

“GOD BLESS AMERICA”

REGULAR MEETING

JUNE 19, 2018

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

PRESENT: Mayor Magovern, Councilman Brennan, Councilman Levis, Councilman Walsifer, Councilwoman Nicolay, Borough Attorney Greg Cannon, Esq., Business Administrator Colleen Connolly, and Borough Clerk April Claudio

“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, 2017 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

PROCLAMATIONS:

- Kevin Woolley

WORKSHOP DISCUSSION:

- NJ Bike Share
- Community Center/Library Annex

PETITIONS:

APPROVAL OF MINUTES: June 6, 2018

REPORTS OF COUNCIL:

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

2018 BUDGET HEARING:

- Public Hearing
- **RESOLUTION TO AMEND 2018 BUDGET**
- **RESOLUTION ADOPTING 2018 BUDGET AS AMENDED**

RESOLUTIONS:

- **RESOLUTION AUTHORIZING ISSUANCE OF PLENARY RETAIL CONSUMPTION LICENSE TO KLEIN’S FISH MARKET, INC. FOR THE PERIOD ENDING JUNE 30, 2019**
- **RESOLUTION AUTHORIZING ADDENDA TO THE FIFTH AND TENTH AVENUE PAVILION CONCESSION LEASES TO CLARIFY CERTAIN PROVISIONS AND ALLOW ENHANCED OUTDOOR EATING AREAS**

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:

- **RESOLUTION AUTHORIZING PAYMENT OF BILLS**
- **RESOLUTION AUTHORIZING REFUNDS**
- **RESOLUTION TO ALLOW STATE OF NEW JERSEY DIVISION OF A.B.C TO RENEW CLUB LICENSE TO THE BELMAR FISHING CLUB FOR PERIOD ENDING JUNE 30, 2019**
- **RESOLUTION TO ALLOW STATE OF NEW JERSEY DIVISION OF A.B.C TO RENEW**

CLUB LICENSE TO THE ORDER OF THE FRIENDLY SONS OF THE SHILLELAGH

ORDINANCES:

First Reading & Introduction

ORDINANCE 2018-08 (REVISED)

ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED GENERAL ORDINANCE CHAPTER 19: “TRAFFIC” TO CLARIFY CERTAIN PARKING RESTRICTIONS

Second Reading & Public Hearing

ORDINANCE NO. 2018-10

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XL OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BELMAR, SECTIONS 40-3.14 FEES

Second Reading & Public Hearing

ORDINANCE NO. 2018-11

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 19, TRAFFIC – ONE WAY STREETS

PUBLIC SESSION:

MEETING ADJOURNED

RESOLUTION 2018-

RESOLUTION TO AMEND BUDGET

WHEREAS, the Local Municipal Budget for the Year 2018 was approved on the 15th day of May, 2018, and

WHEREAS, the public hearing on said Budget has been held as advertised, and

WHEREAS, it is desired to amend the approved Budget, now

THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Belmar, County of Monmouth, that the following amendments to the approved Budget of 2018 be made:

offered the above resolution and moved its adoption. Seconded by and adopted by the following vote on roll call:

Council members:	AYES	NAYS	ABSTAIN	ABSENT
Mr. Walsifer				
Mr. Levis				
Mrs. Nicolay				
Mr. Brennan				
Mayor Magovern				

Adopted:

CURRENT FUND

	From	To
GENERAL REVENUES		
1. Surplus Anticipated	\$1,300,000.00	\$1,300,210.00
Total Surplus Anticipated	\$1,300,000.00	\$1,300,210.00
Summary of Revenues		
1. Surplus Anticipated (Sheet 4, #1)	\$1,300,000.00	\$1,300,210.00
5. Subtotal General Revenues (Items 1,2,3 and 4)	<u>\$8,132,477.28</u>	<u>\$8,132,687.28</u>
7. Total General Revenues	<u>\$15,331,844.73</u>	<u>\$15,332,054.73</u>

GENERAL APPROPRIATIONS

8. General Appropriations		
E) Deferred Charges and Statutory Expenditures- Municipal within "CAPS"		
(1) DEFERRED CHARGES		
Trust Fund Over-expenditure	\$0.00	\$210.00
Total Deferred Charges and Statutory Expenditures – Municipal within "CAPS"	\$973,332.40	\$973,542.40
(H-1) Total General Appropriations for Municipal Purposes within "CAPS"	\$12,439,682.40	\$12,439,892.40
(L) Subtotal General Appropriations {Items (H-1) and (O)}	<u>\$14,865,253.96</u>	<u>\$14,865,463.96</u>
9. Total General Appropriations	<u>\$15,331,844.73</u>	<u>\$15,332,054.73</u>
Summary of Appropriations		
(A) Operations:		
2. Statutory Expenditures	\$973,332.40	\$973,542.40
(H-1) Total General Appropriations for Municipal Purposes within "CAPS"	<u>\$12,439,682.40</u>	<u>\$12,439,892.40</u>
Total General Appropriations	<u>\$15,331,844.73</u>	<u>\$15,332,054.73</u>

