

Office of the Board of Commissioners
Borough of Monmouth Beach
September 29, 2015

The following statement was read by Mayor Howard:

This meeting is called pursuant to the provisions of the open public meetings law. Notice of this meeting was transmitted to The Link News and the Asbury Park Press on February 10, 2015. In addition, a copy of the notice was posted on the bulletin board in the Municipal Building and filed in the office of the Municipal Clerk on that date, where it has remained continuously posted as required under Statute.

Pledge of Allegiance

Mayor Howard called the meeting to order at 6:00 pm.

Present – Mayor Howard, Commissioner Cunniff, Commissioner McBride

Absent – None

Commissioner Cunniff moved, seconded by Commissioner McBride that the reading of the minutes of the previous meetings held on August 25 and September 1 be dispensed with and that they stand as recorded.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0-.

Commissioner Cunniff moved, seconded by Commissioner McBride that bills totaling \$305,436.58 be approved for payment.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0-.

Commissioner McBride moved, seconded by Commissioner Cunniff that the following Consent Agenda items be passed and adopted:

RESOLUTION

WHEREAS, in an attempt to prevent criminal mischief during the Halloween season, the Chief of Police has requested a temporary curfew be put into effect; and

BE IT RESOLVED by the Board of Commissioners of the Borough of Monmouth Beach that a temporary curfew be in effect from Monday, October 26, 2015 to and including Sunday, November 1, 2014 between the hours of 8:00 pm and 6:00 am; and

BE IT FURTHER RESOLVED that said curfew shall apply to anyone under 18 years of age unless accompanied by an adult, or unless on their way to or from work, from being out in public; and

BE IT FINALLY RESOLVED that Trick or Treat will take place on October 31, from 1:00 pm to 6:00 pm.

RESOLUTION

BE IT RESOLVED by the Mayor and Commissioners of the Borough of Monmouth Beach that the following Change Order has been presented for approval for the following project:

Project	River Avenue Emergency Drainage Repair
Change Order #	Change Order #1
Contractor	Fiore Paving Co.

BE IT RESOLVED that this Change Order revises the contract to reflect as-built quantities at River Avenue, the required Police Traffic Directors and the minor repairs at Monmouth Place; and

BE IT RESOLVED that this Change Order reduces the final contract amount by \$4,329.54 and adjusts the original contract amount from \$30,680.00 to \$26,350.46; and

BE IT RESOLVED that the Borough Engineer, Bonnie Heard, T&M Associates, in a letter dated September 14, 2015, has recommended that the change order be approved,

NOW, THEREFORE, BE IT FINALLY RESOLVED that Change Order #1 for the River Avenue Emergency Drainage Repair project be and is hereby approved.

RESOLUTION

BE IT RESOLVED by the Mayor and Commissioners of the Borough of Monmouth Beach that the following Change Order has been presented for approval for the following project:

Project	Monmouth Beach Bathing Pavilion-Phase XII Second Floor Community Room over North East Side
Change Order #	Change Order #2 and Final
Contractor	Salazar & Associates

BE IT RESOLVED that this Change Order reflects the as-built quantities of the Community Room which adjusts the final contract amount to \$330,805.79; and

BE IT RESOLVED that this Change Order decreases the original contract amount by \$2,694.21; and

BE IT RESOLVED that the Borough Engineer, Bonnie Heard, T&M Associates, in a letter dated September 17, 2015, has recommended that the change order be approved,

NOW, THEREFORE, BE IT FINALLY RESOLVED that Change Order #2 and Final for the Monmouth Beach Bathing Pavilion-Phase XII, Second Floor Community Room over North East Side be and is hereby approved.

RESOLUTION

BE IT RESOLVED by the Board of Commissioners of the Borough of Monmouth Beach that Kyle Ludwig, 561 Aldrich Road, Howell, NJ, be and is hereby re-appointed to serve as a Special Police Officer, Class II, for the Borough of Monmouth Beach; and

BE IT RESOLVED that said appointment is for the period of one year and shall be effective as of July 22, 2015; and

BE IT FURTHER RESOLVED that a true copy of this Resolution be transmitted to Thomas C. Walsh, Chief of Police, Monmouth Beach Police Department.

RESOLUTION

BE IT RESOLVED by the Board of Commissioners of the Borough of Monmouth Beach that Daniel Osborne, 24 Gillville Lane, Middletown, NJ 07748 be and is hereby appointed to serve as a Special Police Officer, Class II Trainee, for the Borough of Monmouth Beach; and

BE IT RESOLVED that said appointment shall be for a one year term, effective as of October 1, 2015; and

BE IT FURTHER RESOLVED that a true copy of this Resolution be transmitted to Thomas C. Walsh, Chief of Police, Monmouth Beach Police Department.

RESOLUTION

BE IT RESOLVED by the Board of Commissioners of the Borough of Monmouth Beach that Lisa Costello, 63 Riverdale Avenue, Monmouth Beach, 07750 be and is hereby appointed to serve as a Special Police Officer, Class II Trainee, for the Borough of Monmouth Beach; and

BE IT RESOLVED that said appointment shall be for a period of one year, effective as of October 1, 2015; and

BE IT FURTHER RESOLVED that a true copy of this Resolution be transmitted to Thomas C. Walsh, Chief of Police, Monmouth Beach Police Department.

