

**MINUTES  
REGULAR MEETING  
BOROUGH OF SEA BRIGHT**

**MARCH 15, 2022**

**SEA BRIGHT, NEW JERSEY**

**TO ATTEND THIS MEETING REMOTELY PLEASE USE THE FOLLOWING:**

<https://meet.goto.com/257622613>

OR DIAL: (646) 749-3335

Access Code: 257-622-613

**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:** Administrator Joseph L. Verruni, Attorney Richard Shaklee,  
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.

**No one wished to be heard.**

**PROCLAMATION PRESENTATIONS:**

**Official Proclamation**

**WHEREAS**, in Federal fiscal year 2019, 4.4 million reports were made to child protective services; and

**WHEREAS**, child abuse and neglect is a serious problem affecting every segment of our community, and finding solutions requires input and action from everyone; and

**WHEREAS**, our children are our most valuable resources and will shape the future of the State of New Jersey; and

**WHEREAS**, child abuse can have long-term psychological, emotional, and physical effects that have lasting consequences for victims of abuse; and

**WHEREAS**, protective factors are conditions that reduce or eliminate risk and promote the social, emotional, and developmental well-being of children; and

**WHEREAS**, effective child abuse prevention activities succeed because of the partnerships created between child welfare professionals, education, health, community- and faith-based organizations, businesses, law enforcement agencies, and families; and

**WHEREAS**, communities must make every effort to promote programs and activities that create strong and thriving children and families; and

**WHEREAS**, we acknowledge that we must work together as a community to increase awareness about child abuse and contribute to promote the social and emotional well-being of children and families in a safe, stable, and nurturing environment; and

**WHEREAS**, prevention remains the best defense for our children and families.

**NOW, THEREFORE BE IT PROCLAIMED**, that the Mayor and Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey do hereby recognize **APRIL, 2022**, as

**NATIONAL CHILD ABUSE PREVENTION MONTH**

in the Borough of Sea Bright and urge all citizens to recognize this month by dedicating themselves to the task of improving the quality of life for all children and families.

**Official Proclamation**

**WHEREAS**, on February 24, 2022, Russian forces launched an invasion in Ukraine killing thousands and creating a crisis on a global scale, forcing hundreds of thousands of civilians to flee; and

**WHEREAS**, this unprovoked, unjustified, and illegal invasion of the sovereign nation of Ukraine by Russia under the direction of its ruthless President, Vladimir Putin, has been condemned by the entire world, including the people in the Borough of Sea Bright; and

**WHEREAS**, the people of Ukraine have bravely resisted the relentless assaults, bombings, and crimes against peace, despite overwhelming military odds and the continuing onslaught of modern Russian military strikes against innocent, unarmed civilian populations; and

**WHEREAS**, the State of New Jersey is home to many robust and thriving Ukrainian communities; and

**WHEREAS**, all of the people in the State of New Jersey feel the brutal Russian onslaught is being waged on our own homes and families as we watch the horrific media images of the wounded, devastated neighborhoods and thousands of Ukrainian refugees fleeing the carnage wrought upon their homeland by foreign aggressors.

**NOW, THEREFORE, BE IT RESOLVED**, I, Brian P. Kelly, Mayor of the Borough of Sea Bright, County of Monmouth, State of New Jersey together with the Borough Council and the entire Sea Bright community, stand in solidarity with the people of Ukraine, as they bravely defend their country.

