

“GOD BLESS AMERICA”

REGULAR MEETING

SEPTEMBER 4, 2013

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 Bean, Councilwoman Deicke, Councilman Magovern, Councilwoman Nicolay, Acting Borough Attorney Ed Washburne, Esq., Business Administrator Colleen Connolly, and Borough Clerk April Claudio

The Borough Clerk stated “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 January 4, 2013 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, Pat Roddy, Fred Faas, and Jane Magovern

SPECIAL PRESENTATIONS:

- Chris Romanzo - Hurricane Sandy Benefit Donation of \$9,000
- Rich Kenah Donation of \$357.15 to the Recreation Department
- Employee of the Month – Molly Ahern

PROCLAMATION: September is Childhood Cancer Awareness Month

WORKSHOP DISCUSSION:

- SMRSA – Como Lake discussion:
 - o Gene Cory, Belmar SMRSA Rep stated he and Mike Ruppel are here to explain what is going to happen to Lake Como and how all 3 towns will be participating in the project.
 - o Mike Ruppel, SMRSA Executive Director, stated the lake is considered a Class III Dam by NJDEP. Flooding from Hurricane Sandy was due to the coast storm surge coming in and damaging the outflow pipe and the water had nowhere to go. Hurricane Sandy caused 2.3 million in damage. Outfall has since been replaced and four discharge pumps have been placed under Ocean Avenue. Moving forward, the plan is to relocate the pump station, resolve ownership of the dam, determine how to regulate it and find funding. Short term plan is to modify the existing outflow. Long term plan is to install a box culvert under Ocean Avenue.
 - o Rich Seidel, Surf Avenue, asked whose decision is it to move forward with the short term plan. Mr. Ruppel stated it would be a stakeholder's decision, but Spring Lake is reviewing the plan since it's in their town. Mr. Seidel asked about the interlocal agreement. Ms. Connolly explained there will be an agreement between the 3 towns and SMRSA which will formalize the procedures for handling rain fall at the lake that have been in place since the storm. Will also establish an emergency protocol until the issue is fixed.
 - o Peter Piro, 300 North Blvd., asked about the cost for the temporary fix. Mr. Ruppel stated is not very much.
 - o Martha Maselko, 102 North Blvd., her concern is that the temporary fix hasn't been done yet and why is it taking so long if it's a simple inexpensive plan.
 - o Council member Magovern asked if there is any way to slow the water from coming into the lake. Mr. Ruppel replied no.
 - o Council member Bean asked why one person couldn't be in charge of the lake instead of three towns discussing it together.

- Chef's International presentation: marina building
 - o Bob Cooper, attorney John Jackson- attorney, and engineer John Palis – were present.
 - o Mr. Jackson stated they are to present conceptual plans for a 19,000 sq ft building in the marina. The building would have two floors: cocktail lounge on second floor, restaurant, marina office, comfort station and retail shop on the first floor, and an outdoor seating area on a deck overlooking the harbor. He stated the Pier and mini golf have been successful. The redevelopment agreement amendment would give the Borough \$26 million over the life of the lease. Chef's International will build the building but it will revert to Belmar's ownership when the lease is over.
 - o Mayor Doherty asked what kind of restaurant would be envisioned at the site. Mr. Cooper stated it would have a sports bar feel that would be open for breakfast, lunch, and dinner similar to their Waterstreet restaurant in Toms River. Mayor Doherty asked how it would compliment the pier. Mr. Cooper stated it would be operated by them and have a similar menu and will be open year round. Mayor Doherty asked how many employees have now and how many will be added. Mr. Cooper stated he has about 70-80 now and would add about another 100. Mr. Jackson stated they make efforts to hire local suppliers, contractors, and employees.
 - o Council member Deicke asked about the length of the lease. Ms. Connolly stated the initial lease is 24 years, with the option to extend for 6 years and another option to have two 10 year extensions, which is a total of 50 years. Council member Deicke asked if the building would be in the same footprint as the existing building. Mr. Palis stated the existing building and land are surrounded by a curbed area and the new building would fit within those curbs. Mr. Cooper stated he hopes to open by November 2014.
 - o Council member Bean suggested moving the mini golf to the roof and using the mini golf area for parking which will be an issue. Mr. Jackson stated Chef's International is very pleased with the success of the mini golf and it is a great amenity for the town. Council member Deicke stated there is ample parking in the area. Mr. Jackson stated they are working on creative ways to address parking suck as a shuttle system.
 - o Mayor Doherty stated the Borough will get a \$300,000 developer's fee and Chef's International will post a \$1 million performance bond. He added that the yearly rent starts at \$235,000 per a year and increases 3% each year, which will be great for the town.
- Recycling center hours: Ms. Connolly stated the recycling center is closed on Wednesdays for some reason and Director Campbell suggested re-opening it. Feel it can be done with current staffing. Council member Magovern stated it was closed on Wednesdays because our employees collected it at one point which was on Wednesdays; since now it is outsourced; there is no reason to have it closed. Council member Bean asked if there is any day slower than another. Director Campbell replied no, Saturday and Sundays are busiest. Council member Bean suggested giving it a try to see how busy it is.

