayor abstained from voting on this Resolution by reason of his "General Ineligibility" as provided by

Belmar Ord. No. 9-5.

Council member Magovern offered, **2017-148, RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF BELMAR, IN THE COUNTY OF MONMOUTH, NEW JERSEY, DIRECTING THE PLANNING BOARD TO INVESTIGATE BLOCK 45, LOT 5 AND BLOCK 85, LOT 8 SHOULD BE INCLUDED WITHIN THE REDEVELOPMENT AREA WITHOUT CONDEMNATION (NON-CONDEMNATION REDEVELOPMENT AREA)**, which was seconded by Council member Nicolay and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay and Brennan

The Mayor abstained from voting on this Resolution by reason of his "General Ineligibility" as provided by Belmar Ord. No. 9-5.

Mayor Doherty offered, **2017-149, RESOLUTION PERMITTING SPECIAL EVENTS**, which was seconded by Council member Magovern and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay, Brennan, and Doherty

Mayor Doherty offered, **2017-150, RESOLUTION AUTHORIZING THE BOROUGH ATTORNEY TO INSTITUTE IN REM FORECLOSURE SUMMARY PROCEEDINGS PURSUANT TO N.J.S.A. 54:5-104.29 ET SEQ. AGAINST CERTAIN PROPERTY IN THE BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW JERSEY FOR DELINQUENT TAXES**, which was seconded by Council member Magovern and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay, Brennan, and Doherty

Mayor Doherty offered, **2017-151, RESOLUTION TO APPROVE DEDICATION OF THE 15TH AVENUE PLAYGROUND**, which was seconded by Council member Brennan and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay, Brennan, and Doherty

Mayor Doherty offered, **2017-152, RESOLUTION TO APPROVE DEDICATION OF THE SILVER LAKE PLAYGROUND**, which was seconded by Council member Magovern and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay, Brennan, and Doherty

Mayor Doherty offered, **2017-153, RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR "HURRICANE HARVEY RELIF FUND" AS REQUIRED BY N.J.S.A. 40A:5-29**, which was seconded by Council member Walsifer and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay, Brennan, and Doherty

CONSENT AGENDA:

All matters listed in the Consent Agenda are considered to be routine by the Borough Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

RESOLUTIONS BY CONSENT:

Mayor Doherty offered the following resolutions for adoption:

2017-154

RESOLUTION APPOINTING MEMBERS TO THE BELMAR SHADE TREE COMMISSION

2017-155

RESOLUTION AUTHORIZING SALE OF PERSONAL PROPERTY AT AUCTION

2017-156

RESOLUTION AUTHORIZING DISPOSAL OF SURPLUS PROPERTY VIA AN ONLINE AUCTION

2017-157

RESOLUTION ESTABLISHING A GREEN TEAM ADVISORY COMMITTEE

2017-158

RESOLUTION SUPPORTING PARTICIPATION IN THE SUSTAINABLE JERSEY MUNICIPAL CERTIFICATION PROGRAM

2017-159

A RESOLUTION DESIGNATING ROCKPORT, TEXAS AS A SISTER CITY TO THE BOROUGH OF BELMAR

2017-160

RESOLUTION AUTHORIZING REFUNDS

Seconded by Council member Magovern and approved by the following vote:

AYES: Magovern, Walsifer, Nicolay, Brennan, and Doherty

ORDINANCES:

ORDINANCE 2017-18 *Second Reading & Public Hearing*

ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED GENERAL ORDINANCE CHAPTER 25: "BUILDINGS" AND THE REVISED GENERAL ORDINANCE CHAPTER 40: "DEVELOPMENT REGULATIONS" TO ESTABLISH NEW REGULATIONS RELATING TO AWNINGS AND CANOPIES

Public: none

Mayor Doherty made a motion to close the public session, which was seconded by Council member Nicolay and approved unanimously.

Council member Walsifer made a motion to adopt Ordinance 2017-18, which was seconded by Council member Brennan and approved by the following vote:

AYES: Magovern, Walsifer, Brennan, Nicolay, and Doherty

ORDINANCE 2017-19 *Second Reading & Public Hearing*

ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED GENERAL ORDINANCE CHAPTER 18: "BEACHFRONT AND MARINE REGULATIONS" TO INSERT NEW SECTION 18-2.7c. (PREVIOUSLY RESERVED) PROHIBITING USE OF TENTS AND CANOPIES ON THE BEACHFRONT AT CERTAIN TIMES WITH EXCEPTIONS

Public: Tom Volker, 527 8th Avenue, suggested allowing them along the back of the beach.

Angela Pheiffer, 319 Fifth Avenue, questioned section q regarding handing out pamphlets and flyers. Ms. Claudio and Mr. Cannon explained that's from the current beachfront ordinance and is not changed.

Mayor Doherty made a motion to close the public session, which was seconded by Council member Brennan and approved unanimously.

Mayor Doherty stated he has heard suggestions from the public such as allowing them along the back of the beach, only allowing ones of a certain size or with no sides, or a designated area.

Council member Nicolay stated she has heard various suggestions as well. Has seen some on the beach that she felt were appropriate and others that were absurd. Feels we should make some form of compromise.

Council member Brennan stated we should make it clear who decides what the exceptions are and give them guidelines. Feels it would be easier to just say no tents.

