

MINUTES - SPECIAL MEETING

**BOROUGH COUNCIL, BOROUGH OF SEA GIRT
AUGUST 27, 2014**

The Special Meeting of the Borough Council of the Borough of Sea Girt was held in the Sea Girt School on August 27, 2014 and called to order by Mayor Ken Farrell at 7:30 PM. The Clerk read the Compliance Statement: this meeting is called pursuant to the provisions of the Open Public Meetings Act, C. 231, P.L.1975: adequate notice of this meeting has been given by posting a notice on the Borough's official bulletin board and by transmitting a copy of the Notice to the Borough's two official newspapers, the *Asbury Park Press* and the *Coast Star* as required by law.

1. ROLL CALL:

	Present	Absent
Mayor Farrell	X	
Councilman Foley	X	
Councilman Buonocore	X	
Councilwoman Morris	X	
Council President Fetzer	X	
Councilman Mulroy	X	
Councilman Cerami	X	

2. Resolution No. 172-2014: Award LSRP contract, Daniel Toder to Retain Licensed Site Remediation Professional (LSRP)

UPON MOTION OF Councilperson Foley, seconded by Councilperson Mulroy, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, the Borough had an existing professional services contract with Daniel Toder, Licensed Site Remediation Professional, to oversee the site remediation work at the Public Works Yard that recently expired; and

WHEREAS, Mr. Toder has submitted a proposal to continue monitoring the in-situ chemical treatment remediation process currently being conducted at the Public Works Yard at the cost of \$24,300.00.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Girt, County of Monmouth that a non- fair and open professional services contract be awarded to Mr. Daniel Toder to serve as a Licensed Site Remediation Professional as required by NJDEP for site remediation at the Public Works Yard at the cost of \$24,300.00.

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk be and they are hereby authorized to execute the Agreement with Daniel Toder for LSRP services.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilman Foley	x			
Councilman Buonocore	x			
Councilwoman Morris	x			
Council President Fetzer				X
Councilman Mulroy	x			
Councilman Cerami	x			

3. **Resolution No. 173-2014** – Resolution to Memorialize an Agreement with the Sea Girt School to Provide Various Public Works Services in Return for Use of School Services and to Agree to Reconsider the Matter at a Future Date if Necessary

WHEREAS, the Borough of Sea Girt has had an agreement with the Sea Girt School to provide various public works services, including but not limited to lawn care on School fields for many years; and,

WHEREAS, the Sea Girt School has received the offer of a donation from various school supporters that includes lawn care; and,

WHEREAS, the Sea Girt School will continue to allow the Borough to utilize its premises for various school premises during the time it receives the donation for said services; and,

WHEREAS, the Sea Girt School is requesting confirmation that should such services including lawn care be required in the future, the Borough Council will reconsider the matter at that time; and,

WHEREAS, the Sea Girt School has requested the use of Baltimore Park for soccer team practices and games and the School Boosters have requested the same for use by the flag football team during the period September through November 2014.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Girt, County of Monmouth that the Borough Council hereby agrees to reconsider the provision of various public works services including lawn care at such time as it becomes necessary for the School to obtain these services.

BE IT FURTHER RESOLVED that the Borough Council of the Borough of Sea Girt also agrees to permit the use of Baltimore Park for various team practices and games, including soccer (Monday through Friday, 3:30 PM to 5:30 PM) and flag football (Wednesday evening, 5:30 to 6:45; Saturday afternoons from 12:00 PM to 6:00 PM and occasional Sunday afternoons) during October and November.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilman Foley	X			
Councilman Buonocore	X			
Councilwoman Morris	X			
Council President Fetzer	X			
Councilman Mulroy	X			
Councilman Cerami	X			

4. Baltimore and Neptune Outfalls and Town-wide Drainage Issues

Mayor Farrell explained the following:

- Replenishment project stated last year with pre-construction meetings and then partnering meetings during construction; DEP and ACoE were notified by Borough officials that outfalls will be a problem if they are not extended.
- During project, the contractor was responsible for keeping outflow pipes open;
- Outfalls were fine and not blocked by sand until approximately July 27, 2014;
- Further explained contacts with DEP, ACoE, Congressman Smith, Colonel Owens, local representatives Singer, Kean and Rible;
- Our staff maintained outfalls open throughout;
- Continued to contact our representatives;
- Communications between DEP and ACoE asking for an evaluation of the outfall pipes to determine if the outfall pipes need to be extended and by how much;
- Describes contacts and initiatives and noted that our staff is working very hard; we have obtained equipment through LESO program;
- Pump borrowed from SMRSA and one rented; now intending to obtain pumps through LESO program.