PETITIONS: none

REPORTS OF MAYOR AND COUNCIL:

Council member Magovern: Thanked Police and First Aid for their great work in attending to his wife's medical emergency. Beach Report: \$2,776,531.50 revenue for this year, fourth highest ever sold.

Council member Deicke: Belmar won the Horizon Blue to You Boardwalk challenge; awards luncheon on Monday. Thanked Recreation Director Ray Claudio for his support with the program. Health Fair is September 22nd. Working with Recreation Director Ray Claudio on a music program for special needs children. October 24th, the ADA Committee is holding a program for family planning. They are also still pursuing efforts to get a platform at the train station. Thanked all staff for work done to make a profitable summer. Attended a MOVE

meeting earlier today who still have services available for those in need due to hurricane sandy. Has heard good reviews about the police bicycle staff.

Council member Bean: Asked if anymore FEMA money came in. Ms. Connolly replied no. He asked if any new project worksheets were submitted. Ms. Connolly explained that FEMA writes the worksheets and they are still working on a few. He asked about the Police cars at Dempsey Park. Ms. Connolly stated they are the property of the insurance company and we are getting closer to getting them moved within next few weeks. She added that the Port Authority took 9 of them. He asked about the Taylor pavilion bids. Ms. Connolly stated it is not out to bid yet, but will go out within the next two weeks. He asked if the boardwalk trailers rent has been paid and if goes towards the bond or general fund. Ms. Connolly stated she will check and get exact information. He asked about the status of the Buy a Boards. M. Connolly stated DPW will be starting at 10th Avenue on Monday and the rest will follow within a few weeks.

Council member Nicolay: Arts Council started a new show called Painter's Work, which has been very successful. They are also collecting designs to put a mural near the train station. Basketball registration is October 2nd. Toddler time registration will be November 21st. DPW report, been very busy wrapping up summer. Brush must be put out by Friday for pickup next week. BBP: Jacks Tavern, the dance studio, Purrfect Partners, and Decarlo Fitness were approved for grants for awnings. Last cruise night was very successful. Belmar flags are being sold at Salon Marsal. BES starts school tomorrow. September 18th is back to school night. The San Gennaro festival is this weekend, next weekend is the Belmar Pro, and the following weekend is the Mud Man competition. Reminded everyone about the fundraiser for Fred Faas on September 28th.

Mayor Doherty: Ellen Ramey and her family had a reunion and gave donations to the hurricane relief fund, police, first aid, Goodwill fire house. Chief Palmisano reminded everyone that there have been some burglaries in town and neighboring towns, keep your house and car doors locked. Update on ongoing projects: Silver Lake mitigation, Maclearie Park improvements, hope to get approval for funding for engineered dune system, beach replenishment scheduled for early spring for 9th to 20th Avenues. Council member Deicke is the daughter of San Gennaro this weekend. Best wishes to Jane Magovern in her recovery.

APPROVAL OF MINUTES: Council member Deicke moved for approval of minutes for the meetings held on August 7, 2013, seconded by Mayor Doherty and approved by the following vote:

AYES: Deicke, Bean, Magovern, Nicolay, and Doherty

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

Bill Merkler, 219 Second Avenue, stated he is looking for payment to Down to Earth Landscaping for Silver Lake work; was told there was an issue with the Engineer approving it, hasn't been receiving any answers. Ms. Connolly stated she posed some questions to the engineer and is still awaiting an answer on some issues before moving the bill forward to the bill list. She stated she would have Paul Calabrese contact him tomorrow.

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

RESOLUTIONS:

Ms. Connolly explained the bill list has to be split into two different resolutions because some of the Council must abstain from voting on certain bills.

Mayor Doherty offered Resolution **2013-215, RESOLUTION AUTHORIZING**

PAYMENT OF BILLS LIST #1, for adoption, which was seconded by Council member Deicke and approved by the following vote:

AYES: Deicke, Nicolay, Magovern, Bean, and Doherty

Prior to voting Council member Bea asked about some bills: \$46,000 vehicle and \$32,000 for hardware. Ms. Connolly stated it is a police vehicle and the other is for lighting and outfitting for emergency personnel vehicles. He asked about a payment to Pat Roddy for \$500. Ms. Connolly stated there was a Belmar beach music festival last week. He asked about a payment for a guitar repair. Ms. Connolly stated it is the guitar monument at the library.

