

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

Mayor Fernandes read the following 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 REGULARLY SCHEDULED MEETING HAS BEEN ADVERTISED IN THE LINK ON JANUARY 20, 2011 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, Murphy, Mayor Fernandes  
Attorney McNamara, Chief Financial Officer Bascom Engineer Flor,  
Police Chief Sorrentino, Administrator Smeltzer  
**ABSENT:** Long, Attorney Oxley

**4. REMARKS FROM THE AUDIENCE (limited to 3 minutes)**

Margaret Lyford of 786 Ocean Avenue commented about the story reporting policies of the Sea Breeze.

No one else wished to be heard. Councilman Kelly introduced a motion to close the meeting to the public. Second by Councilman Murphy and approved upon unanimous voice vote.

**5.**

**A.** Unified Planning Board's letter dated February 9, 2011 offering comments and recommendations for Ordinance 4-2011.

Councilman LoBiondo recused himself from the proceedings.

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

**RESOLUTION NO. 74-2011**  
**BOROUGH OF SEA BRIGHT**  
**CONCERNING THE REVIEW OF ORDINANCE 4-2011**  
**BY THE PLANNING BOARD OF THE BOROUGH**

**WHEREAS,** Ordinance 4-2011 was introduced by the Borough Council of the Borough of Sea Bright and, pursuant to the Municipal Land Use Law, referred to the Planning Board of the Borough for its review and recommendations; and

**WHEREAS,** the Planning Board undertook its review at its meeting of February 8, 2011 and offered a series of comments and recommendations, pursuant to the provisions of N.J.S.A. 40:55D-26(a); and

**WHEREAS,** the report from the Planning Board notes that the reexamination report of the Master Plan and development regulations of March 2003 recommended rezoning the subject property from R-2 to R-1, it did note that it was consistent with the Master Plan with regard to regulating the point of ingress/egress, which this governing body agrees is consistent with the Master Plan; and

**WHEREAS**, under N.J.S.A. 40:55D-62(a), if a zoning ordinance or amendment is in whole or in part inconsistent with the land use plan element and housing plan element or Master Plan of the municipality, such amendment can still be adopted by an affirmative vote of the majority of the full authorized membership of the governing body; and

**WHEREAS**, this proposed zoning amendment is brought to resolve a builder's remedy lawsuit filed against the Borough in Scudieri v. Borough of Sea Bright, et al., and which will provide for the creation of four affordable housing units consistent with the requirements of the Fair Housing Act and its implementing regulations as promulgated by the Council on Affordable Housing; and

**WHEREAS**, the Borough Council believes that resolving this litigation and creating the opportunity for the creation of these affordable housing units will help the Borough meet its constitutional mandate under the New Jersey State Constitution, the Fair Housing Act, and COAH regulations; and

**WHEREAS**, the Borough Council respectfully disagrees with the recommendation of the proposed change to accessory uses in the Ordinance as set forth within the recommendation report of the Planning Board, finding that accessory uses are already properly regulated, and that the proposed Ordinance addresses the issue with regard to accessory uses as it pertains to lot coverage.

**NOW THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Sea Bright as follows:

1. The adoption of Ordinance 4-2011 is designed to resolve a builder's remedy lawsuit filed against the Borough and to provide for the opportunity for the creation of four affordable housing units consistent with regulations promulgated by COAH pursuant to the requirements under the Fair Housing Act.

2. The Borough Council respectfully disagrees with the recommended change to Ordinance 4-2011 as it pertains to the regulation of accessory uses.

3. The Borough Council directs that the Borough Clerk provide copies of both the aforesaid Ordinance and this resolution to the Secretary to the Planning Board of the Borough; the municipal clerks of adjacent municipalities; to the Monmouth County Planning Board; and to effectuate publication of the final notice and adoption of both the aforesaid Ordinance and this resolution.

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

Ayes: Bills, Keeler, Kelly, Murphy

Nays: None

Abstain: None

Absent: LoBiondo, Long

Administrator Smeltzer called for the Second Reading, by Title Only, of the following Ordinance, which was introduced and approved at the Council Meeting of February 1, 2011.

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

**ORDINANCE NO. 4-2011**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF  
SEA BRIGHT, SPECIFICALLY CHAPTER 130, TO CREATE A NEW  
HOUSING DISTRICT ENTITLED "R - 4 MULTI FAMILY HOUSING"  
COMPRISED OF BLOCK 34, LOT 4 ON OCEAN AVENUE**

**WHEREAS**, the Mayor and Council recognize that the Borough has an obligation to provide for the reasonable development of diverse types of housing, including provision for the development of multi-family housing combined with making provision for affordable housing units within appropriate areas of the Borough, and to provide for such affordable housing in a manner that does not constitute spot zoning; and

**WHEREAS**, the Borough has determined that Block 34, Lot 4 should be rezoned to provide for the development of multi-family housing, which will also allow the Borough to satisfy part of its affordable housing obligations pursuant to the Fair Housing Act and implementing regulations as promulgated by the Council on Affordable Housing ("COAH"), as well as to resolve a pending "builders remedy" lawsuit; and

**WHEREAS**, the Borough has determined that Block 34, Lot 4 is a site appropriate for multi-family residential development which also provides for inclusionary and affordable housing consistent with the Fair Housing Act and COAH regulations.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Sea Bright that:

**Section I.**

A new Section entitled "R-4 Multi Family Housing" ("R- 4 MFH") is hereby added to Chapter 130 and shall provide as follows:

A. The land to which this district applies includes Block 34, Lot 4 in the Borough of Sea Bright.

B. Zoning Criteria:

(1) Permitted principal uses comprised of the following:

(a) Multi-family B; no one building shall contain more than 12 residential units.