- Councilperson Foley checked the outflow pipe after last rain to see if they were open; doesn't know the true cause of flooding in various areas; feels we should wait to extend outflow pipes until ACoE responds because not enough information is available.

- Councilperson Buonocore is very concerned about what is happening in southern part of town; we must make sure we have a plan to address all issue; probably could be more extensive than the out flow pipes; he asked if we expect an answer by mid-September from ACoE, should we wait if we put up the money? We will not be reimbursed.

- Councilperson Morris noted they are making headway with Federal Government and in constant contact with the officials in charge; we should continue to press them for answers; we should wait for those answers before continuing; other issue is drainage and we need to address all issues and create comprehensive plan to address all the issues; a quick fix may not be in our best interest.

- Council President Fetzer thanked the Mayor, Administrator and staff for daily attention to issue; agrees we should not wait; we should work quickly to determine what the fix is; we should also develop additional contingency plan and move forward on out flow pipes now and keep options only drainage is secondary issue; look at this during Baltimore project.

- Councilperson Mulroy questioned the down side and wants to get funding in place; as well as questioned the timeline.

- Councilperson Cerami noted water on private property is an unacceptable condition; he would like someone else to foot the bill but should keep pressing forward.

- Borough Engineer Peter Avakian stated he was here on August 6 to discuss outfall issues; he asked at that time to proceed with preparation of plans. Two issues being (1) volume of sand now; and (2) design profile that takes into consideration losses of sand placed; timing would

Baltimore and Neptune Outfalls and Town-wide Drainage Issues (continued)

- have occurred; 150% more sand than what was placed on beach during project; plans prepared to extend pipes out 100 feet; He further explains plans; potentially increase size of outfall pipe west of beach, east of First Ave; he noted he is pretty sure ACoE will recommend
- extension of outfall pipes may not be 100 feet, then we can discuss in depth with them; need to look at a few alternatives.
- Mayor Farrell commented that when Neptune Place 48” outfall pipe clears, drainage system works well; further explains problems with Baltimore Blvd 60” pipe; he noted to make sure outfall pipes are as large as possible going out to east;
- Peter Avakian continued explaining that he must evaluate size of pipes, and necessary drainage in the event of 25, 50, 100 year storm events; capacity of system on First Ave; evaluate out flow east and west of First Ave; consider installing parallel pipes.
- He also noted that we must look at alternatives; that due to the topography of our shore communities, slope is always an issue; First Ave to Ocean Ave is only 2’ lower in 1,000 feet; permitting is required including Federal consistency compliance and CAFRA waterfront development; a resident suggested adding curbing to First Avenue; Mayor Farrell replied that curbing is the Borough’s responsibility;
- Mr. Mulligan suggested adding another outfall and noted that over time, the sand will probably erode; Mr. Avakian noted that some sand loss is expected to occur after replenishment and noted that development of properties in the Borough has contributed to the problems (increase in impervious surfaces on properties).
- Councilperson Mulroy concurred that development in Sea Girt has added to problems; we need to address this going forward; impervious coverage limitation needed.

At this time the following Resolution is considered:

5. **Resolution No. 174-2014 - RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF SEA GIRT (“BOROUGH”), IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY AUTHORIZING AN EMERGENCY APPROPRIATION PURSUANT TO N.J.S.A. 40A:4-46 TO PROVIDE FUNDS FOR RESPONSE TO THE EXTRAORDINARY EXPENSES RESULTING FROM THE NEED TO EXTEND OUTFALL PIPES AT VARIOUS LOCATIONS IN THE BOROUGH AND PROVIDE FOR DRAINAGE IMPROVEMENTS (“PROJECT”) AND FURTHER AUTHORIZING THE ISSUANCE OF EMERGENCY NOTES TO FUND SUCH EMERGENCY APPROPRIATION**

WHEREAS, it has been found necessary to make an emergency appropriation and to meet certain expenses incurred or to be incurred as a result of the extraordinary need to extend outfall pipes and provide for drainage improvements at various locations requiring the appropriation of funds of the