RESOLUTION NO 2018-

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, by the Mayor and Borough Council that the following refunds are hereby authorized upon certification by the Chief Financial Officer to the following:

Junior Lifeguards:
Cynthia Petix - \$110
2005 Wall Church Road
Wall, NJ 07719

Taylor Pavilion Rental Deposits:
Kaitlyn Low - \$500
428 Woodmere Avenue
Neptune, NJ 07753

Gina Colluci - \$220
206 5th Avenue
Belmar, NJ 07719

Edward Byrne - \$500
25 Green Road
Waterford, ME 04088

Tonya Price - \$500
615 Beacon Blvd.
Sea Girt, NJ 08750

Street Opening Deposit:
Young’s Water & Sewer \$500
1150 Route 9
Howell, NJ 07731
For 46 Inlet Terrace

offered the above resolution and moved its adoption.

Seconded by and adopted by the following vote on roll call:

Council members:	AYES	NAYS	ABSTAIN	ABSENT
Mr. Walsifer				
Mr. Levis				
Mrs. Nicolay				
Mr. Brennan				
Mayor Magovern				

Adopted:

RESOLUTION 2018-

**RESOLUTION TO ALLOW STATE OF NEW JERSEY DIVISION OF A.B.C TO
RENEW CLUB LICENSE TO THE ORDER OF THE FRIENDLY SONS OF THE
SHILLELAGH**

WHEREAS, the Order of Friendly Sons of Shillelagh, Inc., Jersey Shore Chapter for the premises at 815-817 Sixteenth Avenue for a Club License No. 1306-31-020-001 has applied for a renewal of their license; and

WHEREAS, Mayor Brian Magovern, Council members Mark Walsifer and Thomas Brennan are members of the Order of the Friendly Sons of the Shillelagh.

WHEREAS, since Mayor Magovern, Council members Walsifer, and Brennan are members of the governing body of the Borough of Belmar, which also acts as the ABC issuing authority, the subject license is a “conflict” license. Accordingly said renewal license application will be forwarded to the Director of the Division of Alcoholic Beverage Control for consideration pursuant to N.J.S.A. 33:1-20 and N.J.A.C. 13:2-4.1; and

WHEREAS, N.J.A. C. 13:2-4.6 requires the issuing authority to submit to the Director a certified resolution setting forth that the issuing authority has no objection to the renewal of the subject license and consents thereto, and furthermore, is not aware of any circumstances or provision of law or local ordinance which would prohibit the renewal of the subject license.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey:

That the Mayor and Council has no objection to the renewal of Club License No. 1306-31-020-001 and consents thereto, and furthermore, is not aware of any circumstances or provisions of law or local ordinance which would prohibit the renewal of the subject license.

offered the above resolution and moved its adoption.

Seconded by and adopted by the following vote on roll call:

Council members:	AYES	NAYS	ABSTAIN	ABSENT
Mr. Walsifer				
Mr. Levis				
Mrs. Nicolay				
Mr. Brennan				
Mayor Magovern				

Adopted:

RESOLUTION 2018-

**RESOLUTION TO ALLOW STATE OF NEW JERSEY DIVISION OF A.B.C TO
RENEW CLUB LICENSE TO THE BELMAR FISHING CLUB FOR PERIOD ENDING
JUNE 30, 2019**

WHEREAS, the Belmar Fishing Club located at First & Ocean Avenues, Club License No. 1306-31-017-001 has applied for a renewal of their license; and

WHEREAS, Council members Jennifer Nicolay and Mark Walsifer are members of the Belmar Fishing Club; and

WHEREAS, since Council members Walsifer and Nicolay are members of the governing body of the Borough of Belmar, which also acts as the ABC issuing authority, which creates a lack of a quorum. Accordingly, the subject license is a “conflict” license and said renewal license application will be forwarded to the Director of the Division of Alcoholic Beverage Control for consideration pursuant to N.J.S.A. 33:1-20 and N.J.A.C. 13:2-4.1; and

WHEREAS, N.J.A. C. 13:2-4.6 requires the issuing authority to submit to the Director a certified resolution setting forth that the issuing authority has no objection to the renewal of the subject license and consents thereto, and furthermore, is not aware of any circumstances or provision of law or local ordinance which would prohibit the renewal of the subject license.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey:

That the Mayor and Council has no objection to the renewal of Club License No. 1306-31-017-001 and consents thereto, and furthermore, is not aware of any circumstances or provisions of law or local ordinance which would prohibit the renewal of the subject license.

offered the above resolution and moved its adoption.

