

## MINUTES - REGULAR MEETING

October 13, 2021

**NOTICE IS HEREBY GIVEN THAT THE BOROUGH COUNCIL MEETING SCHEDULED FOR OCTOBER 13, 2021 WILL BE A VIRTUAL MEETING; THE MEETING WILL COMMENCE AT 7:00 PM.**

### **MOMENT OF SILENCE**

### **SALUTE TO THE FLAG**

### **COMPLIANCE STATEMENT:**

The Clerk read the following compliance statement: 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 website and 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:**

	<b>Present</b>	<b>Absent</b>
Mayor Fetzer	X	
Councilman Clemmensen	X	
Councilman Perry	X	
Councilman Begley	X	
Council President Anthony	X	
Councilwoman Giegerich	X	
Councilwoman Richman	X	

- PRESENTATION** - Manasquan First Aid updated the Borough on their current operations and future plans.
- CONSENT AGENDA** - Mayor Fetzer requested the resolution to authorize a Curfew be moved to New Business.

**UPON MOTION** of Councilman Clemmensen, seconded by Councilwoman Giegerich, carried, that the following Resolutions be and the same is hereby adopted:

- R -166-2021:** Authorize the Cancellation of Outstanding Checks

**WHEREAS** certain checks issued from the Borough of Sea Girt Recreation Trust Account have not been presented for payment and are now staled dated and still outstanding, and:

**WHEREAS**, the Borough Council of the Borough of Sea Girt wishes to cancel these checks; land.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Sea Girt that the following checks issued from Borough bank accounts be canceled:

<b>Check Number</b>	<b>Date</b>	<b>Payee</b>	<b>AMOUNT</b>
20403	8/12/20	Joseph Konzelmann	\$411.60
20413	9/09/20	Peaches & Ice Cream	\$162.50
20415	9/09/20	Carley Setaro	\$56.05

- b. **R-167-2021:** Authorize the Mayor and Clerk to Execute a Project Agreement with Monmouth County for Performance and Delivery of FY 2021 Community Development Projects

**WHEREAS**, certain federal funds are potentially available to Monmouth County under the Housing and Community Development Act of 1974, as amended; and

**WHEREAS**, the County of Monmouth expects to receive an allocation for Fiscal Year 2021 from the United States Department of Housing and Urban Development; and

**WHEREAS**, the County of Monmouth has submitted its Annual Plan for Fiscal Year 2021 to the U.S. Department of Housing and Urban Development, which included a project hereinafter referred to as ADA Improvements to the Municipal Library building with a grant allocation of \$157,273.00

**WHEREAS**, the Borough of Sea Girt hereby met all the requirements for the release of funds to begin incurring costs for this project; and

**WHEREAS**, the Borough of Sea Girt has filed with the Monmouth County Community Development Program an acceptable timetable for completion and expenditure of grant funds, which is included as an appendix to the Project Agreement.

- c. **R-168-2021:** Authorize Community Development Block Grant Resolution Authorizing the Mayor to Sign a Certification Prohibiting the Use of Excessive Force and a Certification Prohibiting the Use of Federal Funds for Lobbying

**WHEREAS**, certain federal funds are potentially available to Monmouth County under the Housing and Community Development Act of 1974, as amended; and

**WHEREAS**, The United States Department of Housing and Urban Development has allocated funding to the County of Monmouth for Fiscal Year 2021; and

**WHEREAS**, the County of Monmouth is making some of these funds available to certain participating municipalities and non-profit agencies; and

**WHEREAS**, it is required that the Borough of Sea girt execute a Project Agreement with Monmouth County to undertake a project known as ADA Improvements to the Library and WHERAS, the US Department of Housing and Urban Development is requiring that the Mayor of the Borough of Sea Girt sign additional certification in order to receive these funds; and

**WHEREAS**, the Borough of Sea Girt has adopted a policy prohibiting the use of excessive force by its law enforcement agency (police force) within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

**WHEREAS**, a copy of that policy is attached to and made part of this resolution.

**NOW, THEREFORE, BE IT ORDAINED**, that The Borough of Sea girt has met the conditions of receiving a Fiscal Year 2021 allocation by adopting a policy prohibiting the use of excessive force and by not using federal funds for lobbying or by disclosing that funds have been use for lobbying.