(b) Public uses including public parks and recreation facilities.

(2) Accessory uses: Accessory uses which are customarily incidental to the principal use shall be permitted.

(3) Zoning standards: The zoning ordinance intends for the site to be developed as one cohesive project.

- (a) Maximum density shall be no more than 19 units per gross acre; four residential units shall be set aside to be developed as "affordable units" in accordance with COAH regulations.
  - (b) Minimum lot area: 1 acre.
  - (c) Minimum lot width: 100 feet.
  - (d) Minimum lot depth: 100 feet.
  - (e) Maximum building height: 45 feet and 3 ½ stories.
  - (f) Maximum building coverage: 30 percent.
  - (g) Maximum total impervious coverage: 80 percent.
  - (h) Minimum front yard building setback: 30 feet
  - (i) Minimum rear yard setback: 20 feet
  - (j) Minimum side yard setback: 8 feet
- C. Necessary off-tract improvements shall be made per the requirements of the Municipal Land Use Law.
- D. Supplemental Design Standards: Deviations from these standards, as well as other design standards set out in Borough ordinances, may be granted via design waiver.
- (1) Residential uses shall utilize the Residential Site Improvement Standards to determine the residential parking requirement with regard to number of parking spaces.
  - (2) No more than one point of ingress/egress shall be allowed on Ocean Avenue.
  - (3) NJDOT approval for the installation of any new driveway access shall be required.

## **Section II.**

The Zoning Map of the Borough is amended to redesignate Block 34, Lot 4 from an R-2 Zone to the R- 4 MFH Zone.

## **Section III.**

All other sections of Chapter 130 shall remain in full force and effect. In the event there is any conflict or inconsistency between this particular ordinance and the rest of Chapter 130, the terms in this ordinance shall prevail.

**Section IV.**

Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any section or part hereof.

**Section V.**

All ordinances, codes or parts thereof that are inconsistent with this Ordinance are repealed or otherwise modified.

**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 Bills and approved by the following vote:

Ayes: Bills, Keeler, Kelly, Murphy

Nays: None

Abstain: None

Absent: LoBiondo, Long,

Kevin Kennedy, Esq., representing Land's End Condominium Associaton said that it appears that because over the last several years agents of the Borough of Sea Bright did not affirmatively address COAH-mandated obligations and/or otherwise receive Substantive Certification from COAH, the Borough is open to, and vulnerable to, a Builder's Remedy Lawsuit, such as the case at hand (Scudiery vs. Borough of Sea Bright, et al) (Docket No.: MON-L-1103-10). That is, it appears that because the Borough did not previously avail itself to COAH-mandates, the Borough, the Land's End Condominium Association, and all Sea Bright residents are now victims of a Builder's Remedy Lawsuit - which allows a Developer (like Mr. Scudiery) to propose, and likely receive approval for, a Development which, under typical circumstances, might never ever be reasonably considered by the Borough's Land Use Board (because of its excess density, because of the non-permitted nature of the use, or other restrictions, the need for bulk variances, etc.)

The Association representatives are of the further belief that the aforementioned precarious legal position is the only basis why proposed Ordinance No. 4-2011 is even being considered. Because the ability of a municipal government to adopt amend Zoning Ordinances is one of a local government's most important functions, the said situation is unfortunate - for Association representatives believe that good appropriate zoning should only be generated by the Municipal Council, based upon the needs of a community or the characteristics of a particular area. Here, however, we are dealing with a Developer-driven Ordinance, prepared on the heels of a threatening and risky lawsuit.

Clearly, because the financial needs goals objectives of a Developer are quite different from the municipal government goals of promoting the health, safety, and welfare of its

citizenry, under the circumstances, any final product will be, or could be, less than ideal.

Additionally, after extensive research and discussion on the matter and preliminary analysis of controlling case law, and based on the information known to date, the Condominium Association is leery about a long, protracted defense or fight to the Scudierey litigation. The reason for such apprehension includes the following:

- It is presumed that the Borough has authorized its legal representatives to professionally review the matter based upon knowledge of all relevant facts. It is further presumed that the Borough's legal representatives have concluded that there is no realistic / feasible basis to defend / dismiss / challenge the lawsuit - and, for record-keeping purposes, I would ask that the Borough Attorney please confirm the same.

- It is presumed that in the absence of compelling environmental constraints and / or other extraordinary circumstances, current New Jersey Case Law does not provide municipalities (which have not obtained Substantive Certification from COAH) with reasonable grounds to contest Builder's Remedy Lawsuits. Again, for record-keeping purposes, it is requested that the Borough Attorney confirm the same.

- Typically, such defense to the litigation would come from the Borough itself - and it does not appear, based upon the preliminary facts known, that the Borough is officially contesting the case.

- The Land's End Condominium Association simply does not have the resources (financial or otherwise) to mount, on its own what would appear to be a long, extensive, and up-hill legal battle.

