

**MINUTES
REGULAR MEETING
BOROUGH OF SEA BRIGHT**

MARCH 1, 2022

SEA BRIGHT, NEW JERSEY

TO ATTEND THIS MEETING REMOTELY PLEASE USE THE FOLLOWING:

<https://meet.goto.com/859857837>

OR DIAL: (646) 749-3335

Access Code: 859-857-837

Mayor Kelly called the meeting to order at 7:00 p.m. and requested those present to join in the Pledge of Allegiance.

Mayor Kelly read the following Compliance 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 Was Sent to the Asbury Park Press and other local newspapers on January 10, 2022. In each instance, the Date, Time, And Location of This Meeting Were Provided in The Notice. This Meeting Is Open To The Public."

PRESENT: Mayor Brian P. Kelly
Councilmember's Erwin Bieber, Kevin Birdsall, Jefferey M. Booker, Sr.,
Samuel A. Catalano, William J. Keeler, John M. Lamia, Jr.

OTHERS: Attorney Roger McLaughlin, Clerk Christine Pfeiffer

REMARKS FROM THE AUDIENCE (limited to 3 minutes)

The Public Comment portion of this meeting allows members of the audience to bring their concerns or comments to the Mayor and Council's attention. Pursuant to Borough Ordinance 3-2011, a member of the public who wishes to speak shall give his/her name and address for the record and may have up to three minutes to state his/her comments to the Mayor and Council as a Body. If additional time or information is requested, an appointment can be made with the Administrator's office during regular business hours.

Susan Sandlass-Gardiner, Sandlass House, asked the Governing Body for their support for the preservation and renovation of the Sandlass House on Sandy Hook and provided a brief history of the home.

PROCLAMATION PRESENTATION:

Official Proclamation

WHEREAS, SH 600/Sandlass House is located at the entrance to Sandy Hook on property owned by the State of New Jersey and managed by the National Park Service (NPS), and

WHEREAS, the historical significance of SH 600 was documented in a cultural resource report, prepared by the New Jersey Department of Transportation (NJDOT) in conjunction with the construction of the new Highlands Bridge, preserving the house and construction around it, and

WHEREAS, SH 600 is listed in the *National Archives* as a Contributing Structure in the Landmark, the most historical NJ area, and

WHEREAS, a leasing program has been established by NPS to preserve the historic Ft. Hancock structure on Sandy Hook, and

WHEREAS, a proposal to preserve SH 600 as an Airbnb living history experience has been presented to NPS by a current lessee at Officer's Row, Ft. Hancock at Sandy Hook, with urgency due to deteriorating conditions of the SH 600 roof, and

WHEREAS, action by NPS is needed to 1) return SH 600 to the list of contributing structures at Sandy Hook, making it eligible for the leasing program, and 2) to add SH 600 to the RFP List in the Sandy Hook Leasing Program, and

NOW, THEREFORE BE IT RESOLVED, that the Borough of Sea Bright, County of Monmouth, State of New Jersey supports preservation of SH 600 and urges swift action while this crucial part of our local history may be salvaged.

BE IT FURTHER RESOLVED, that copies of this proclamation be sent to the Governor and Congressional representatives to urge their support of actions to preserve SH 600/Sandlass House.

CONSENT AGENDA

Councilmember Birdsall offered a motion to approve the items that are considered routine in nature under the consent agenda; seconded by Councilmember Booker:

Minutes

02-10-2022 Workshop Meeting
02-10-2022 Executive Session
02-15-2022 Regular Meeting

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
Yes Yes Yes Yes Yes Yes

Resolutions:

No. 55-2022 Approving 2022 Pay to Park Fee Borough of Sea Bright

Councilmember Birdsall introduced and offered the following Resolution for adoption; seconded by Councilmember Booker:

WHEREAS, pursuant to Chapter 201 – “Vehicles and Traffic”, Article 1 – “Traffic and Parking”, Section 201.8-B – “Pay-to-Park Areas” of the Code of the Borough of Sea Bright, parking of vehicles in municipally regulated pay-to-park areas shall be permitted at such rates for paid parking as set forth in the rules and regulations adopted by resolution of the Mayor and Council.