Council member Magovern offered Resolution **2013-216, RESOLUTION AUTHORIZING PAYMENT OF BILLS LIST #2**, for adoption, which was seconded by Council member Nicolay and approved by the following vote:

AYES: Deicke, Nicolay, and Magovern

ABSTAIN: Bean and Doherty

Mayor Doherty made a motion to add a resolution to the agenda, which was seconded by Council member Deicke and approved unanimously.

Mayor Doherty offered Resolution 2013-217, **RESOLUTION AUTHORIZING THE RECEIPT OF BIDS FOR SILVER LAKE IMPROVEMENTS**, for adoption, which was seconded by Council member Deicke and approved by the following vote:

AYES: Deicke, Magovern, Bean, Nicolay, and Magovern

PAYMENT OF BILLS: certification that the vouchers listed on the warrant register numbering 60010 thru 60173 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	\$2,665,071.66
03 Grant Account	\$400.00
05 General Capital Account	\$103,419.54
11 Water/Sewer Account	\$43,409.25
15 Water/Sewer Capital Account	\$144,938.91
21 Beach Utility Account	\$511,907.29
25 Beach Capital Account	\$1,692,999.31
23 Parking Utility Fund	\$25,433.63
41 Dog License Account	\$2,928.00
55 Trust Fund Account	\$14,481.39
61 Tourism Development Account	\$14,622.61
Total	\$5,219,611.59

Council member Bean made a motion to remove the Special Events resolution from consent agenda, which was seconded by Mayor Doherty and approved by the following vote:

AYES: Deicke, Magovern, Bean, Nicolay, and Doherty

Mayor Doherty made a motion to offer Resolution **2013-218, RESOLUTION APPROVING SPECIAL EVENTS**, for adoption, which was seconded by Council member Deicke and approved by the following vote:

AYES: Deicke, Magovern, Nicolay, Doherty

ABSTAIN: Bean

Prior to voting Council member Bean asked about the August events listed on the Special Event resolution which already passed. Ms. Connolly stated they were approved by her and the Special Events Committee. Council member Bean voted to abstain on the resolution because he felt the decision to approve the events was already made by the Committee.

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:

2013-219

RESOLUTION PERMITTING SPECIAL PERMITS FOR SOCIAL AFFAIRS FOR ST. ROSE HIGH SCHOOL

2013-220

RESOLUTION AUTHORIZING THE EXECUTION OF A COMMODITY RESALE AGREEMENT WITH THE COUNTY OF MONMOUTH

2013-221

RESOLUTION MAKING FINDINGS AND DETERMINATIONS ON LEGALIZED GAMES OF CHANCE APPLICATION NUMBER 2013-12&13

2013-222

RESOLUTION OF THE BOROUGH OF BELMAR, COUNTY OF MONMOUTH, NEW JERSEY DESIGNATING CHEF'S INTERNATIONAL, INC. AS REDEVELOPER AT THE MARINA AND AUTHORIZING EXECUTION OF A REDEVELOPMENT AGREEMENT AND LEASE AMENDMENT IN CONNECTION THEREWITH

2013-223

RESOLUTION AUTHORIZING REFUNDS

2013-224

RESOLUTION AUTHORIZING A 2013 CAPITAL BUDGET AMENDMENT

2013-225

RESOLUTION AUTHORIZING EMERGENCY APPROPRIATIONS – NJSA 40A:4-48 - CURRENT FUND BUDGET

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

AYES: Deicke, Magovern, Nicolay, Bean and Doherty

ORDINANCES:

Second Reading & Public Hearing

ORDINANCE 2013-13

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXIV OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BELMAR TO ADD SECTION 24-3 PROHIBITING THE FEEDING OF WILD ANIMALS

Public Hearing: None

Mayor Doherty made a motion to close the public hearing for Ordinance 2013-13, which was seconded by Council member Deicke and approved unanimously.

Mayor Doherty made a motion to offer Ordinance 2013-13 for adoption, which was seconded

by Council member Magovern and approved by the following vote:

AYES: Deicke, Magovern, Nicolay, Bean and Doherty

Second Reading & Public Hearing:

ORDINANCE 2013-15

BOND ORDINANCE PROVIDING FOR THE CONSTRUCTION OF BEACHFRONT BUILDINGS IN AND BY THE BOROUGH OF BELMAR, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$7,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$7,125,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

Public Hearing: Dom Paragano, 200 7th Avenue, stated he did some research and if we move all four boardwalk pavilions to somewhere not in a V zone, FEMA will fund 90%, suggested looking at other locations throughout town for the two not building now.