RESOLUTION

WHEREAS, the Church of the Precious Blood has made an application for an on premise 50/50 cash raffle to be held at the parish center, 72 Riverdale Avenue, on October 17, 2015; and

WHEREAS, the Board of Commissioners of the Borough of Monmouth Beach feel that the applicant is qualified; that the members designated to conduct the games and to assist are of good moral character and have never been convicted of crime;

FURTHERMORE, that the games will be conducted according to the Act and rules and Regulations and the entire net proceeds are to be devoted to a purpose permitted by the Act; and

WHEREAS, there is satisfactory proof that no payment will be made for conducting the games or assisting therein and that the prizes are of the nature and amount allowed by the Act;

NOW, THEREFORE, BE IT RESOLVED that a Raffle License be granted to the Church of the Precious Blood, pending final approval from the Legalized Games of Chance Control Commission.

RESOLUTION

WHEREAS, there exists a need for Affordable Housing Services to Prepare a Housing Element and Fair Share Plan for the Borough of Monmouth Beach; and

WHEREAS, funds are available for said purpose; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Monmouth Beach as follows:

1. The Mayor and Municipal Clerk are hereby authorized on behalf of the Borough, to retain Jennifer Beahm, PP, AICP, of CME Associates, to perform the services of Special Planner for Affordable Housing Services, who shall Prepare the Housing Plan Element and Fair Share Plan for the Borough of Monmouth Beach, as required by law, and consistent with the proposal dated September 17, 2015; and

2. Jennifer Beahm is retained and appointed as Special Planner without competitive bidding as a "Professional Service" under the provisions of the Local Public Contracts Law because the service rendered or performed is to be done by a person authorized by law to practice a recognized profession and whose profession and practice is required by law and bids are not required as per R.S. 40A:5-11.

3. A notice of this contract shall be published as required by law. The Resolution and contract are on file and available for public inspection in the office of the Municipal Clerk during normal business hours.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0-.

End of Consent Agenda

The following Ordinance was read by title only by the Clerk:

AN ORDINANCE REGULATING THE STATUTORY AUTHORITY OF VERIZON NEW JERSEY INC., ITS SUCCESSORS AND ASSIGNS TO USE THE VARIOUS PUBLIC STREETS, ROADS, AVENUES, HIGHWAYS AND OTHER PUBLIC WAYS IN THE BOROUGH OF MONMOUTH BEACH, MONMOUTH COUNTY, NEW JERSEY, FOR ITS LOCAL AND THROUGH LINES AND OTHER COMMUNICATIONS FACILITIES AND PRESCRIBING THE CONDITIONS THEREOF.

Commissioner Cunniff moved, seconded by Commissioner McBride that the Ordinance be passed on title only and that the Clerk be instructed to advertise the Ordinance for a public hearing to be held on October 27, 2015.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0--.

The following Ordinance was read by title only by the Clerk:

AN ORDINANCE OF THE BOROUGH OF MONMOUTH BEACH COUNT OF MONMOUTH, STATE OF NEW JERSEY AMENDING CHAPTER XI ENTITLED "BEACHES, DUNES, PAVILION AND WATERWAYS" SECTION 11-2.3 ENTITLED "RULES AND REGULATIONS"

Mayor Howard noted that this amendment would prohibit glass bottles and containers in the pool, beach and deck areas of the Bathing Pavilion.

Commissioner Cunniff moved, seconded by Commissioner McBride that the Ordinance be passed on title only and that the Clerk be instructed to advertise the Ordinance for a public hearing to be held on October 27, 2015.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0-.

Administrator's Report:

Judy Wilson, Borough Administrator, reported the following:

Things were moving along with the Library and that the building should be lowered onto the foundation within the next 2-3 weeks.

The borough hall had been power washed in preparation for the Borough's annual Scarecrow Festival which would take place on Saturday, October 17.

Flu shots clinic would be held at the borough hall on October 7, from 10 to 12 noon.

Attorney's Report:

Dennis Collins, Borough Attorney, had nothing to report at this time.

Commissioner McBride moved, seconded by Commissioner Cunniff that the meeting be opened to the public.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0-.

Commissioner McBride reported that he had been working with Adam Levy and the Recreation Commission regarding the drainage at Griffin Park. He said they were working on a design that would call for a trench to be placed along the 3rd. base line toward Tocci Ave. and then leveling out the giant swale between the two fields and putting in a temporary drain.

Teja Anderson, Monmouth Parkway, asked the details of the curfew were.

The Clerk gave Ms. Anderson a copy of the Resolution adopting the temporary Halloween curfew.

Ms. Anderson said she objected to live goldfish being given as prizes by the game operators during the Firemen's Fair. She asked if something could be done to prohibit that.

The Clerk informed Ms. Anderson that according to the State's Legalized Games of Chance Control Commission live goldfish were already a prohibited prize.

Ms. Anderson said that the goldfish were not being given as a prize but were being given to all participants.