WHEREAS, the Borough Council wishes to approve the following pay-to-park fee schedule for the year 2022 as referenced below:

\$2.00 Per Hour
May 15 – September 15
Every day between the hours of
9 am to 9 pm

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that a fee of \$2.00 per hour for pay-to-park areas, seven days a week (Monday through Sunday), is hereby approved for the 2022 season, effective May 15, 2022.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the following:

- 1. Finance Manager
- 2. Police Chief
- 3. P. Spahr

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
Yes Yes Yes Yes Yes Yes

No. 56-2022 Authorizes the County of Monmouth Mosquito Control Division to Conduct Aerial Mosquito Control Operations within the Borough of Sea Bright

Councilmember Birdsall introduced and offered for adoption the following Resolution; seconded by Councilmember Booker:

WHEREAS, the Monmouth County Board of Chosen Freeholders, pursuant to N.J.S.A. 26:9-27 et seq. has elected through its Mosquito Control Division to perform all acts necessary for the elimination of mosquito breeding areas and/or to exterminate mosquitoes within the County; and

WHEREAS, the County has instituted an Integrated Pest Management Program consisting of surveillance, water management, biological control, and chemical control to exterminate the mosquito population within the County of Monmouth; and

WHEREAS, prior to conducting aerial dispensing operations over a designated "congested area," the County is required, pursuant to Federal Aviation Administration Regulation (FAR Part 137.51), to secure prior written approval from the governing body of the political subdivision over which the aircraft is to be operated; and

WHEREAS, the Borough of Sea Bright is designated as a "congested area" by the Federal Aviation Administration and the County has requested that this governing body consent to its proposed aerial dispensing operations.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright in the County of Monmouth, State of New Jersey, does hereby authorize the County of Monmouth Mosquito Control Division or its agent to apply pesticides by aircraft for mosquito control in certain areas of the municipality designated by the County as being either larval mosquito habitat or areas

harboring high populations of mosquitoes constituting either a nuisance, a health hazard, or both with the understanding that:

- a. the County shall utilize pesticides, application equipment and aircraft that are approved for aerial applications by the applicable Federal (USEPA) and State (NJDEP) agencies, and
- b. such operations will be performed in compliance with applicable Federal and State regulations, and
- c. the County will notify the police department of each municipality over which aerial pesticide operations are planned prior to commencement of such operations.

BE IT FURTHER RESOLVED that a copy of this resolution, certified to be a true copy, be forwarded to the following:

- 1. Monmouth County Mosquito Extermination Commission
- 2. Chief of Police
- 3. Director of Public Works

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
 Yes Yes Yes Yes Yes Yes

No. 57-2022 Donation of 2022 Beach Badges Borough of Sea Bright

Councilmember Birdsall offered the following resolution and moved for its adoption; seconded by Councilmember Booker:

WHEREAS, the Governing Body of the Borough of Sea Bright wish to support the fundraising efforts for the local organization listed below by donating two (2) 2022 beach badges as requested:

- 1. Bayview Elementary School PTA **2 Badges**
 Gift Auction – March 12, 2022

WHEREAS, the Borough Auditor has been informed and advised that a resolution should be considered in order to donate 2022 Season Beach Badges.

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey authorize the donation of two (2) 2022 Season Beach Badges to the aforementioned organization; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

- 1. Borough Administrator
- 2. Borough Auditor
- 3. Individual Requestor

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
 Yes Yes Yes Yes Yes Yes

No. 58-2022 Authorize the Release of Performance Guarantee LHP Holdings, LLC, 13-15 East Church Street Block 22, Lots 4.01 and 4.02

Councilmember Birdsall introduced and offered for adoption the following Resolution; seconded by Councilmember Booker:

WHEREAS, the Municipal Land Use Law (N.J.S.A. 40:55D-53) permits the Borough of Sea Bright to accept certain improvements and to release performance guarantees posted by Developers when said improvements have been certified as complete by the Borough Engineer; and