**CONSENT AGENDA**

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

**Minutes:**

03-01-2022 Regular Meeting  
03-01-2022 Executive Session

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

**Resolutions:**

**No. 61-2022 Donation of 2022 Beach Badges Borough of Sea Bright**

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

**WHEREAS**, the Governing Body of the Borough of Sea Bright wish to support the fundraising efforts for the local organizations listed below by donating four (4) 2022 beach badges as requested:

- 1. New Monmouth Elementary School PTA Annual Gift Auction – April 29, 2022 **2 Badges**
- 2. Shore Regional High School The Senior Fashion Show – March 20, 2022 **2 Badges**

**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 four (4) 2022 Season Beach Badges to the aforementioned organizations; and

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

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

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

**No. 62-2022            Hiring Volunteer Firefighters Borough of Sea Bright Fire Department**

Councilmember Booker offered the following resolution for approval; seconded by Councilmember Birdsall:

**WHEREAS**, Chapter 20, Section 20.4 of the General Code, Fire Department membership requires any person desiring membership in a volunteer fire department, shall complete an application; may be required to have a pre-appointment physical by a physician; and the Borough Council shall order a criminal background check to be conducted by the Chief of Police; and

**WHEREAS**, the Fire Department received two applications and recommends hiring the following new members to serve as a volunteer firefighters on the Sea Bright Fire/Rescue Department, as follows:

**Full Membership**

Michael Very  
Kevin Welsh

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, does hereby accept and approve the hiring of the above-named individuals to serve as members on the Sea Bright Fire Department as designated above; and

**BE IT FURTHER RESOLVED** that the Borough Clerk is hereby authorized to send a certified copy of this resolution to the following:

- 1. Borough of Sea Bright Fire Chief
- 2. Individual Members

<b>Roll Call:</b>	Bieber,	Birdsall,	Booker,	Catalano,	Keeler,	Lamia
	Yes	Yes	Yes	Yes	Yes	Yes

**No. 63-2022            Authorizing Transfer of Vehicle from Sea Bright Police Department to Sea Bright Ocean Rescue**

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

**WHEREAS**, the Borough of Sea Bright Police Department is in possession of a 2013 Chevrolet Tahoe (VIN No. 1GNSK2E05DR131201) which is no longer needed for police use; and

**WHEREAS**, Sea Bright Ocean Rescue is in need of a vehicle to transport lifeguard equipment to various locations during the summer season in order to operate lifeguard shared service contracts; and

**NOW, THEREFORE, IT BE RESOLVED** by the Mayor and Borough Council of the Borough of Sea Bright in the County of Monmouth that it hereby approves the transfer of the above-referenced vehicle from the Sea Bright Police Department to Sea Bright Ocean Rescue; and

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

- 1. Sea Bright Police Chief
- 2. Beach Manager
- 3. Monmouth County JIF Insurance Fund

<b>Roll Call:</b>	Bieber,	Birdsall,	Booker,	Catalano,	Keeler,	Lamia
	Yes	Yes	Yes	Yes	Yes	Yes

**No. 64-2022            Accept the Performance Guarantee(s) for Block 15, Lot 3 – 1080 Ocean Avenue Break Real Estate Partners LLC**

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

**WHEREAS**, the Borough of Sea Bright Planning Board has granted use variance and site plan approval to Break Real Estate Partners LLC, for a development project on Block 15, Lot 3 also known as 1080 Ocean Avenue; and

**WHEREAS**, Planning Board Engineer, David Hoder of Hoder Associates Consulting Engineers, prepared a performance guarantee estimate dated February 9, 2022 for Break Real Estate Partners LLC; and

**WHEREAS**, in accordance with N.J.S.A. 40:55D-53, Break Real Estate Partners LLC posted said performance guarantees in the amount of \$47,450.00 in cash and the estimated engineering inspection fees in the amount of \$1,768.75 which were deposited with the Borough in accordance with the ordinances of the Borough of Sea Bright.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that the requirements for entering into a developer’s agreement are hereby waived; and

**BE IT FURTHER RESOLVED** that the performance guarantees as referenced above are hereby accepted.

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

- 1. Hoder Associates
- 2. Construction Official
- 3. Finance Manager
- 4. Planning Board Secretary
- 5. Break Real Estate Partners LLC

<b>Roll Call:</b>	Bieber,	Birdsall,	Booker,	Catalano,	Keeler,	Lamia
	Yes	Yes	Yes	Yes	Yes	Yes