1. It is against this precarious and threatening backdrop that, to the Associations' institutional knowledge, the Ordinance comes before you tonight. Simply speaking, we, the representatives of the Association, do not believe that in the context of the Scudierey litigation, the Borough is negotiating from a position of strength - or even on a level playing field. Rather the COAH regulations and associated case law have severely tied the hands of what the Borough can do - and that concept is truly troubling.

2. That notwithstanding, the Association representatives are sensitive to, and appreciative of, the good faith efforts which Mayor/Council Members have gone to so as to ensure that the Association representatives were kept abreast of developments pertaining to the Ordinance, the status of the Ordinance, and very many amendments associated therewith. On a personal note, I also want to thank the Borough Clerk, the Borough's Clerk's Office, and the Planning Board Secretary/Office because they all were extremely pleasant, and thorough, and efficient in keeping us up to speed on what was happening, and when things were happening, etc. I am fortunate to work in a number of towns in the area and, in many respects, communication from the Borough

Clerk/Planning Board were awesome, and that openness is very much appreciated.'

3. As far as the initially submitted Ordinance and initial concepts as referenced in the litigation complaint (not the one up for adoption tonight), the Association had a lot of concerns and issues.

4. The reasons for the concerns and issues and fears were that the development site is a gateway/entranceway to all those who visit/enter Sea Bright from the north - and, as such, it is imperative that any development be aesthetically pleasing and appropriate. Some of the items in the initial version of the Ordinance (and/or litigation complaint) were troubling.

5. Moreover, as the Development Site is immediately adjacent to the Land's End Condominium Association, the Development will have a direct and major impact on the Association residents - including, but not limited to the following areas:

- Architectural concerns;
- Aesthetic concerns;
- Traffic concerns;
- Concerns regarding the impact on home values;
- Quality of life concerns;
- Density concerns
- Traditional air, space, and open light concerns; and
- Impact on existing views.

6. Accordingly, several months ago, the Association communicated to you in the hope that it could be a meaningful participant in ensuring that the Development is constructed within appropriate parameters and without causing substantial detriment to the Borough as a whole, or to the Land's End Community in particular.

7. Given the existence of the litigation, and given that the presumably soon-to-be adopted Ordinance will serve as a blueprint for what the Developer ultimately proposes/ builds, it was suggested that the Association concerns be reviewed / addressed in conjunction with the Ordinance adoption process.

8. It is believed that the list of concerns was reviewed by the Mayor and Council, and later shared with the developer, which resulted in a number of improvements/modifications - and the Association representatives are thankful for the same.

9. Additionally, the developer's attorney and design representatives recently took the time (on or about February 9, 2011) to meet with Association representatives to share design concepts and relay information about the project. At that time,

developer's representatives advised as to a number of design details/modifications - including, the following:

- A reduction in height (50 feet to 45 feet);
- Reduction in the density;
- Construction of a lesser number of units - i.e. 24 units;
- There would be a formal Association, organized in accordance with the requirements of New Jersey law;
- The Association documents would contain a provision that if the units were to be rented, they would have to be rented on a year basis (so as to avoid the issue of transients continually moving in, moving out, etc.); and
- The marina would only be open for and/or utilized by the residents of the complex.

10. The aforesaid thoughts/concepts/modifications appeared to assuage some of the concerns of some of the Association's Board of Directors - and individual Association members may or may not be sharing their private thoughts later on tonight.

11. As you can imagine, dealing with an Association can be a little tricky, in that there are a number of residents, a number of viewpoints, and a number of directions on how to handle things. Thus, in order to facilitate our membership's individual and collective review of the material, the developer's representatives e-mailed the design concepts to Association representatives so that the material could be more easily distributed to, and reviewed by, all members, at their respective free times, etc. The developer's representatives also agreed that in advance of the associated site plan hearing, the developer would:

- Provide us with sample building/construction materials;
- Work with us regarding the type of landscaping to be planted at the site. (Though no representations were made, the developer's representatives indicated that they would consider the recommendations and wishes of Association representatives); and
- That it would enter into some of our Association units so as to consider performing some type of View Impact Study so that all Association representatives could have a better understanding of the overall view impact that the construction of the project would have.

12. In short, the developer's attorney, Thomas Hirsch, Esq., committed to utilizing good faith efforts to work with the Association. While no binding representations were made, nor really could any binding representatives be made at that time, we know Thomas Hirsch and we know him to be a man of his word - and we appreciate that the lines of communication are open.

13. So, ladies and gentlemen of the governing body, in conclusion, it is unfortunate that we are in the situation we are in. However, given that very situation, and given the realities of existing COAH regulations and restrictions, and the associated case law, we are resigned to work with everyone so as to ensure, to the greatest extent possible, that the end results will be as good as possible for the Borough of Sea Bright as a whole, and for the Land's End Condominium Association specifically.

14. As an aside, Association representatives respectfully ask that Borough Council review the matter with their legal representatives so as to address/ finalize certain potentially open legal issues, including:

A. As part of the litigation process, to the extent possible, can the Borough attempt to obtain some type of immunity order (or the equivalent) so as to ensure that once this particular litigation case is over, hopefully, the Borough will no longer be vulnerable to any additional Builder's Remedy Lawsuit (knowing, of course, that is quite possible that the existing COAH regulations may be changing, even as we speak).