Joy DeSanctis, 101 6th Avenue, stated she received a lot of literature about how will pay off the bond but would like an explanation on how can justify residents and tourists paying for the pavilions. Mr. DuPont stated there is case law that allows for the costs to be covered on buildings for purposeful use through the beach utility. Ms. DeSanctis asked how Taylor Pavilion is purposely used. Mayor Doherty explained it is not used by just residents. Mr. DuPont stated the case allows for improvements to the pavilions to be funded through the beach utility. Council member Bean asked what would happen if there is a lawsuit filed and lose. Mr. DuPont doesn't think there is an issue according to the decision from the State Public Advocate in 1989.

David Schneck, 302 C Street, stated it is irrelevant who uses the pavilions because the uses are not beach related activities. He asked what would happen if we build and the public advocate sues and we can't pay for them through the beach utility. Mayor Doherty stated there is no more public advocate, and the Borough has spoke to DEP, CAFRA and other state agencies, there are no threats of lawsuits. Council member Bean asked who can invoke law and sue over the price of beach fees. Mr. DuPont stated anyone can sue over anything.

Joan Corallo, A Street, asked why only one building had insurance. Mayor Doherty clarified they all had insurance but only one had flood insurance. Mayor Doherty stated flood insurance will be \$7000 for each building.

Tom Burke, 608 10th Avenue, stated the 1989 decision states pavilion improvements not reconstruction of. Mr. DuPont stated he has reviewed all of the cases and his interpretation is that the beach utility can be used for the construction of the pavilions.

Bob Forte, 114 8th Avenue, asked how an estimated cost was arrived at if don't have bids yet. Mayor Doherty stated we have estimates from the engineer, and estimate high with hope comes in lower. Mr. Forte asked if we would pursue Mr. Paragano's suggestion. Mayor Doherty stated he will look into. Mr. Forte stated he would like to be involved in any plans.

Peter Piro, 300 North Blvd., asked if we don't get funding for steel sheathing to protect these buildings, will town bond for it. Mayor Doherty felt we should receive money from FEMA, but if we don't get it he doesn't know what will happen, will to revisit it.

Brendan Reed, 100 Ninth Avenue, stated he is in favor of the pavilions. He suggested adding a gazebo where the 13th Avenue pavilion was to add shade to the boardwalk, which FEMA has said they would pay for.

Bob Lynch, 316 9th Avenue, asked about seeding around Silver Lake. Ms. Connolly stated they will be working on that soon. He asked about the Marina leases. Mayor Doherty stated

they will bundle the 3 Chef's leases together into one payment. Mr. Lynch felt the lease amount is low.

Karen Grau, 116 14th Avenue, asked why the pavilions must be done before beach replenishment and the dunes are done. Mayor Doherty stated the beach replenishment will be starting soon and be done in early spring in conjunction with construction of the buildings. He added that we cannot bond for dunes before applying to receive funding from FEMA.

Joy DeSanctis, 101 6th Avenue, wants to clarify the height of Taylor Pavilion; mailings said 37 feet, information she received from architect shows 53 feet to cupola. Mayor Doherty stated there is no cupola; the height is 37 feet to the ridge. She asked what the overall height is. Ms. Connolly stated she would get exact numbers because she did not have the plans in front of her. Mayor Doherty assured her it is not 53 feet. She asked what the \$20 mil beachfront bond was for. Mayor Doherty stated it was for emergency measures, debris removal, pumping, boardwalk reconstruction, and more. He added that we are on target to receive all of it back from FEMA.

Council member Bean stated he wants Taylor pavilion built but wants all the facts on the table. He felt the Mayor's letters are not a lie but are not giving all the facts. He added that if it's such a great idea why not put it on the ballot for a vote.

Mayor Doherty stated the mailers that went out were 100% accurate, should have sent them out sooner, apologize for lack of communication. He stated he truly believes everyone will love the pavilions if you love the boardwalk. He added that it's time for the elected officials to step up and listen to concerns and do what is best for the town.

Council member Bean asked why what Ordinance 2013-16 is on the agenda. Ms. Connolly and Mayor Doherty stated they were trying to obtain funding, and was rejected by DEP but will try to seek funding from FEMA, CDBG and other resources.

Mayor Doherty made a motion to close the public hearing for Ordinance 2013-15, which was seconded by Council member Deicke and approved unanimously.