Seconded by and adopted by the following vote on roll call:

Council members:	AYES	NAYS	ABSTAIN	ABSENT
Mr. Walsifer				
Mr. Levis				
Mrs. Nicolay				
Mr. Brennan				
Mayor Magovern				

Adopted:

RESOLUTION NO. 2018-

**RESOLUTION AUTHORIZING ISSUANCE OF PLENARY RETAIL
CONSUMPTION LICENSE TO KLEIN’S FISH MARKET, INC. FOR THE PERIOD
ENDING JUNE 30, 2019**

WHEREAS, application has been made for a Plenary Retail Consumption License No. 1306-33-008-009 by Klein’s Fish Market, Inc. for the premises at 702,704 and 708 River Road, Belmar, N.J.; and

WHEREAS, said application is accompanied by an Affidavit of Publication and reports from Chief of Police and reports from Borough Inspection Officials, and Fire Official if applicable; and

WHEREAS, the use of this license is to provide alcoholic beverages to dining room customers. A live music area is limited to two or three musicians from 6PM-10PM; that the entertainment be for seated customers only, with no standing audience; and that there be no music allowed after 10PM. Must comply with floor plan approved by Mayor & Council.

1. It is a requirement that all employees licensed to handle alcoholic beverages undergo TAMS training within 30 days of being hired; records of this requirement are to be maintained by the licensee.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council that a Plenary Retail Consumption License for the period from July 1, 2018 to June 30, 2019 both dates inclusive, be issued to Klein’s Fish Market, Inc. subject to the Special Condition that no alcoholic beverages shall be sold, served, delivered to, or consumed in the license premises during such time as the number of persons, exclusive of employees, occupying the licenses premises exceeds the occupancy limit established by the Fire Official.

Occupancy: The premises at 702,704 and 708 River Road Occupancy is limited to 223 persons inside dining, outside dining area 440 persons.

BE IT FURTHER RESOLVED that the Borough Clerk be and is authorized to sign and deliver license certificate to said applicant.

offered the above resolution and moved its adoption.

Seconded by and adopted by the following vote on roll call:

Council members:	AYES	NAYS	ABSTAIN	ABSENT
Mr. Walsifer				
Mr. Levis				
Mrs. Nicolay				
Mr. Brennan				
Mayor Magovern				

Adopted:

RESOLUTION NO 2018-

RESOLUTION AUTHORIZING ADDENDA TO THE FIFTH AND TENTH AVENUE PAVILION CONCESSION LEASES TO CLARIFY CERTAIN PROVISIONS AND ALLOW ENHANCED OUTDOOR EATING AREAS

WHEREAS, on April 20, 2017, the Borough of Belmar (the “Borough”) entered into a Lease Agreement with M2 Concessions, LLC for the Fifth Avenue Pavilion Concession Area; and

WHEREAS, on April 28, 2017, the Borough entered into a Lease Agreement with Hilary Colanduoni and 10th Avenue Freeze Out, LLC for the Tenth Avenue Pavilion Concession Area South End; and

WHEREAS, since the execution of the respective Lease Agreements, the concessionaires have brought to the Borough’s attention certain aspects of their Lease Agreements that should be clarified to enhance their existing operations; and

WHEREAS, the Mayor and Borough Council find that it is also in the Borough’s best interests to clarify and more specifically define the concessionaires’ rights and obligations to avoid potential conflicts with its tenants in the future;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Belmar that:

- 1) The Lease Addendum to the Borough’s Lease Agreement with M2 Concessions, LLC, which is attached hereto as Exhibit A, is hereby approved by the Mayor and Borough Council.
- 2) The Lease Addendum to the Borough’s Lease Agreement with Hilary Colanduoni and 10th Avenue Freeze Out, LLC, which is attached hereto as Exhibit B, is hereby approved by the Mayor and Borough Council.
- 3) The Borough Administrator is hereby authorized by the Mayor and Borough Council to execute and deliver to the concessionaires their respective Lease Addendums and to take such measures as may be necessary to implement the terms and conditions thereof.

offered the above resolution and moved its adoption.