**No. 65-2022                    Authorizing Requests for Proposals for Professional Services**

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

**WHEREAS**, the Borough Council is desirous of receiving proposals for the following:

- a) Professional Appraisal Services to Defend the 2022 State Tax Court Appeals

**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 that it does hereby authorize the Borough Clerk to advertise for requests for proposals for the aforesaid items as per the specifications on file and will be received by the Borough Tax Assessor, 1099 Ocean Avenue, Sea Bright, New Jersey at 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. CFO
- 3. Tax Assessor

<b>Roll Call:</b>	Bieber,	Birdsall,	Booker,	Catalano,	Keeler,	Lamia
	Yes	Yes	Yes	Yes	Yes	Yes

**No. 66-2022                    Authorizing Receipt of Bids Purchase of In-Line Check Valves**

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

**WHEREAS**, the Borough Council is desirous of receiving bids for the following:

- a) Purchase of five (5) In-Line Check Valves to be installed in the downtown area of the Borough

**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

**Roll Call:** Bieber, Birdsell, Booker, Catalano, Keeler, Lamia  
Yes Yes Yes Yes Yes Yes

**No. 67-2022 Change Order #1, Decrease Contract amount by \$38,488.17 Sanitary Sewer Lateral Improvements Located on Route 36 (by Donovan’s Reef) Lima Charlie Construction**

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

**WHEREAS**, on September 21, 2021, the Borough Council of the Borough of Sea Bright awarded a contract to Lima Charlie Construction of Freehold, New Jersey for the Sanitary Sewer Lateral Improvements located on Route 36 by Donovan’s Reef for a contract amount of \$201,050.00; and

**WHEREAS**, the Borough Consulting Engineer, Remington & Vernick Engineers, Inc., submitted Change Order No. 1, dated March 1, for a contract decrease of \$38,488.17 due to as-built quantity adjustments, existing MH Improvements, design changes and NJDOT required sewer realignment and utility conflicts, resulting in a revised contract amount of \$162,561.83; 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 approve Change Order No. 1, decreasing the contract amount by \$38,488.17, resulting in an amended contract amount not to exceed \$162,561.83 for the Sanitary Sewer Lateral Improvements located on Route 36 by Donovan’s Reef awarded to Lima Charlie Construction; and

**BE IT FURTHER RESOLVED**, that certified copies of this resolution be forwarded to the following:

- 1. Finance Manager
- 2. Remington & Vernick Engineers, Inc.
- 3. Lima Charlie Construction

**Roll Call:** Bieber, Birdsell, Booker, Catalano, Keeler, Lamia  
Yes Yes Yes Yes Yes Yes

**No. 68-2022 Sea Bright Ocean Rescue Authorizing 2022 Junior Lifeguard Program**

Councilmember Booker introduced and offered for adoption the following resolution; seconded by Councilmember Birdsell:

**WHEREAS**, established in 2004, the Sea Bright Junior Lifeguard Program has provided a safe and fun way for children to learn about beach and ocean safety, improve upon their swimming abilities and develop high confidence levels in the surf and open water; and

**WHEREAS**, Sea Bright Beach Manager, Don Klein, has authorized the schedule and fees listed below for the 2022 Junior Lifeguard Program; and

**WHEREAS**, there will be no refunds once a Junior Guard participant is registered; and

**Junior Lifeguard Program - \$200 per session**

**Dates:** **Session 1** July 11 – July 15  
**Session 2** July 18 – July 22  
**Session 3** July 25 – July 29  
**Session 4** August 1 – August 5

**Time:** 9:00 am to 12:00 pm

**Age:** 7-16 years old  
(must pass a swim test on the first day in order to participate)

**Junior Lifeguard "Nipper" Program - \$200.00**

**Dates:** August 8 - August 19

**Time:** 9:00 am to 5:00 pm

**Age:** 10-16 years old  
(must successfully complete one of the Junior Lifeguard sessions and tryout for the program)

**WHEREAS**, the monies collected from the Sea Bright Junior Lifeguard Program will be deposited in the Beach Trust account.