The Clerk said that may be the loophole which allowed the goldfish to be given away, since technically they were not a prize.

Elaine Morrison, 86 Wharfside Drive, said that there was excessive noise at Wharfside's common area every Saturday night where people gathered to sing karaoke. She said she had called the police several times but they did not seem to think there was a problem.

Mr. Collins said that the Borough's quality of life ordinance had limited enforceability but that she had a unique situation since she lived in a condominium complex. He explained that since the condo had an Association she could resolve the issue by having the Association prohibit the conduct.

Ms. Morrison said that the Association told her the opposite; they told her that the Borough's ordinance supersedes their regulations.

Mr. Collins said that the Association was wrong. He told Ms. Morrison that she has more avenues of relief than what the Commissioners could provide for her.

Ms. Morrison stated that Wharfside has a nine member board and that some of the board members are involved in the karaoke singing. She said she's been having a terrible time trying to resolve this problem and the police have said the sound was not offensive.

Mr. Collins explained that the police have the objective power to determine if they feel the noise is offensive. He said that what annoys one person may not annoy another.

Mr. Collins said that the Commissioners wanted to establish a noise ordinance and they will decide what decibel level is inappropriate. He said the DEP will historically reject any provision that is stricter than what the State permits but that the Borough would try to get something passed.

Mayor Howard said she was hoping to go for a lower decibel level of 50. She noted that the Borough's earlier version of a noise ordinance had been rejected by the State several years ago.

Mr. Collins gave a brief history of the Borough's attempt to pass a noise ordinance in 2008. He said the ordinance had been rejected by DEP, which led to the Commissioners adopting a Quality of Life ordinance.

Mr. Collins said that noise complaints had been on the increase and the Chief of Police has researched how his department could enforce noise regulations. He noted that Sea Bright adopted the State ordinance and they were able to do decibel measurements for us. Mr. Collins said that two properties had measured above the ordinance's limits and two properties were below the limit. He pointed out that the properties in question violated the "after 10 pm" provision, but not the "before 10 pm" regulation.

Mr. Collins said he would need direction from the Commissioners in order to prepare a draft noise ordinance. He noted that the Noise Pollution law permits towns to adopt stricter regulations but the DEP would deny them if they do stricter.

Mayor Howard said the Chief had reviewed the model ordinance and thought we might introduce it tonight but with a reduction in the decibels.

Mr. Collins said that the ordinance presumes that there is a violation of the decibel level.

Mayor Howard asked Mr. Collins if the adoption of the noise ordinance would make the Quality of Life ordinance moot.

Mr. Collins said the noise ordinance did not have a repealer clause. He said that the police have the discretion to decide which ordinance and/or violation to charge against.

Mayor Howard said that the ordinance did not have to be introduced tonight. She asked Mr. Collins if the ordinance could be adopted with some sections left out.

Mr. Collins said that the ordinance could be adopted but the more that was left in, the better the chance that the State would permit it. He noted that he has to explain to the State the reason for any modifications made to the ordinance.

Mayor Howard said that there was only one property in Monmouth Beach, on Ocean Avenue, that violated the decibel rule and it would have been in violation of both the before and after 10 pm levels. Mayor Howard said that two other areas in town, the Tiki Bar and the Wharfside Condominium complex, would have been in violation if they had stayed at the same level after 10pm. She said that most towns in the area had a 10 pm provision in their ordinances.

Dennis Collins commented that he would have to get the ordinance past the DEP. He said he could not argue that 60 decibels was better than 65 but he could argue that 50 decibels would be more appropriate for a small, quiet community like Monmouth Beach.

Mayor Howard said we could try requesting a 50 decibel level and see what the State said.

Commissioner McBride explained that the trouble with nuisance ordinances is that they are subjective. He said the Commissioners were trying to make a more viable tool in order to enforce violations. He noted that it was a very involved process and that officers have to be trained to take readings at the site of violations.

Commissioner Cunniff asked what 50 decibels would sound like.

Mayor Howard suggested that Chief Walsh reach out to Sea Bright and ask them to measure sound levels with the Commissioners present so they could have a better idea of what the various decibel levels would sound like. She said the ordinance did not have to be introduced tonight.

Mr. Collins reported that the Clerk had provided various documents related to McWood Place, which may be a Borough Right of Way. He said a prospective purchaser of a home there has requested the use of McWood Place as a way of ingress/egress to the property in question. Mr. Collins said that he would research the issue.

Roberta Jennings, Cook St., asked Mr. Collins if the matter regarding the use of Borough property by a resident in her area had been resolved.

Mr. Collins said that a summons had been issued to resident, who has pled Not Guilty. He said the matter had been adjourned and is pending trial.

There being no further business,

Commissioner McBride moved, seconded by Commissioner Cunniff that the meeting be closed.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3- Nay -0-.

Commissioner McBride moved, seconded by Commissioner Cunniff that the meeting be adjourned.

Upon the call of the roll the foregoing motion was carried by the following vote: Aye -3-
Nay -0-.

Mayor Howard

Commissioner Cunniff

Commissioner McBride

ATTEST:

Joyce L. Escalante, RMC
Municipal Clerk
September 29, 2015