WHEREAS, LHP Holdings, LLC has heretofore deposited with the Borough of Sea Bright a performance guarantee in the amount of \$6,095.40 (90% Performance Bond #S284237 in the amount of \$5,485.86 and 10% cash in the amount of \$609.54) to guarantee the completion of all improvements on premises known as Block 22, Lots 4.01 and 4.02 also known as 13-15 East Church Street; and

WHEREAS, David J. Hoder, P.E. P.P., Hoder Associates Consulting Engineers, has advised the Borough Clerk by letter dated February 16, 2022, a copy of which is on file in the Office of the Borough Clerk, that the improvements are acceptable and in accordance with the resolution of approval from the Planning Board and recommends the acceptance of same and the release of the aforementioned performance guarantee subject to the posting of a maintenance guarantee in the amount of 15% (\$761.93) of the cost of the improvements and any outstanding engineering and administrative fees.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Sea Bright in the County of Monmouth, that the improvements hereinbefore referred to be and the same are hereby accepted as per the aforesaid memorandum from David J. Hoder, P.E. P.P., Hoder Associates Consulting Engineers and the performance guarantee totaling \$6,095.40 is hereby released, canceled and discharged; and

BE IT FURTHER RESOLVED by the Borough Council that this resolution shall not become effective unless and until the Borough of Sea Bright is furnished with a maintenance guarantee in the amount of 15% (\$761.93) of the cost of the improvements and payment of any outstanding engineering and administrative fees; and

BE IT FURTHER RESOLVED that a copy of this resolution, certified to be a true copy, be forwarded to the following:

- 1. LHP Holdings, LLC
- 2. David J. Hoder, P.E. P.P., Consulting Engineers
- 3. Fiscal Officer
- 4. Construction Official

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
Yes Yes Yes Yes Yes Yes

No. 59-2022 Authorizing the Disposal of a Borough Vehicle No Longer Needed for Public Use

Councilmember Birdsall introduced and offered for adoption the following Resolution: seconded by Councilmember Booker:

WHEREAS, the Borough of Sea Bright owns a 1985 Chevy Pick-up CD3 Truck (VIN No. 1GCHD 34J6G F3156 77); and

WHEREAS, this vehicle was operated by the Police Department and due to the poor condition of said vehicle, it is no longer operational and needed for public use; and

WHEREAS, it is the recommendation of the Police Chief that the Borough dispose of the vehicle for scrap metal value; and

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, does hereby authorize the 1985 Chevy Pick-up CD3 Truck (VIN No. 1GCHD 34J6G F3156 77) to be disposed of for scrap metal value; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the following:

- 1. Police Chief
- 2. Finance Manager
- 3. Deputy Director, DPW

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
Yes Yes Yes Yes Yes Yes

No. 60-2022 Authorizing Receipt of Bids - Purchase of Two Lifeguard Stands

Councilmember Birdsall introduced and offered for adoption the following Resolution: seconded by Councilmember Booker:

WHEREAS, the Borough Council is desirous of receiving bids for the following:
a) Purchase of two (2) Lifeguard Stands

WHEREAS, specifications for the aforesaid items will be on file in the Borough Clerk’s Office, and will be available for inspection.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey that it does hereby authorize the Borough Clerk to advertise for bids for the aforesaid item as per the specifications on file and will be received by the Borough on a date and time to be determined; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the following:

- 1. Finance Manager
- 2. Department of Public Works
- 3. CFO
- 4. Beach Manager

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
Yes Yes Yes Yes Yes Yes

ORDINANCE(s):

Introduction: Mayor Kelly to read the ordinance by title:

ORDINANCE NO. 02-2022
AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO
COMCAST OF MONMOUTH COUNTY TO CONSTRUCT, CONNECT,
OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS
SYSTEM IN THE BOROUGH OF SEA BRIGHT, MONMOUTH COUNTY, NEW JERSEY

Councilmember Birdsall offered a motion to introduce Ordinance No. 02-2022 for a public hearing to be held on March 15, 2022 and advertise according to law; seconded by Councilmember Keeler:

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
 Yes Yes Yes Yes Yes Yes

Be It Ordained and Enacted by the Mayor and Council of the Borough of Sea Bright, Monmouth County, New Jersey, as follows:

SECTION 1. PURPOSE OF THE ORDINANCE.