**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 Beach Manager, Don Klein, to operate the 2022 Junior Lifeguard Program, as described above, and collect the appropriate fees to be deposited in the Beach Trust Account; and

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

- 1. Beach Manager
- 2. Finance Manager
- 3. P. Spahr

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

**No. 69-2022 Authorizing a Shared Services Agreement with the Borough of Highlands for Street Sweeping Services**

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

**WHEREAS**, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., allows a local unit to enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in the agreement is empowered to provide or receive within its own jurisdiction, including services incidental to primary purposes of any of the participating local units; and

**WHEREAS**, the Borough of Sea Bright is in need of street sweeping services; and

**WHEREAS**, the Borough of Highlands has the necessary staffing, equipment and personnel to provide street sweeping services to the Borough of Sea Bright from April 1, 2022 through October 31, 2022 on Tuesdays and Thursdays for the total amount of \$15,000; 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 budget line item 2-01-42-120-200 for street sweeping services at a cost not to exceed \$15,000.



**MICHAEL J. BASCOM, CFO**

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey that the Mayor and Borough Clerk are hereby authorized to execute a Shared Service Agreement with the Borough of Highlands from April 1, 2022 through October 31, 2022 on Tuesdays and Thursdays for an amount not to exceed \$15,000 for street sweeping services.

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

- 1. Finance Manager
- 2. Department of Public Works
- 3. Borough of Highlands
- 4. Department of Community Affairs, DLGS

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

**No. 70-2022 Appropriation Reserve Transfer**

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

**WHEREAS**, N.J.S.A. 40A:4-4-59 provides that all unexpended balances carried forward after the close of the fiscal year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allow transfers to be made from unexpended balances to those which are expected to be insufficient during the first three months of the succeeding year;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, in the County of Monmouth, State of New Jersey, 2/3 of the majority of the full membership concurring herein that the following transfers be authorized amongst 2021 Budget Appropriation Reserves as follows:

<u>ACCOUNTING CODE</u>	<u>CURRENT FUND</u>	<u>TO</u>	<u>FROM</u>
01-26-310-200	Buildings & Grounds OE	\$8,000.00	
01-26-290-100	Streets & Roads S&W		\$3,700.00
01-26-305-200	Solid Waste OE		\$2,300.00
01-26-310-100	Buildings & Grounds S&W		\$2,000.00
		<b>\$8,000.00</b>	<b>\$8,000.00</b>

<u>ACCOUNTING CODE</u>	<u>BEACH UTILITY</u>	<u>TO</u>	<u>FROM</u>
09-55-502-200	Beach OE	\$5,500.00	
09-55-502-100	Beach S&W		\$1,700.00
09-55-503-200	Dune Maintenance		\$3,000.00
09-55-541-300	Social Security		\$ 800.00
		<b>\$5,500.00</b>	<b>\$5,500.00</b>

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

**ORDINANCE(s):**

**Public Hearing:** 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 Keeler offered a motion to open the public hearing on Ordinance No. 02-2022; seconded by Councilmember Birdsall:

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

**Public Hearing (Ord. No. 02-2022)**

**No one wished to be heard.**

Councilmember Bieber offered a motion to close the public hearing on Ordinance No. 02-2022; seconded by Councilmember Birdsall:

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

Councilmember Birdsall offered a motion to adopt Ordinance No. 02-2022 and advertise according to law; seconded by Councilmember Bieber:

**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.

**Introduction:** Mayor Kelly to read the ordinance by title:

**ORDINANCE NO. 03-2022**  
**AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT AMENDING CHAPTER 130, "LAND USE," ARTICLE IX, "DESIGN STANDARDS," SECTION 130-51, "DESIGN STANDARDS FOR SPECIFIC USES," SUBSECTION 130-51G, "BULKHEAD MAINTENANCE," OF THE CODE OF THE BOROUGH OF SEA BRIGHT**

Councilmember Birdsall offered a motion to introduce Ordinance No. 03-2022 for a public hearing to be held on April 5, 2022 and advertise according to law; seconded by Councilmember Bieber:

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

**BE IT ORDAINED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

**SECTION ONE.** Chapter 130, "Land Use," of the Code of the Borough of Sea Bright, Section 130-51, "Design Standards for Specific Uses," subsection 130-51F, "Bulkheads," paragraph 130-51F(2), be and the same is hereby amended and supplemented to read, in full, as follows:

"(2) Notwithstanding the provisions of § 130-35C, in the case of previously existing bulkhead structures, destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to an extent of less than 50% of the linear foot of total bulkhead on the property, then such destruction shall be deemed to be "partial destruction" and may be rebuilt, restored or repaired. Nothing in this subsection shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by ~~the Construction Official a~~ **Borough Official** or other competent legal authority having jurisdiction."

**SECTION TWO.** Chapter 130, "Land Use," of the Code of the Borough of Sea Bright, Section 130-51, "Design Standards for Specific Uses," subsection 130-51G, "Bulkhead Maintenance," paragraph 130-51G(2), "Inspection by Borough Engineer," be and the same is hereby amended and supplemented to read, in full, as follows:

"(2) Inspection by Borough Engineer.

- (a) It shall be the duty of the Borough Engineer, from time to time, to inspect all waterfront bulkheads in the Borough and to report to the Council and notify the owners and occupants of the property on which the bulkhead is located of the existence of any dangerous or defective condition therein; thereafter, it shall be the duty of the owner of said property to replace, remedy or repair any such dangerous and defective condition.
- (b) When notified by the Borough Engineer of a defective or deteriorated bulkhead, the property owner shall submit a plan of corrective action to the Borough Engineer no later than 90 days from the receipt of the notice.
- (c) If permits are required from state or federal government agencies, such permits shall be immediately applied for, prior to Borough approval of the plan of corrective action. In the event the property owner fails to submit a corrective action plan; fails to file for any necessary state or federal permit, or fails to implement such plan following approval by the

Borough, he shall be liable for the penalties and violations contained herein.

- (d) Upon approval of the plan of corrective action that provides for repair of a bulkhead, such repairs shall be completed within six (6) months; should the plan provide for replacement of a bulkhead, the property owner shall complete the bulkhead replacement within one (1) year.
- (e) Upon the neglect or failure of any such owner to repair or remedy such dangerous or defective condition within the time period set forth in (d) hereof, the Borough Engineer shall give written notice of the work required to be done to the owner or owners of such lands by mail, if their address be known, or, if not known, then by posting such notice upon the property affected thereby, or by leaving the same with any occupant thereof; or by personal service, if the owner be a resident of and present within the Borough.
- (f) Such notice shall provide for allowing the owner 60 days within which to perform the work thereby required. In the event that the owner is required to obtain a permit or approval from the New Jersey Department of Environmental Protection (NJDEP), the owner must provide proof within the sixty day period that such permit or approval is required and that the appropriate permit has been applied for. The owner must further provide documentation to the Borough that any required permits are being diligently pursued. Failure to complete the required repairs within six (6) months after receipt of the appropriate permit from the NJDEP shall constitute a violation of this article."

**SECTION THREE.** Chapter 130, "Land Use," of the Code of the Borough of Sea Bright, Section 130-51, "Design Standards for Specific Uses," subsection 130-51G, "Bulkhead Maintenance," paragraph 130-51G(5), "Appeals," be and the same is hereby amended and supplemented to read, in full, as follows:

"(5) Any person aggrieved by any ruling of the ~~Construction Department~~ **Borough Engineer** may appeal from any such ruling to the Borough Council, within 30 days from the date of the ruling."

**SECTION FOUR:** All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies.

**SECTION FIVE:** If any section, subsection, paragraph, sentence or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

**SECTION SIX:** This Ordinance shall take effect immediately upon its passage and publication as required by law.

**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 15, 2022 and will be further considered after a Public Hearing held on April 5, 2022.