On behalf of the Association, I want to thank you for your time and consideration.

Michael Leighton of 174 Ocean Avenue inquired as to how much the town paid on legal fees for this matter.

Ruth Fialco of 158 Ocean Avenue said that the final plans are an improvement.

Bob Cruetzberg of Mountainview Way said that he is opposed to the proposed buildings next to his property.

Dr. Weinstein of 174 Ocean Avenue said that COAH is a mess and this will decrease the value of his property and change the nature of the neighborhood.

Teresa Wong of Ocean Avenue said that she did not understand how this was approved and that only this evening we are able to discuss this.

Pete Gray of 174 Ocean Avenue said that the Council's lack of action brought this lawsuit to the town.

Ms. Fialco said that she hoped that the town researched other options before making this agreement.

Thomas Hirsch Esq. representing Victor Scudieri the developer of the property in question said that this gives the Borough the ability to satisfy their Mt. Laurel obligations.

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

Ayes: Bills, Keeler, Kelly, Murphy

Nays: None

Abstain: None

Absent: LoBiondo, Long

Councilman Murphy made a motion to approve Ordinance No. 4-2011 on its Third and Final Reading and advertise it according to law. Second by Councilwoman Bills and approved upon the following vote:

Ayes: Bills, Keeler, Kelly, Murphy

Nays: None

Abstain: None

Absent: LoBiondo, Long

Councilman LoBiondo returned to the meeting at 8:50 p.m.

D. Administrator Smeltzer read by title only and Councilman Keeler introduced an Ordinance entitled.

**BOND ORDINANCE NO. 6-2011**

**BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$380,000 FOR THE ACQUISITION OF FIRE APPARATUS FOR AND BY THE BOROUGH OF SEA BRIGHT IN THE COUNTY OF MONMOUTH, NEW JERSEY AND, AUTHORIZING THE ISSUANCE OF \$361,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.**

and moved the same be approved upon first Reading, held over for Second Reading and Public Hearing to be held on April 5, 2011. Second by Councilman Murphy and approved upon the following vote:

Ayes: Bills Keeler, Kelly, LoBiondo

Nays: None

Abstain: Murphy

Absent: Long

\*Supplemental Date Statement received on March 9, 2011.

E. Administrator Smeltzer read by title only and Councilman Murphy introduced an Ordinance entitled.

**BOND ORDINANCE NO. 7-2011**

**BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$500,000 FOR THE IMPROVEMENTS TO MUNICIPAL FACILITIES AND DEVELOPMENT OF NEW MUNICIPAL FACILITIES FOR AND BY THE BOROUGH OF SEA BRIGHT IN THE COUNTY OF MONMOUTH, NEW JERSEY AND, AUTHORIZING THE ISSUANCE OF \$475,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.**

and moved the same be approved upon first Reading, held over for Second Reading and Public Hearing to be held on April 5, 2011. Second by Councilman Keeler and approved upon the following vote:

Ayes: Bills Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

\*Supplemental Debt Statement received on March 9, 2011.

F. Administrator Smeltzer read by title only and Councilman Murphy introduced an Ordinance entitled.

**BOND ORDINANCE 8-2011**  
**BOND ORDINANCE AMENDING BOND ORDINANCE  
NUMBER 20-2005 FINALLY ADOPTED BY THE  
BOROUGH COUNCIL OF THE BOROUGH OF SEA  
BRIGHT, NEW JERSEY ON NOVEMBER 1, 2005**

and moved the same be approved upon first Reading, held over for Second Reading and Public Hearing to be held on April 5, 2011. Second by Councilwoman Bills and approved upon the following vote:

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

G. Administrator Smeltzer read by title only and Councilman Murphy introduced an Ordinance entitled.

**ORDINANCE NO. 9-2011**  
**BOROUGH OF SEA BRIGHT**  
**AN ORDINANCE PROVIDING FUNDING FOR STRUCTURE  
ELEVATION PROJECT FOR THE BOROUGH OF SEA  
BRIGHT AND APPROPRIATING \$250,000 FOR SUCH  
PURPOSE.**

and moved the same be approved upon first Reading, held over for Second Reading and Public Hearing to be held on April 5, 2011. Second by Councilwoman Bills and approved upon the following vote:

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

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

**RESOLUTION NO. 67-2011**  
**TEMPORARY CAPITAL BUDGET**  
**BOROUGH OF SEA BRIGHT**

Whereas, it is desired to adopt a temporary capital budget,

Project	Project Number	Estimated Total Cost	Amounts Reserved in Prior Years	Planned Funding Services for Current Year 2011					To Be Funded in Future Years
				2011 Budget Appropriations	Capital Improvement Fund	Capital Surpluses	Grants in Aid and Other	Debt Authorized	
Improvement To Municipal Facilities		\$500,000							

							Funds		
					25,000			475,000	
Acquisition of Fire Truck		380,000			19,000			361,000	
Total		880,000			44,000			836,000	

3 YEAR CAPITAL PROGRAM 2011- 2013  
ANTICIPATED PROJECT SCHEDULE AND FUNDING REQUIREMENT

Project	Project Number	Estimated Total Cost	Estimated Completion Time	Funding Amounts Per Year					
				Budget Year 2011	20__	20__	20__	20__	
Improvement to Municipal Facilities		\$500,000	2011						
				500,000					
Acquisition of Fire Truck		380,000		380,000					
Total		880,000		880,000					

Project	Estimated Total Cost		Budget Appropriations		Capital Improvement Fund	Capital Surplus	Grants in Aid and Other Funds	Bonds and Notes		
	Current Year 2010	Future Years						General	Self-Liquidating	Assessment
Municipal Facilities	500,000				25,000		475,000			
Acq. of Fire Truck	380,000									
Totals All Projects	880,000				19,000		361,000			

Now, Therefore Be It Resolved, by the Governing Body of the Borough of Sea Bright County of Monmouth that the following temporary capital budget be adopted.