The BOROUGH hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets alleys, sidewalks, easements, public ways and public places in the Borough, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus, and equipment as may be necessary for the construction, operation and maintenance in the Borough of a cable television and communications system.

SECTION 2. DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms in supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. § 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- a. "Borough" or "Borough" is the Borough of Sea Bright, County of Monmouth, State of New Jersey.
- b. "Company" or "Comcast" is the grantee of rights under this Ordinance and is known as Comcast of Garden State, L.P.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. § 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Borough currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS.

A public hearing concerning the consent herein granted to the Company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the Borough having received all comments regarding the qualifications of the Company to receive this consent, and the representations of the Company that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE.

The non-exclusive Municipal Consent granted herein shall expire ten (10) years from the date of expiration of the previous Certificate of Approval issued by the Board.

In the event that the Borough shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Borough shall have the right to petition the

OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Borough shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE.

Pursuant to the terms and conditions of the Act, N.J.S.A. 48:5A-30(d), the Company shall, during each year of operation under the consent granted herein, pay to the Municipality 3.5% of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount permitted by the Act or otherwise allowable by law. The current franchise fee paid to the Borough is 3.5%.

SECTION 6. FRANCHISE TERRITORY.

The consent granted under this Ordinance for the renewal of the franchise shall apply to the entirety of the Borough and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE.

The company shall, during the franchise period, be required to offer service to any present or future dwelling unit, school, institution, and business located and to be located along any public rights-of-way in the primary service area, as set forth in the company's application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy, as set forth in the Company's Application, with a HPM ("homes-per-mile") of 35 dwellings per linear mile from the nearest active trunk or feeder line from which a usable cable signal may be obtained. For purposes of this section and the Company's implementation of the LEP, a home shall only be counted as a "dwelling unit" if such home is occupied and within two hundred seventy-five (275) feet of the public right of way.

SECTION 8. CONSTRUCTION REQUIREMENTS.

- a. Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as reasonably good a condition as existed prior to the commencement of said work.
- b. Relocation: If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Borough, shall remove, re-lay or relocate its equipment, at the expense of the Company. In requiring Company to remove, re-lay or relocate any portion of its property, the Borough shall treat Company the same as, and require no more of Company than, any other similarly situated entity utilizing the Public Rights of Way, including with respect to reimbursement of costs.
- c. Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables. Except in an emergency, the Company will not, without the prior consent of the Supervisor of the Borough 's Department of Public Works, or his/her delegate, trim or remove trees in the public rights-of-way or parks in the Borough The Supervisor or delegate will respond to a request for authorization within 48 hours, Monday through Friday. If requested, the company will perform any trimming under the direct supervision of the Supervisor or his designee.
- d. Installation of Equipment: The Company shall install equipment in the same location and manner as existing public utilities whenever possible, in order to minimize the impact of same on surrounding property.
- e. Temporary removal of cables: The Company shall, upon request of the Borough, at the Company's expense, temporarily raise, lower or remove its cables and associated facilities in order to facilitate the moving of Borough -owned buildings, equipment, vehicles and machinery and to accommodate other like circumstances. In light of a temporary removal request by other than the Borough for non- Borough -owned buildings, equipment, vehicles and machinery, the cost of such temporary removal shall be the responsibility of the requesting party.
- f. Abandoned Wires: The Company shall, prior to installing any new wires, equipment or facilities, remove any abandoned wires located within the Borough that are or have been associated with the Company.

SECTION 9. CUSTOMER SERVICE.

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed

all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the Borough Council upon written request of the Borough Manager or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.