**INDIVIDUAL ACTION/New Business:**  
**Vouchers: \$ 179,503.27**

Councilmember Booker offered a motion to approve the Voucher List dated March 15, 2022 as submitted by the Finance Manager; seconded by Councilmember Keeler:

<b>Roll Call:</b>	Bieber,	Birdsall,	Booker,	Catalano,	Keeler,	Lamia
	Yes	Yes	Yes	Yes	Yes	Yes
01241 BAIN'S HARDWARE, INC. 22-00274 03/10/22 HARDWARE				Open		815.96
2640 BATHGATE, WEGENER & WOLF 22-00277 03/10/22 LEGAL				Open		1,767.50
01957 BENEMAX BENEFIT MANAGEMENT CO. 22-00252 03/09/22 HEALTH				Open		336.00
01974 BOROUGH OF SEA BRIGHT COURT 22-00251 03/09/22 COURT				Open		24.90
00256 CLEARY, GIACOBBE, ALFIERI & 22-00264 03/09/22 LEGAL				Open		704.00
2386 CRANEY INTERPRETING SERVICE 22-00254 03/09/22 COURT				Open		220.00
2286 DIFRANCESCO, BATEMAN, KUNZMAN 22-00266 03/09/22 LEGAL				Open		1,480.00

**REGULAR MEETING**

**MARCH 15, 2022**

00609	EAGLE POINT GUN		
22-00216	02/16/22	Open	7,239.69
02101	GANNETT NJ		
22-00260	03/09/22 CLERK	Open	36.08
2573	JCP & L		
22-00275	03/10/22 ELECTRIC	Open	10,519.85
2782	LIMA CHARLIE CONSTRUCTION		
21-01136	09/22/21 SANITARY SEWER	Open	26,912.59
01433	MALL CHEVROLET, INC.		
21-01492	01/04/22 Fire Dept - Two Trucks	Open	71,402.86
2278	MCLAUGHLIN,STAUFFER & SHAKLEE		
22-00255	03/09/22 LEGAL	Open	6,958.21
01322	MONMOUTH AND OCEAN COUNTY		
22-00204	02/16/22	Open	50.00
00019	NJ AMERICAN WATER		
22-00261	03/09/22 WATER	Open	4,094.54
00300	NJ STATE ASSN CHIEFS OF POLICE		
22-00203	02/16/22	Open	275.00
00046	ONE CALL CONCEPTS, INC.		
22-00263	03/09/22 SEWER	Open	51.48
2803	R-BUILD		
22-00169	02/08/22 B&G- MAINTNENACE OF B&G	Open	4,200.00
00164	RAIN, WILLIAM		
22-00269	03/10/22 HEALTH	Open	161.10
2728	READY REFRESH BY NESTLE		
22-00276	03/10/22 A&E	Open	406.96
00027	SEABOARD WELDING SUPPLY, INC.		
22-00265	03/09/22 DPW	Open	14.50
02225	STAPLES ADVANTAGE		
22-00086	01/20/22 Office Supplies	Open	817.00
2535	SUBURBAN DISPOSAL, INC.		
22-00270	03/10/22 TRASH	Open	20,409.39
22-00271	03/10/22 DUMPSTERS	Open	547.34
22-00272	03/10/22 LANDFILL	Open	5,234.45
			-----
			26,191.18
2810	TOMAINO, JOSEPH P.		
22-00253	03/09/22 LEGAL	Open	337.50
01243	TREASURER, STATE OF NEW JERSEY		
22-00257	03/09/22 TIDELANDS	Open	1,250.00
2658	VERIZON		
22-00279	03/10/22 PHONE	Open	219.89
22-00280	03/10/22 PHONE	Open	71.86
			-----
			291.75
2291	VERIZON		
22-00281	03/10/22 FIOS	Open	93.99
00077	WEX BANK		
22-00268	03/10/22 GAS	Open	5,632.36