Be It Further Resolved, that two certified copies of this resolution in the Office of the Director of Local Government Services.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

7. Councilman Murphy introduced and approved for adoption the following Resolution:

**RESOLUTION NO. 66-2010  
AUTHORIZE TRANSFER OF FUNDS**

**WHEREAS**, N.J.S.A. 40A:4-59 permits the transfer of 2010 Budget appropriation reserves during the first three months of the fiscal year; and

**WHEREAS**, the Chief Financial Officer has recommended that the following appropriation transfer be authorized:

<b>Appropriation</b>	<b>Amount From</b>	<b>Amount To</b>
A&E S/W	\$ 400.00	
Planning Board S/W	\$ 2,800.00	
Emergency Management S/W	\$ 300.00	
Streets & Roads S/W	\$11,325.00	
A&E O/E		\$ 400.00
Planning Board O/E		\$ 2,800.00
Emergency Management O/E		\$ 300.00
Streets & Roads O/E		\$ 11,000.00
Recycling Tax		\$ 25.00
Volunteer Fire O/E		\$ 300.00
<b>Total</b>	<b>\$14,825.00</b>	<b>\$14,825.00</b>

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that the 2010 Budget appropriations be transferred as stated herein; and

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the Chief Financial Officer and Auditor. Second by Councilman Keeler and adopted upon the following roll call vote:  
 Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy  
 Nays: None  
 Abstain: None  
 Absent: Long

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

A. Councilwoman Bills introduced and approved for adoption the following:

**RESOLUTION NO.64-2011  
 PAYMENT OF BILLS 03-15-2011**

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

NOW, THEREFORE, BE IT RESOLVED that these vouchers totaling \$ 328,964.15 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		
11-00261	02/24/11 DPW-MAR 2011 PAGER SERVICE	Open	50.97
00840	APPLE COMPUTERS, INC.		
10-01501	12/15/10 LIBRARY-MACBOOK PRO COMPUTER	Open	1,282.00
00003	ASBURY PARK PRESS		
11-00002	01/21/11 MUNI CLERK-BLANKET:NOTICES	Open	184.00
00384	AT & T MOBILITY		
11-00260	02/24/11 DPW-FEB 2011 CELL BILL	Open	192.21
02036	BAHRLE, DAVID		
11-00265	02/28/11 DPW-REIMB:NEW CELL PHONE	Open	15.92
01957	BENEMAX BENEFIT MANAGEMENT CO.		
11-00296	03/03/11 03/11 DENTAL PLAN MANAGEMENT	Open	312.00
01925	BORO OF SEA BRIGHT/EE' HEALTH		
11-00267	02/28/11 REPLENISH HEALTH INS FUND	Open	10,000.00
01974	BOROUGH OF SEA BRIGHT COURT		
11-00314	03/10/11 COURT-02/11 CREDIT CARD REIMB	Open	209.28

01249	BRANAGAN, SUZANNE		
11-00264	02/28/11 A&E-2/23/11 TRAVEL	Open	27.54
11-00293	03/03/11 A&E-3/1/11 TRAVEL	Open	27.54

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55.08

00230	CERTIFIED SPEEDOMETER		
11-00187	02/10/11 POLICE DEPT-CALIBRATE VEHICLES	Open	108.00
00982	CITY OF LONG BRANCH		
11-00103	02/01/11 DPW-BLANKET:ROCK SALT	Open	5,470.92

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00198	COMCAST		
11-00292	03/03/11 FIRE DEPT-INTERNET:MAR 2011	Open	95.17
11-00310	03/08/11 A&E-INTERNET:MAR 2011	Open	95.17

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190.34

01493	COOPERATIVE INDUSTRIES, L.L.C.		
10-01443	12/06/10 DEC 2010 NATURAL GAS	Open	6,152.12
00419	DRAEGER SAFETY DIAGNOSTICS, INC		
11-00259	02/24/11 POLICE DEPT-SIMULATOR RECERT	Open	142.00
00077	FLEET SERVICES		
11-00313	03/10/11 GASOLINE - MAR 2011	Open	3,721.79
01549	GENERAL CODE PUBLISHERS CORP.		
11-00302	03/07/11 A&E-SUPPLEMENT #57	Open	4,769.54
01363	IRON MOUNTAIN, INC.		
11-00152	02/07/11 A&E-VAULT:2011 SERVER BACKUPS	Open	154.08
00895	JOHNNY ON THE SPOT, INC.		
11-00295	03/03/11 PORTO-POTS - MAR 2011	Open	409.20
02071	LAB SAFETY SUPPLY, INC.		
11-00181	02/09/11 SEWER-GLOVES	Open	149.26
00770	LAKEWOOD BLUECLAWS		
11-00111	02/01/11 REC-60 TICKETS:8/19/11 GAME	Open	545.00
00015	LANIGAN ASSOCIATES, INC.		
11-00247	02/22/11 POLICE DEPT-PUNCH 11 SPRAY	Open	132.00
00275	M & S WASTE SERVICES, INC.		
11-00110	02/01/11 DUMPSTER+DISP FEE:XMAS TREES	Open	500.00
11-00155	02/07/11 2011 TRASH/RECYCLING PICKUP	Open	9,725.00
11-00308	03/08/11 02/11 LANDFILL TIPPING FEES	Open	5,339.25