SECTION 10. MUNICIPAL COMPLAINT OFFICER.

The Office of Cable Television is hereby designated as the Complaint Officer for the Borough pursuant to N.J.S.A. § 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. § 14:17-6.5. The Borough shall have the right to request copies of records and reports pertaining to complaints by Borough customers from the OCTV.

SECTION 11. LOCAL OFFICE.

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. § 14:18-5.1.

SECTION 12. PERFORMANCE BOND.

During the life of the franchise the Company shall give to the Borough a bond in the amount of Twenty-Five Thousand Dollars (\$25,000). Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES.

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY.

- a. The Company shall provide Expanded Basic or a similar tier of cable television service to one (1) outlet to every Borough building and each qualified existing and future municipal building, police, fire, emergency management facility and public library in the Borough, provided the facility is located within two hundred (200) feet of active cable distribution plant or through customer owned conduit. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Borough.
- b. Within six months of the issuance of a Renewal Certificate of Approval by the BPU, the Company shall provide to the Borough a one-time E/G Access Capital Grant in the amount of \$5,000 to meet the E/G Access capital needs of the community.
- c. The Communications Act of 1934, as amended [47 U.S.C. §543 (b)], allows the Company to itemize and/or identify: (1.) the amount on the subscriber bill assessed as a franchise fee and the identity of the governmental authority to which the fee is paid; (2.) the amount on the bill assessed to satisfy any requirements imposed on the Company by the cable franchise to support public, education, and/or governmental access channels or the use of such channels; and (3.) any grants or other fees on the bill or any tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. The Company reserves its external cost, pass-through rights to the full extent permitted by law.

SECTION 15. EMERGENCY USES.

- a. The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.
- b. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the Borough is unable to make full use of the cable television system as contemplated herein.

SECTION 16. LIABILITY INSURANCE.

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of One Million Dollars (\$1,000,000) covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of Five Million Dollars (\$5,000,000).

SECTION 17. INCORPORATION OF THE APPLICATION.

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with application State or Federal law.

SECTION 18. COMPETITIVE EQUITY.

Should the Borough grant municipal consent for a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. § 14:17-6.7.

SECTION 19. SEPARABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 20. PROPRIETARY INFORMATION

The Company shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Borough agrees to treat any information disclosed by the Company as confidential and only to disclose it to those employees, representatives, and agents of the Borough that have a need to know in order to enforce this Ordinance Agreement and who agree to maintain the confidentiality of all such information, unless such information is deemed to be subject to New Jersey's Open Public Records Act.

The Company shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Company to be competitively sensitive. The Company may make proprietary or confidential information available for inspection but not copying or removal by the Borough's representative. In the event that the Borough has in its possession and receives a request under a state "sunshine," public records, or similar law for the disclosure of information the Company has designated as confidential, trade secret or proprietary, the Borough shall notify the Company of such request and cooperate with Company in opposing such request.

SECTION 21. FORCE MAJEURE.

The Company shall not be liable or responsible for, in whole or in part, any delay or failure to perform any of its obligations hereunder which may result from accidents, pandemics, floods, fires, earthquakes, tornadoes or other acts of God; war, acts of war (whether or not a declaration of war is made), civil disobedience; civil disturbance, sabotage or vandalism, customer tampering or interference, or act of public enemy; strikes, other labor or job actions or unavailability of materials or equipment; or other events or circumstances beyond the reasonable control of the Company.

SECTION 22. THIRD PARTY BENEFICIARIES.

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 23. NEW DEVELOPMENTS

The Borough, for its part, shall endeavor to exercise reasonable efforts to require developers and utility companies to provide the Company with at least fifteen (15) days advance notice of an available open trench for the placement of necessary cable.

SECTION 24. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on March 1, 2022 and will be further considered after a Public Hearing held on March 15, 2022.