**TOTAL: \$ 172,285.00**

**Manual Checks**

22-00278	DAVID ASSOCIATES	HODER	\$840.00
3/10/2022	PLANNING BOARD:ENGINEER/ESCROW ACCTS		
22-00273	GAFFNEY, ALICE		\$4,158.88
3/10/2022	PLANNING BOARD:RELEASE ESCROW/REVIEW		
22-00267	GANNETT NJ		\$31.68
3/9/2022	PLANNING BOARD:LEGAL AD/ESCROW ACCT.		
22-00262	LHP HOLDINGS, LLC		\$2,185.31
3/9/2022	RELEASE OF PERFORMANCE BOND & ESCROW		
22-00256	NJ DEPT. OF HEALTH		\$2.40
3/9/2022	MONTHLY DOG LICENSE REPORT		

**TOTAL: \$ 7,218.27**

**GRAND TOTAL: \$ 179,503.27**

**MAYOR AND COUNCIL COMMITTEE COMMENTS**

Councilman Keeler reported that the Court is very pleased with operations and the next Sea Bright court is scheduled for Thursday, March 17<sup>th</sup> at 2:30. He also reported that there was a big power outage on Saturday – Councilman Birdsall believes it was a damaged high-tension power line near West Front Street. Councilman Keeler stated the application deadline for the Community Development Block Grant is July 22<sup>nd</sup> – and we are only eligible for ADA projects. Councilman Keeler said he had a meeting with the DOT and is waiting for a response regarding funding for the check valves in the north end. Councilman Birdsall said the DOT doesn't think installing the valves would solve the flooding problem and the project isn't worth the money considering the possible legal battle with the residents. In addition, Councilman Keeler said he has urged the DOT to install safety measures at the foot of the Highlands bridge to slow the traffic down. Chief Friedman stated he will be putting cones out again this year by the pedestrian crosswalks.

Councilman Bieber stated that at the previous workshop meeting he reviewed the priorities and actions from the administration and shared services committee meeting and is looking for comments and/or feedback as he will be working towards transitioning to implementation.

Councilman Catalano reported the Jr. Lifeguard program will be receiving applications soon and they have increased the fee from \$175 to \$200 and added a fourth session. There is high demand for the program and Beach Manager, Don Klein, has already received over 500 inquiries. The beach cam for the main beach will be going live next week and we will be going out to bid for the two new lifeguard towers and hopefully have them by the summer season.

Councilman Birdsall stated DPW is working diligently to prepare for the summer season. They have completed raking in north beach – today was the last day to operate in that area due to the piping plovers. The DPW has heavy equipment on the beach pulling the sand away from the sea wall so please be aware and cautious if you are in the area. DPW will also be prepping the gravel lot and are assisting Councilman Lamia clean out old Borough Hall to have it operational for upcoming events. Councilman Birdsall reported we are going out to bid for stormwater check valves for the downtown and will hopefully get that done soon as the funding is in place.

Councilman Lamia stated that Councilman Bieber had Borough staff come down to old Borough Hall to evaluate the remainder of file boxes on the gym floor and now about 95% are removed and the rest are waiting for the shredder. There are a few cabinets that still need to be moved and once the floor is totally cleared the floor will get redone. The floor and wall in the Council chambers have been repaired and overall there has been a lot of progress done. He has been working with Councilman Catalano to replace the outside railings and will look into whether the CDBG grant could be utilized for new ADA compliant railings.

Councilman Booker reported that the Governing Body just had their budget workshop meeting and due to the strong management through our administration, Sea Bright is on sound footing and anticipates putting forward a budget that we can all be proud of.

Mayor Kelly reiterated that CFO Michael Bascom along with all our department heads have done a great job this year. Mayor Kelly stated that the school reorganization discussions have been moving forward and the three towns have scheduled town hall meetings – our meetings will be April 11<sup>th</sup> and October 3<sup>rd</sup>. Progress on all other matters.

**EXECUTIVE SESSION**

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

**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. Real Estate**

**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 Booker:

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

Respectfully Submitted,

Christine Pfeiffer  
Borough Clerk