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15,564.25

00106	MGL FORMS-SYSTEMS, LLC		
11-00133	02/02/11 TAX COLL-REBATE FORMS	Open	51.00
01985	MOBILE MINI, INC.		
11-00268	02/28/11 POLICE-TRAILER 2011 PYMT 03/13	Open	278.00
00688	MONMOUTH COUNTY POLICE ACADEMY		
11-00242	02/22/11 POLICE DEPT-AMMO:BASIC COURSE	Open	1,584.12
00340	MORRIS, KATHLEEN		
11-00300	03/04/11 REC-REIMB:TRAVEL & SUPPLIES	Open	21.19
01505	NETIXCHANGE, INC.		
10-01540	12/31/10 BEAUTIFICATION-(20) PLANTERS	Open	3,558.72
00158	PITNEY BOWES CREDIT CORP.		
11-00064	01/21/11 POLICE DEPT-2011 METER RENTAL	Open	48.00
00456	SEA BRIGHT SENIOR CITIZENS		
11-00288	03/02/11 WEDDINGS PERFORMED BY MAYOR	Open	1,000.00
01554	SEA BRIGHT SERVICE CENTER		
11-00138	02/02/11 POLICE-BLANKET:VEHICLE MAINT	Open	38.95
00027	SEABOARD WELDING SUPPLY, INC.		
11-00197	02/10/11 DPW - 2011 CYLINDER RENTAL	Open	12.70
00083	T & M ASSOCIATES		
11-00135	02/02/11 EASEMENTS FOR NORMANDIE PLACE	Open	593.75
01285	THE HOME DEPOT		
11-00198	02/10/11 BLDGS/GRNDS-BLANKET:MISC SUPP	Open	18.98
00363	TRICO EQUIPMENT, INC.		
11-00248	02/22/11 DPW-SERVICE CASE LOADER	Open	158.89
02114	TWO RIVERS WATER RECLAMATION		
11-00318	03/10/11 2011 PYMT 1/4 SEWER CHARGE	Open	93,070.75
01150	W.W. GRAINGER, INC.		
11-00262	02/25/11 SEWER-PARTS:FORCE MAIN REPAIR	Open	42.93
01557	ZIMMERER, MARK A.		

11-00217 02/17/11 BLDGS/GRNDS-REPAIR CIRCUIT	Open	170.00
Boro Of Sea Bright Payroll A/C (2/15/11 Payroll)		80,682.85
Boro Of Sea Bright Payroll A/C (2/28/11 Payroll)		95,820.95
Dinapoli, John (Escrow Refund)		481.83
Hirsch, Linda (Escrow Refund)		460.00
Imbrie Place Partners, Llc (Escrow Refund)		612.01
James, Frederick (Escrow Refund)		292.32
T & M Associates (Escrow)		<u>156.25</u>
Total		328,964.15

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**B.** Councilwoman Bills introduced a motion adopting the March 1, 2011 Council Meeting. Second by Councilman LoBiondo and approved upon the following roll call vote:

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**C.** Councilwoman Bills introduced a motion approving the request from Sea Bright Methodist Church to conduct Easter Sunrise service - Sunday, April 24<sup>th</sup> 2 5:45 a.m. Second by Councilman LoBiondo and approved upon the following roll call vote:

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**D.** Councilwoman Bills introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 68-2011  
BOROUGH OF SEA BRIGHT**

WHEREAS, the Mayor and Council of the Borough of Sea Bright hereby authorize Jaclyn J. Flor, P.E. of T&M Associates to order a survey for the property known as 8 Center Street as part of the Severe Repetitive Loss FY2010 program; and

WHEREAS, the Mayor and Council of the Borough of Sea Bright hereby authorize Jaclyn J. Flor, P.E. of T&M Associates to order said survey in an amount not to exceed \$3,000.

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 LoBiondo and adopted upon the following roll call vote:

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**E.** Councilwoman Bills introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 69-2011  
BOROUGH OF SEA BRIGHT**

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WHEREAS, the Mayor and Council of the Borough of Sea Bright are in need of Professional Engineering Services associated with the preparation of materials and the attendance of a regulatory requirements meeting with NJDEP and ACOE involving the permitting and the development of the municipal facilities project in accordance to the engineering proposal/letter prepared by Jaclyn J. Flor, P.E. of T&M Associates dated February 24, 2011, and

WHEREAS, the Mayor and Council of the Borough of Sea Bright hereby authorize Jaclyn J. Flor, P.E. of T&M Associates to provide the services as outlined in the proposal/letter dated February 24, 2011 in an amount not to exceed \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that Jaclyn J. Flor, P.E. of T&M Associates is hereby authorized to perform the above services as stated herein.