REGULAR MEETING

MARCH 1, 2022

2787	CYCLE PASSIONS, LLC		
22-00199	02/16/22 BEACH- VEHICLE MAINTENANCE	Open	818.14
2655	DE SESA ENGINEERING CO.		
22-00212	02/16/22 B&G- MAINT. OF BLDGS. & GRDS.	Open	1,576.12
22-00213	02/16/22 B&G- MAINTENANCE OF B&G	Open	180.00

			1,756.12
2286	DIFRANCESCO, BATEMAN, KUNZMAN		
22-00228	02/22/22 LEGAL	Open	1,360.00
00609	EAGLE POINT GUN		
22-00150	02/08/22	Open	89.18
00196	EDGEWATER BEACH, INC.		
22-00218	02/22/22 TAX REFUND	Open	7,669.20
01068	EDWARD J. ALBERT & SON, INC.		
22-00160	02/08/22 SEWER-MAIN. OF OTHER EQUIP.	Open	1,501.59
00978	FRIEDMAN, BRETT		
22-00239	02/23/22 POLICE	Open	751.42
2809	G & M TROPHY CO.		
22-00147	02/07/22 PLAN. BRD	Open	28.00
2374	GARDEN STATE ROOFING & SIDING		
22-00032	01/11/22 B&G- MAINTENANCE OF B&G	Open	1,550.00
02252	GRAINGER, INC.		
22-00091	01/20/22 Water Keys	Open	77.31
2710	HOLMDEL TOWNSHIP		
22-00234	02/23/22 FISCAL	Open	3,312.50
01285	HOME DEPOT CREDIT SERVICES		
22-00214	02/16/22 BEACH-MATERIALS & SUPPLIES	Open	249.72
2561	INTRON TECHNOLOGY SOLUTIONS		
22-00249	02/24/22 TECH SUPPORT	Open	8,926.13
00297	JESSE A. HOWLAND & SONS, INC.		
22-00232	02/23/22 DPW	Open	1,705.00
01784	JUNGLE LASERS, LLC		
22-00222	02/22/22 BLDG DEPT	Open	200.00
2417	MARLIN BUSINESS BANK		
22-00238	02/23/22 POSTAGE	Open	47.00
2805	MAZZA MULCH, INC.		
22-00170	02/08/22 STREETS- MISC.	Open	400.00
00110	MONM CNTY REGIONAL HEALTH		
22-00221	02/22/22 HEALTH	Open	15,674.39
02229	MONMOUTH COUNTY PUBLIC WORKS		
22-00207	02/16/22 STREETS- MATERIALS & SUPPLIES	Open	444.39
02045	MONMOUTH COUNTY SPCA		
22-00236	02/23/22 ANIMAL	Open	325.00
2473	NAYLORS AUTO PARTS		
22-00205	02/16/22 Vehicle Repairs	Open	220.30
00113	NJ NATURAL GAS COMPANY		
22-00245	02/24/22 GAS	Open	3,632.99
01309	OCEANPORT BOARD OF EDUCATION		
21-00795	07/07/21 SCHOOL TAX	Open	72,010.00
00163	OSWALD ENTERPRISES, INC.		
22-00194	02/10/22 SEWER	Open	4,400.00
2525	POOR JOHNS PORTABLE TOILETS		
22-00243	02/24/22 BEACH	Open	366.00
2745	REMINGTON & VERNICK ENGINEERS		
21-00400	04/01/21 SANITARY SEWER PROJECT	Open	2,789.40
2350	SCOTT TITLE SERVICE		
22-00229	02/22/22 A&E	Open	200.00
01554	SEA BRIGHT SERVICE CENTER		
22-00215	02/16/22	Open	271.80
00053	SHORE REGIONAL HIGH SCHOOL		
21-00794	07/07/21 HIGH SCHOOL TAX	Open	180,818.00
02225	STAPLES ADVANTAGE		
22-00198	02/16/22 OFFICE SUPPLIES	Open	335.10