Mayor Doherty made a motion to offer Ordinance 2013-15 for adoption, which was seconded by Council member Deicke and approved by the following vote:

AYES: Deicke, Magovern, Nicolay, and Doherty
NAYS: Bean

First Reading & Introduction:

ORDINANCE 2013-16

**BOND ORDINANCE PROVIDING FOR THE INSTALLATION OF A STORM
DRAIN LINE FOR SILVER LAKE IN AND BY THE BOROUGH OF BELMAR, IN
THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$1,860,000
THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,767,000 BONDS OR
NOTES OF THEREOF**

Mayor Doherty made a motion to offer Ordinance 2013-16 for introduction and schedule it for public hearing on September 18, 2013, which was seconded by Council member Magovern and approved by the following vote:

AYES: Deicke, Magovern, Nicolay, Bean and Doherty

PUBLIC SESSION:

Karen Cadigan, 1229 Maplewood Road, asked for clarification on lining the water pipes and stated she would like to see plans posted online. Ms. Connolly stated she received the final draft this afternoon and will post it online tomorrow. Ms Connolly added that Ms. Cadigan's

street will be one of the streets relined. Ms. Cadigan stated she is not against special events at the beach but felt residents shouldn't be prohibited from going onto the beach during them.

Jean Folker, 514 13th Avenue, stated on September 10th there is an event at the Parker House in Sea Girt to benefit children's brain cancer. She would like to see stop signs at the cross streets on 13th Avenue. She stated that near 504 or 506 13th there is a stagnant water issue. Mr. Campbell stated he believes it is a sump pump issue but will double check. She asked if there will be any bulk heading done at Maclearie Park. Ms. Connolly stated DPW will be working on the floating docks and other repairs through the fall and winter.

Brendan Reed, 100 Ninth Avenue, stated he moved into town a year ago and despite the storm it's a beautiful community and he loves being here. He asked if there have been any discussions with other towns and SMRSA regarding making the surface near Lake Como to be more permeable. Mayor Doherty stated we made some changes to our zoning ordinances but would be hard to get other towns to amend their ordinances.

Bob Fallon, 15th Avenue, stated he is glad the yellow painting was done on 15th Avenue as requested.

Ted Ehmann, Oakwood Road, stated he would like the whole town involved on discussions of improvements to Maclearie Park, not just the residents that live in that area. He would like a gazebo and diving area at the park, had a plan to present at one of the meetings and wasn't allowed to present it. He asked how DCA reviews bond ordinances and who follows up on them and when has that happen. Mayor Doherty stated the local finance board oversees all bond ordinances. He was concerned about over spending because of the three mailings that were sent out.

Janis Keown-Blackburn, 106 River Court, stated she is very impressed by the shark river cleanup two weeks ago. She stated that Dot Taylor will be proud of everyone tonight. Stated the town did wonderful with beach revenue compared to other towns, hope businesses did just as well.

David Schneck, 302 C Street, asked how much of the inflow into Lake Como comes from the watershed coming from Wall and Spring Lake Heights, and is there no recourse against them. Council member Bean stated they should help pay for it. Mr. Schneck was concerned about inflation and how that relates to the 3% increase in the Chefs International lease.

Joy DeSanctis, 101 6th Avenue, asked if all of the \$9 mil from FEMA went towards the bond. Mayor Doherty stated we will take any monies we get to pay down the principle of the one year bond, anything left will be rolled into a long term bond. She read from the beachfront development committee meeting minutes held in February where discussions were held about a second floor at 13th Avenue Pavilion and the possibility of a liquor license. Council member Magovern stated the committee was unsure if the town was going to rebuild it, there were discussions about leasing to build but that was it. She asked who that was with. Council member Magovern stated it was just discussed as a possibility but there were no discussions with possible developers.

Tom Dilberger, 1000 River Road, suggested closing down the skate park.

Maria Florio, 12th Avenue, what about kids riding in the street without helmets.

Tom Volker, Fourth Avenue, stated the skate park is a liability, need to shut it down.

Council member Bean suggested letting the public vote on pavilions but feels the public has already voted by voting in the mayor and council.

Paul Carew, 110 4th Avenue, stated it was a great beach season, however there was not enough signage notifying people about the pay stations. He added that one of the crosswalks at 5th and Ocean is missing.

Dom Paragano, 200 7th Avenue, suggested looking into requiring cisterns for water runoff on any new home. Mayor Doherty stated he is not opposed to doing that but Belmar is a very small part of Como Lake and that probably wouldn't make that much of a difference.

David Schneck, 302 C Street, asked finance questions. Ms. Connolly asked that he email her the questions so she can get all of the facts for him.

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

Respectively submitted,

April Claudio
Municipal Clerk