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright do hereby certify that funds are available in Bond Ordinance 20-2005 for the purpose stated in the above resolution.

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MICHAEL J. BASCOM, C.F.O.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**F.** Councilwoman Bills introduced a motion approving the request from Claddah na nGael to run one week Irish music/dance camp - August 1<sup>st</sup>. Second by Councilman LoBiondo and adopted upon the following roll call vote:

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**G.** Councilwoman Bills introduced a motion approving the request for Palm Sunday procession on April 17<sup>th</sup> at 10:00 a.m. from Holy Cross Church.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

H. Councilwoman Bills introduced and offered the following Resolution for adoption:

**BOROUGH OF SEA BRIGHT  
RESOLUTION NO. 71-2011**

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**WHEREAS**, the Finance Manager has indicated that the unused Planning Board escrow monies shall be refunded to:

<b>APPLICANT</b>	<b>REFUND</b>
1. Eric Lynn 24 Beach Street	\$274.48
2. Imbrie Place Partners, LLC 9 Imbrie Place	\$612.01
3. Frederick James 18 Center Street	\$292.32

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Sea Bright hereby authorize the unused Planning Board escrow monies be refunded.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**9. NEW BUSINESS:**

**A.** Councilman Keeler introduced a motion approving the request for Social Affair Permit - SBF D Firemen's Fair 5/19 to 5/22.

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

Ayes: Bills, Keeler, Kelly, LoBiondo

Nays: None

Abstain: Murphy

Absent: Long

**B1.** Chief of Police report.

**B2.** Fire Chief report.

**B3.** Councilman Murphy introduced a motion denying the request to host a fireworks display on beach - June 11, 2011.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

**C.** Councilwoman Bills introduced and offered for adoption the following Resolution:

**RESOLUTION NO. 70-2011  
BOROUGH OF SEA BRIGHT**

**WHEREAS**, the Borough of Sea Bright wishes to acquire from an authorized vendor under the State of New Jersey Cooperative

Purchasing Program equipment for the Police Department from Mall Chevrolet, 75 Haddonfield Road, Cherry Hill, NJ 08002; and

**WHEREAS**, the purchase of goods and services by local contracting units is authorized by the Local Public Contracts Law, NJSA 40A:11-12; and

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**WHEREAS**, the cost for the purchase of 2011 Chevrolet Tahoe SSV 4WD Black with marked package is \$33,882.70; and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright hereby authorize the purchase of 2011 Chevrolet Tahoe SSV 4WD Black with marked package; and

#### **CERTIFICATION OF FUNDS**

I, Michael J. Bascom, Chief Financial Officer, of the Borough of Sea Bright do hereby certify that funds are available in MCIA 2005 Capital Equipment Lease Program for the purpose stated in the above resolution.

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MICHAEL J. BASCOM, C.F.O.

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

Ayes: Bills, Keeler, Kelly, LoBiondo

Nays: None

Abstain: Murphy

Absent: Long

**D.** Councilwoman Bills introduced and offered the following Resolution for adoption:

#### **RESOLUTION NO. 75-2011 SELF-EXAMINATION OF 2011 BUDGET**

**WHEREAS**, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

**WHEREAS**, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

**WHEREAS**, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Borough of Sea Bright has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2009 budget year.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Borough of Sea Bright that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's

certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- a. Payment of interest and debt redemption charges
- b. Deferred charges and statutory expenditures
- c. Cash deficit of preceding year
- d. Reserve for uncollected taxes
- e. Other reserves and non-disbursement items
- f. Any inclusions of amounts required for school purposes.

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:

- a. All estimates of revenue are reasonable, accurate and correctly stated,
- b. Items of appropriation are properly set forth
- c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

Councilman Murphy said that this reflects a decrease in spending of 3% which will help in these tough economic times. We will continue to look for innovative methods of services to help maintain this tax base. The decrease in revenue for 2010 impacted the 2011 budget bringing an increase of 3 cents per one hundred dollars of assessed value. This is about \$30 per hundred thousand value of a home. This budget is more than \$600,000 below the state appropriation CAP. The Borough Council is confident that the department heads will continue to work closely throughout 2011 to boost revenues and reduce costs

bringing together tax stability. The 2011 budget hearing will be April 19, 2011.

D. Councilman Murphy introduced and offered for adoption the following resolution:

**RESOLUTION NO. 72-2011  
BOROUGH OF SEA BRIGHT**

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BE IT RESOLVED that the following Statements of Revenue and Appropriations shall constitute the Municipal Budget for the Year 2011.

BE IT FURTHER RESOLVED that said Budget would be published in the Asbury Park Press in the issue of March 25, 2011.

General Appropriations for Municipal Purposes within CAPS	\$ 3,873,280.00
General Appropriations for Municipal Purposes excluded from CAPS	\$ 918,738.16
Reserve for Uncollected Taxes based on 95.25 Percent of Tax Collection	\$ 400,000.00
Total General Appropriation	\$ 5,192,018.16
Less: Anticipated Revenues other than current property tax	\$ 1,354,841.54
Difference: Local Tax for Municipal Purpose including Reserve for Uncollected Taxes	\$ 3,837,176.62

A Public Hearing on the Budget and Tax Resolution will be held at the Cecile F. Norton Council Meeting Room on April 19, 2011 at 7:30 p.m. at which time and place objections to said Budget and Tax Resolution for the year 2011 may be presented by the taxpayers or other interested parties.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

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

**RESOLUTION NO. 73-2011  
BOROUGH OF SEA BRIGHT**

**BE IT RESOLVED,** by the Governing Body of the Borough of Sea Bright that the rates and charges of the municipal public utility for sewerage for the second, third, and fourth quarter of 2011 and the first quarter of 2012.