REGULAR MEETING**MARCH 1, 2022**

2487	UNIMAK, LLC		
22-00244	02/24/22 BEACH PAV	Open	2,169.04
2291	VERIZON		
22-00246	02/24/22 FIOS	Open	183.99
2658	VERIZON		
22-00247	02/24/22 PHONE	Open	524.80
02061	VERIZON WIRELESS		
22-00227	02/22/22 CELLS	Open	190.25
22-00230	02/22/22 POLICE	Open	1,352.15
22-00242	02/23/22 FIRE	Open	268.07

			1,810.47
01063	WEST MARINE		
21-01486	12/28/21 Boat Maintenance	Open	24.63

TOTAL: \$ 362,875.17**MAYOR AND COUNCIL COMMITTEE COMMENTS**

Councilman Lamia reported that there is progress being made at the rec center – lights have been replaced and Public Works is finishing the repair to the wall in the council chambers, replacing some of the carpet tiles to match the vinyl kitchen floor, getting new screens for the windows so they can be opened once the weather gets nicer and looking into options for the peeling façade on the outside of the building. Both Councilman Lamia and Councilman Bieber will volunteer their time as much as possible to get the building operational while continuing to work with Public Works. Shawn Thomas, Deputy Director of Public Works, is working on getting a 3rd quote to have the gym floor redone and the committee will be evaluating the merits of getting that done. Councilman Lamia is working on getting out a newsletter this Spring and said he has created a template and hopes to get it done in-house. He is also looking for recommendations and ideas for the recreation program and hopes that over time they will have a good recreation program for the community.

Councilman Bieber reported that the administration and shared services committee are looking to finalize the priorities for the year and establish actions to achieve their goals and will bring the plan back to the workshop meeting to ensure they align with the other committees of the Governing Body. Councilman Bieber, as the liaison for the Planning Board reported February was a very quiet month for Planning Board as most of the applicants were residential. Councilman Bieber wants to make Council aware that the last chance for 1084 Ocean Avenue to be heard will be at the next meeting March 8th.

Councilman Birdsall reported that DPW is still working on getting the check valves installed and are hoping the valves in the downtown will be installed prior to the summer season. Our next step is to get the bulkhead ordinance ironed out and the bulkheads repaired in the downtown. Reported progress on all other matters.

Councilman Keeler reported he spoke with Steven Spahr from the Fire Department regarding the Fireman’s Fair and stated that the proposed dates are the only available dates but he has not signed a contract yet so we would not lose any money if we decided not to have it – a decision has to be made very soon. This will be listed for discussion at the next workshop meeting. Mr. Spahr and DPW will be invited to join for their input.

Mayor Kelly announced that there will be two upcoming town hall meetings to discuss the school regionalization – April 4th and October 3rd. Mayor Kelly said he spoke with our cell tower consultant and the construction for the new carrier is ongoing and our goal is to have the temporary cell tower removed before Memorial Day – progress on all other matters.

Councilman Booker said he would like Council to continue the conversation of permitting cannabis sales in the Borough as a “grab-and-go” model as the monetary opportunity is significant. The next window of opportunity to apply for a state license begins on March 15 so time is of the essence – this discussion will be listed for discussion at the next workshop meeting.

Mayor Kelly sent all those in the Ukraine region and family & friends in the US, our thoughts and prayers.

EXECUTIVE SESSION

Councilmember Birdsall offered a motion to enter in to Closed Session; seconded by Councilmember Keeler:

WHEREAS, Section 8 of the Open Public Meeting Act, N.J.S.A. 10:4-12 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, it is recommended by the Borough Attorney and Administrator that the Borough Council go into executive session to discuss matters set forth hereinafter which are permissible for discussion in executive session.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that they meet in closed session to discuss the issues as herein set forth:

1. The general nature of the subject matters to be discussed are as follows:

A. Public Safety

B. Personnel

BE IT FURTHER RESOLVED, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public; and

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

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
 Yes Yes Yes Yes Yes Yes

ADJOURNMENT

Councilmember Birdsall offered a motion to adjourn the meeting; seconded by Councilmember Keeler:

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia
 Yes Yes Yes Yes Yes Yes

Respectfully Submitted,

Christine Pfeiffer
Borough Clerk