Council member Walsifer stated it's a tough enforcement issue. He stated the police department has a lot of discretion. Suggested putting the ordinance in place and seeing how it goes.

Council member Magovern was also concerned about enforcement. Doesn't have a problem with an opened 8x8 tent, feels it is like an umbrella.

Council member Nicolay offered to research alternatives to create a compromise.

Mayor Doherty stated he has seen tents increasing in size and numbers and it doesn't make sense on the beach. Concerned about creating designated areas. Felt if people used common sense and courtesy we wouldn't need the ordinance. Thinks setting size restrictions will cause issues with people arguing over whether theirs is compliant or not.

Mayor Doherty offered Ordinance 2017-19 for adoption, which was seconded by Council member Walsifer and approved by the following vote:

AYES: Brennan, Walsifer and Doherty
NAYS: Nicolay and Magovern

ORDINANCE 2017-20 *Second Reading & Public Hearing*

BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$500,000 FOR SIDEWALK IMPROVEMENTS IN AND BY THE BOROUGH OF BELMAR, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AUTHORIZING THE ISSUANCE OF \$475,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF AND DIRECTING THE SPECIAL ASSESSMENT OF THE COST THEREOF

Public: Juliana Durante, 116 17th Avenue, was concerned the estimate she received may go up. Ms. Claudio explained there is an option to opt out. Mayor Doherty stated we hope the price will stay the same but even if it does go up it may still be better than a price they would get on their own.

Vincent Kulick, 112 17th Avenue, was also concerned the price may go up because he was so close to getting the work done.

At 7:46 p.m. Council member Nicolay left the meeting.

Mayor Doherty made a motion to close the public session, which was seconded by Council member Brennan and approved unanimously.

Mayor Doherty offered Ordinance 2017-20 for adoption, which was seconded by Council member Brennan and approved by the following vote:

AYES: Magovern, Walsifer, Brennan, and Doherty

ORDINANCE 2017-21 *Second Reading & Public Hearing*

ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED GENERAL ORDINANCE CHAPTER 21: "TAXICABS" TO ESTABLISH NEW PROCEDURES FOR AUCTIONING LICENSES AND TO ESTABLISH NEW PROCEDURES FOR ISSUING AVAILABLE LICENSES BETWEEN AUCTIONS

Mayor Doherty stepped off the dais.

Public: none

Council member Magovern made a motion to close the public session, which was seconded by Council member Walsifer and approved unanimously.

Council member Magovern offered Ordinance 2017-21 for adoption, which was seconded by Council member Walsifer and approved by the following vote:

AYES: Magovern, Walsifer and Brennan

The Mayor abstained from voting on this ordinance by reason of his "General Ineligibility" as provided by Belmar Ord. No. 9-5.

PUBLIC SESSION:

Maureen Caslow, 112 17th Avenue, was concerned about the utility pole that was put up at 17th and Ocean. Wants a date for when it will be taken down.

Mr. Cannon stated Mobilitie put up the pole without proper permits. We have been in discussion with them and thought the pole was coming down in July. In August, a different Representative for them offered to pay us \$5,000 to keep it. He is now working on filing an order to show cause with the courts to have them issue an order to authorize us to take it down.

Vincent Kulik, 112 17th Avenue, stated Mobilitie has a history of trying to act like a utility company. He suggested speaking to State legislators to put an end to this.

Judy Kulik, 112 17th Avenue, was concerned about the health hazards of the pole.

Charles Peters, 202 19th Avenue, was concerned about parking in front of your own driveway. Some areas have driveways next to each other and it creates a hazard when backing out. There's no buffer like there is when you have a parking space lined.

Captain Cox stated that could be a violation. He added a homeowner could park in front of their driveway if it doesn't create a traffic safety issue. Also concerned about aerosol sunblock being used and blowing in people's faces. Mayor Doherty stated we could consider the driveway issue.

Claire Deicke, 1017 14th Avenue, San Gennaro festival is September 16th and 17th.

Peter Piro, North Blvd., asked if there is a construction schedule for the Lake Como outfall pipe. Mayor Doherty stated they are starting next week. Mr. Piro would like a letter sent to Lake Como advising them we are not in favor of them making 19th Avenue one way west of B Street. Their ordinance is still on the books just not enforcing it.

Josh Vallario, 407 10th Avenue, asked about the 10th Avenue Freeze Out lawsuit. Mr. Cannon stated they cannot discuss the details in public session yet.

David Schneck, 302 C Street, asked who is supplying the beer and wine for San Gennaro. Mayor Doherty replied Richie and Page. Mr. Schneck asked who did it last year. Mayor Doherty replied Shore Point Distributors. Mr. Schneck asked who made the decision to change. Mayor Doherty stated the events are coordinated by Spark Marketing but he advised them to change. Mr. Schneck asked why. Mayor Doherty stated Richie and Page did well at the Seafood Festival. He added Richie and Page are also a distributor of Beachaus Brewery which is a Belmar business.

Juliana Durante, 116 17th Avenue, stated it's disturbing to sit on her porch and look at the giant pole.

Mayor Doherty made a motion to close the public session and adjourn the meeting, which was seconded by Council member Magovern and approved unanimously.

Respectively submitted,

April Claudio
Municipal Clerk