Resolution No. 174-2014 (continued)

Borough of Sea Girt, in the County of Monmouth, State of New Jersey (the “Borough”), in the amount of \$3.5M; and,

WHEREAS, N.J.S.A 40A:4-46 provides that it shall be lawful to make an emergency appropriation, after the adoption of a budget, for a purpose which is not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein, to meet a pressing need for public expenditure to protect or promote the public health, safety, morals or welfare or to provide temporary housing or public assistance prior to the next succeeding fiscal year, which emergency

appropriation and emergency notes issued to finance the same shall be provided for in the succeeding annual budget, pursuant to N.J.S.A 40A:4-47; and,

NOW, THEREFORE BE IT RESOLVED (by not less than two-thirds of the full membership of the governing body affirmatively concurring) as follows:

1. Pursuant to N.J.S.A. 40A:4-46, an emergency appropriation is hereby made in the amount of \$3.5M for the Project. The \$3.5M appropriated herein is sufficient to fund the emergency.
2. The emergency appropriation set forth in Section 1 hereof shall be provided for in the budget of the succeeding year except to the extent, if any, that provision for paying, funding or refunding any such emergency appropriation or for financing the purpose of the expenditures thereof shall previously been made by authorization of bonds pursuant to 40A:2-3.
3. Emergency Notes not in excess of \$3.5M are hereby authorized to be issued by the Borough (the “Emergency Notes”).
4. The Notes shall be executed by the Mayor and the Chief Financial Officer of the Borough and the official seal shall be thereunto affixed and attested to by the Clerk of the Borough.
5. All Notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. It is hereby delegated to the Chief Financial Officer of the Borough the authority to determine all matters in connection with the Notes issued, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. The Chief Financial Officer is also hereby authorized to sell part or all of the Notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this resolution is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the Notes so sold, the price obtained and the name of the purchaser.
6. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Internal Revenue Code of 1986, as amended (the “Code”) of the interest on the Notes issued under this resolution.

Resolution No. 174-2014 (continued)

7. The Borough reasonably expects to reimburse the expenditures toward the costs of the Project described in this resolution incurred and paid for by the Borough prior to the issuance of the Notes authorized by this resolution with the proceeds of such Notes. No funds from sources other than the Notes have been or are reasonably expected to be reserved or allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same “controlled group” as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to expenditures of the Borough to be reimbursed. This paragraph 9 is intended to be and hereby is a declaration of the Borough’s official intent to reimburse the expenditures toward the costs of the Project described in this resolution incurred and paid for prior to the issuance of the Notes with the proceeds of such issuance of the Notes by the Borough, in accordance with Treasury Regulation Section 1.150-2(e)(1), and no action (or inaction) will be an artifice or device in accordance with Treasury Regulation Section 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements or to avoid restrictions under Sections 142 through 147 of the Code. The proceeds of the Notes used by the Borough to reimburse itself for expenditures towards the Project described in this resolution incurred and paid for, will not be used directly or indirectly (i) to “refund” an issue of governmental obligations within the meaning of Section 148 of the Code, (ii) to create or increase the balance of a “sinking fund” within the meaning of Treasury Regulation Section 1.148-1(c)(2) with respect to any obligation of the Township, or to replace funds that have been, are being or will be used for sinking fund purposes, (iii) to create or increase the balance in a “reserve or replacement fund” within the meaning of Section 148(d) of the Code and Treasury Regulation Section 1.148-2(f) with respect to any obligation of the Borough or to replace funds that have been, are being or will be so used for reserve or replacement fund purposes, or (iv) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same “controlled group” within the meaning of Treasury Regulation Section 1.150-1(e)). The Notes to be issued by the Borough to finance those expenditures towards the Project described in this resolution to be reimbursed will be issued in an amount not to exceed \$3.5M which moneys shall be expended from a fund of the Borough, entitled “Capital Fund,” which fund contains moneys which can be expended for any lawful project of the Borough. The expenditures incurred and paid towards the Project described in this resolution to be reimbursed with the proceeds of the Notes will be “capital expenditures” in accordance with the meaning of Treasury Regulation Section 1.150-2(d)(3) or extraordinary nonrecurring working capital expenditures.
8. Two certified copies of this resolution shall be filed with the Director of the Division of Local Government Services.
9. This resolution shall take effect immediately.