**BE IT FURTHER RESOLVED,** that any previous schedule of charges adopted by the Mayor and Council of the Borough of Sea Bright which are inconsistent herewith are hereby rescinded.

**BE IT FURTHER RESOLVED,** that the rates and charges for the utilities are as follows:

The first quarter sewer rate for 2011 shall be based upon the rate established by Resolution 65-2011, adopted March 1, 2011.

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The second, third and fourth quarter sewerage rate will be at the rate of \$9.90 for every 1,000 gallons of water consumed by the customer.

The charges shall be due and payable in 2011 and 2012, 10 days after the due date of the municipal sewer utilities bill. If the bill is not timely paid, the outstanding bill shall be considered a municipal charge and shall be subject to the same rate of interest accruing on delinquent taxes. The second quarter billing in 2011 shall be mailed during June of 2011. The second half 2011 sewerage charges shall be billed in September for the third quarter of 2011 and in December for the fourth quarter of 2011. The first quarter billing in 2012 shall be mailed during March of 2012.

Consumption shall be based upon the information provided to the Borough of Sea Bright Municipal Sewer Utility by the New Jersey American Water Company. The customers that are billed by the New Jersey American Water Company on a quarterly basis shall have their sewer charge based upon the quarterly water charges from New Jersey American Water Company. Those customers that are billed on a monthly basis by New Jersey American Water Company shall have their bills based upon their water consumption from December of 2010 through November of 2011.

All customers of the municipal sewer utility shall be billed for at least 10,000 gallons quarterly. This minimum charge shall be \$99.00 for the second, third and fourth quarters of 2011 and the first quarter of 2012.

The consumption charges shall be billed to the metered townhouse or condominium association or corporation for payment.

If any section, subsection, clause or provision of this Schedule of Charges shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not effective, it shall be valid and effective; and no other section, subsection, clause or provision of this Schedule of Charges shall on account thereof be deemed invalid or ineffective and the inapplicability or invalidity of any section, subsection, clause or provision of this Schedule of Rates and Charges in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instances or under other circumstances.

A copy of same shall at all times be kept on file at the office of the Tax/Sewer Utility Collector at 1167 Ocean Avenue, Sea Bright, New Jersey and shall at all reasonable times be open to public inspection.

**BE IT FURTHER RESOLVED,** by the Borough Council of the Borough of Sea Bright that the utility is hereby authorized to publish a notice of final adoption of said Resolution of Rates and Charges.

**BE IT FURTHER RESOLVED,** by the Borough Council of the Borough of Sea Bright that they hereby authorize the utility to forward a copy of said Resolution of Rates and Charges to the customers of the utility at the utility's discretion.

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

Ayes: Bills, Keeler, Kelly, LoBiondo, Murphy

Nays: None

Abstain: None

Absent: Long

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**10. CORRESPONDENCE AND COMMUNICATIONS:**

- A. Annual Tax Collector's 2010 Report
- B. Construction Department Report
- C. Library Director's Report

**11. COMMITTEE REPORTS:**

A. **Beach/Education/Environment:** In Councilwoman Long's absence, Councilman Murphy said progress.

B. **Public Works/Building Department/Public Relations:**

Councilman LoBiondo said that the Borough Engineer is working on the costs to fix the Fire Department building's floor. The pot holes have been filled in on New Street. Seaport Builder's finished the work on the municipal building.

Mayor Fernandes said that the Municipal and Peninsula House lots are a disgrace because of all the pot holes. Councilman LoBiondo said that he would look into repair work for both lots.

C. **Public Safety/Insurance:**

Councilman Keeler said he attended a meeting about the new fire truck. There will be a JIF meeting in Sea Bright and that safety and loss meeting is March 21 at 9 am.

D. **Finance/Grants/Court:**

Councilman Murphy reported progress.

E. **Personnel/Administration/Cultural Arts/Recreation:**

Councilwoman Bills reported progress.

F. **Smart Growth/Flood Mitigation/Beautification:** Councilman

Kelly said that the engineer will be meeting with the State for them to review our plans. We have purchased new black planters with beautification funds. There will be a new sidewalk installed by the Anchorage parking lot with the work being done by the NJDOT. The next smart growth meeting is March 24<sup>th</sup>.

**12. MAYOR FERNANDES - REPORT AND COMMUNICATIONS.** Mayor Fernandes said that the St. Patrick's party is this Friday, March 18<sup>th</sup> from 7 to 8:30 pm. Happy Birthday to Councilman Murphy.

**13. REMARKS FROM THE AUDIENCE** (limited to 3 minutes)

**14. ADJOURNMENT:**

There being no further business before the Governing Body

a motion to adjourn the meeting the meeting at 9:15 p.m. was made by Councilwoman Bills. Second by Councilman LoBiondo and approved upon unanimous voice vote.

Respectfully Submitted,

Maryann M. Smeltzer, RMC  
Municipal Clerk