Seconded by and adopted by the following vote on roll call:

Council members:	AYES	NAYS	ABSTAIN	ABSENT
Mr. Walsifer				
Mr. Levis				
Mrs. Nicolay				
Mr. Brennan				
Mayor Magovern				

Adopted:

**FIRST ADDENDUM TO LEASE AGREEMENT, DATED APRIL 28, 2017,
BETWEEN THE BOROUGH OF BELMAR AND HILARY COLANDUONI
AND 10TH AVENUE FREEZE OUT, LLC**

WHEREAS, on April 28, 2017, the Borough of Belmar (“Landlord”) and Hilary Colanduoni and 10th Avenue Freeze Out, LLC (“Tenant”) (collectively, the “Parties”) entered into a Lease Agreement for the Tenth Avenue Pavilion Concession Area South End; and

WHEREAS, the Parties desire to clarify and modify certain terms and conditions contained in the Lease Agreement to more specifically define their respective rights and obligations and to avoid potential conflicts in the future;

NOW, THEREFORE, the Parties hereby covenant and agree as follows:

- 1) Paragraph 2 of the Parties’ Lease Agreement shall be amended to indicate that: “The Property to be leased constitutes that portion of the south end of Tenth Avenue Pavilion locate at Tenth Avenue on the boardwalk in Belmar, New Jersey, comprising 800 square feet.”
- 2) Paragraph 7 of the Parties’ Lease Agreement shall be amended to include a paragraph (A) stating as follows: “Notwithstanding any provision contained herein to the contrary, Tenant shall be permitted to set up an outdoor eating area with a tent structure, in the location described and as depicted in Exhibit A attached hereto, until October 31, 2018. On or before November 1, 2018, Tenant shall completely remove all tent frames, coverings, attachments, lashings, or other tent components of whatever form or description from the Property. While erected, all tent frame components supported by the ground must be clearly visible to pedestrians and other passersby so as not to constitute a safety hazard and Landlord’s Zoning Officer may require a decorative chain or other means to ensure visibility of frame components supported by the ground. Graphic content on the tent structure shall conform to the requirements for canopies under 40-7.24, Schedule 40.7-1 and Zone District Requirements of the Borough of Belmar. Except for permitted construction or repair of the tent, at no time shall Tenant be permitted to remove the tent covering and leave bare frame components visible.”
- 3) Paragraph 8 of the Parties’ Lease Agreement shall be amended to state as follows: “The Tenant agrees to use the Property only for the purpose of sale of food products, beverages, ice cream, frozen yogurt, frozen fruit products or other dessert products. The Tenant shall operate its business and be open for business, at minimum, from May 15th through September 15th of each year. The Tenant may otherwise be open for business at the Property at its discretion, and Landlord shall not require the Tenant to operate year-round.”
- 4) Tenant shall be permitted to set up an area near its business on Landlord’s beachfront in accordance with the provisions of Belmar Borough Ordinance No. 40-7.32.2 that are applicable to “Outdoor Eating Areas”, provided however, that the public may not be excluded from said area, regardless of whether or not such persons are patrons or customers of Tenant’s business.

ATTEST:

BOROUGH OF BELMAR (Landlord)

Borough Clerk

Colleen Connolly, Business Administrator

10TH AVENUE FREEZE OUT, LLC (Tenant)

Witness

Hilary Colanduoni, Owner/Tenant

**FIRST ADDENDUM TO LEASE AGREEMENT, DATED APRIL 20, 2017,
BETWEEN THE BOROUGH OF BELMAR AND M2 CONCESSIONS, LLC**

WHEREAS, on April 20, 2017, the Borough of Belmar (“Landlord”) and M2 Concessions, LLC (“Tenant”) (collectively, the “Parties”) entered into a Lease Agreement for the Tenth Avenue Pavilion Concession Area North End; and

WHEREAS, the Parties desire to clarify and modify certain terms and conditions contained in the Lease Agreement to more specifically define their respective rights and obligations and to avoid potential conflicts in the future;

NOW, THEREFORE, the Parties hereby covenant and agree as follows:

- 1) Paragraph 8 of the Parties’ Lease Agreement shall be amended to state as follows: “The Tenant agrees to use the Property only for the purpose of sale of food products, beverages, ice cream, frozen yogurt, frozen fruit products or other dessert products. The Tenant shall operate its business and be open for business, at minimum, from May 15th through September 15th of each year. The Tenant may otherwise be open for business at the Property at its discretion, and Landlord shall not require the Tenant to operate year-round.”
- 2) Tenant shall be permitted to set up an area near its business on Landlord’s beachfront in accordance with the provisions of Belmar Borough Ordinance No. 40-7.32.2 that are applicable to “Outdoor Eating Areas”, provided however, that the public may not be excluded from said area, regardless of whether or not such persons are patrons or customers of Tenant’s business.

ATTEST: BOROUGH OF BELMAR (Landlord)

Borough Clerk Colleen Connolly, Business Administrator

M2 Concessions, LLC (Tenant)

Witness Tenant