UPON MOTION of Councilperson Buonocore, seconded by Councilperson Morris, carried, that this matter be tabled tonight. Councilpersons Foley, Mulroy, Cerami and Council President Fetzer voted no; Councilpersons Buonocore and Morris voted affirmatively. The motion to table is not approved:

MINUTES – SPECIAL MEETING
 AUGUST 27, 2014

Resolution No. 174-2014 (continued)

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilman Foley		X		
Councilman Buonocore	X			
Councilwoman Morris	X			
Council President Fetzer		X		
Councilman Mulroy		X		
Councilman Cerami		X		

After further discussion, and **UPON MOTION** of Council President Fetzer, seconded by Councilperson Cerami, the Emergency Appropriation Resolution was further considered; the vote on the reconsideration of the Resolution is as follows:

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilman Foley		X		
Councilman Buonocore		X		
Councilwoman Morris		X		
Council President Fetzer	x			
Councilman Mulroy		X		
Councilman Cerami	x			

The Emergency Appropriation Pursuant N.J.S.A. 40A:4-46 to provide Funds for Response to the Extraordinary Expenses Resulting from the Need to Extend Outfall Pipes at Various Locations in the Borough and Provide for Drainage Improvements (“Project”) and Further Authorizing the Issuance of Emergency Notes to Fund Such Emergency Appropriation Resolution was not adopted.

6. **Resolution No. 175-2014:** Authorize Peter Avakian to conduct Evaluation Study of Outfalls and Drainage.

BE IT RESOLVED by the Borough Council of the Borough of Sea Girt that Peter Avakian, Borough Engineer, be and he is hereby authorized to conduct an evaluation of the drainage systems in the Baltimore Blvd., Neptune Blvd. and First Avenue areas to determine what improvements will be necessary to the system to reduce drainage issues in the area and report back to the Borough Council as soon as possible.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Councilman Foley	X			
Councilman Buonocore	X			
Councilwoman Morris	X			
Council President Fetzer	X			
Councilman Mulroy	X			
Councilman Cerami	X			

7. Resolution No. 176-2014: Payment of bills

UPON MOTION of Councilperson Mulroy, seconded by Councilperson Foley, carried, that the following Resolution be and the same is hereby adopted:

BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt that bills be paid as appearing on the attached Bill Lists dated August 22, 2014 the totals as follows:

CURRENT FUND	\$	63,859.56
WATER/SEWER OPERATING FUND	\$	667.80
BEACH OPERATING FUND	\$	13,391.83
TRUST	\$	15,819.00
RECREATION TRUST	\$	6,984.32
DOG TRUST	\$	7.80
BEACH CAPITAL	\$	2,059.41
GENERAL CAPITAL	\$	7,663.55
WATER CAPITAL	\$	11,508.60
PAYROLL	\$	568.58

Recorded Vote:

	Ayes	Nays	Absent	Abstain
Councilman Foley	X			
Councilman Buonocore	X			
Councilwoman Morris	X			
Council President Fetzer	X			
Councilman Mulroy	X			
Councilman Cerami	X			

Council President Fetzer abstained with respect to authorizing the payment to Hatch Mott MacDonald.

8. Resolution No. 177-2014: Adjourn to Executive Session to discuss personnel & litigation matters.

UPON MOTION of Council President Fetzer, seconded by Councilperson Buonocore, that the following Resolution be and the same is hereby adopted:

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, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, as follows:

MINUTES – SPECIAL MEETING
AUGUST 27, 2014

Resolution No. 177-2014 (continued)

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matter(s) to be discussed is as follows: potential and pending litigation (Patock, Walker) contract negotiations, personnel.
3. It is anticipated at this time that the subject matters will be made public, if and when, confidentiality is no longer necessary. Action may be taken upon return to public session.
4. This Resolution shall take effect immediately.

Recorded Vote:

	Ayes	Nays	Absent	Abstain
Councilman Foley	X			
Councilman Buonocore	X			
Councilwoman Morris	X			
Council President Fetzer	X			
Councilman Mulroy	X			
Councilman Cerami	X			

The Board returned to public session at 9:55 PM. There being no further business and **UPON MOTION** of Council President Fetzer, seconded by Councilperson Mulroy, carried, that the meeting be finally adjourned at 10:00 PM.

Lorraine P. Carafa
Municipal Clerk