- d. **R-169-2021:** Authorizing an On-Premise Merchandise Raffle License for The Sea Girt Elementary School Parent-Teacher Organization

**WHEREAS**, the Sea Girt Elementary School Parent-Teacher Organization has made application to the Borough Council for a license to conduct a raffle for the benefit of the Sea Girt Elementary School, on November 20, 2021 at 4:00 PM (rain date November 21, 2021).

**WHEREAS**, the above is being conducted in accordance with Findings and Determinations of the verifying officer.

**NOW, THEREFORE, BE IT RESOLVED**, that the license requested be granted.

- e. **R-170-2021:** Authorize Agreement between County of Monmouth and Sea Girt for MODIV Property Assessment Computer Services

**WHEREAS**, The State of New Jersey has mandated the use of the MODIV Property Assessment Computer System for all New Jersey Municipalities; and,

**WHEREAS**, The Board of Chosen Freeholders of the County of Monmouth, in conjunction with the County Board of Taxation, is offering the County's MOD IV Property Assessment Computer System services to the municipalities; and,

**WHEREAS**, A Shared Services Agreement has been proposed for this purpose, pursuant to N.J.S.A. 40A:65-1 et seq.; and,

**WHEREAS**, It is in the best interest of the Borough of Sea Girt to enter into such an Agreement;

**NOW, THEREFORE, BE IT RESOLVED**, By the Borough Council of the Borough of Sea Girt that the agreement entitled, "**Agreement Between the County of Monmouth and the Borough of Sea Girt for MODIV Property Assessment Computer Services**", a copy of which is attached hereto, be approved for the First of January, 2022 through December 31, 2031

- f. **R-171-2021:** Authorize Grant for Alcohol Education and Rehabilitation

**WHEREAS**, N.J.S. 40A:4-87 provides that that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and,

**WHEREAS**, the Director may also approve the insertion of an item of appropriation for equal amount, and

**WHEREAS**, The Borough of Sea Girt has received a grant for Alcohol Education and Rehabilitation and wishes to amend its 2021 Current Fund Budget to include this additional amount as revenue.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Borough of Council of the Borough of Sea girt hereby requests the Director of the /division of Local Government Services to

approve the insertion of an item of revenue in the Current Fund budget for the year 2021 in the sum of \$1,363.19 which is now available as a revenue from:

Grants – Alcohol Education and Rehabilitation

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services:

General Appropriations Operations excluded from “CAPS” – Public and Private Programs off Set by Revenues

g. **R-172-2021:** Authorize Grant for Body Worn Cameras

**WHEREAS**, N. J. S. A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, said Director may also approve the insertion of an item of appropriation for an equal amount, and

**WHEREAS**, the Borough of Sea Girt has received a grant for the Sea Girt Police Department for the purchase of Body Worn Cameras and wishes to amend its 2021 Current Fund Budget to include this additional amount as revenue.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Girt hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Current Fund budget for the year 2021 in the sum of \$61,140.00 which is now available as a revenue from:

Grants – Office of the Attorney General SFY 2021 Body-worn Camera Grant Program

Special Items of General Revenue Anticipated with Prior Written Consent  
of the Director of Local Government Services:

**BE IT FURTHER RESOLVED** that a like sum of \$61,140.00 be and the same is hereby appropriated in the Current Fund budget under the caption of:

Grants – Office of the Attorney General SFY 2021 Body-worn Camera Grant Program

General Appropriations Operations excluded from “CAPS” – Public and Private Programs off Set by Revenues:

h. **R-173-2021:** Authorize Grant for Clean Communities

**WHEREAS**, N. J. S. A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, said Director may also approve the insertion of an item of appropriation for an equal amount, and

**WHEREAS**, the Borough of Sea Girt has received a grant for Clean Communities and wishes to amend its 2021 Current Fund Budget to include this additional amount as revenue.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Girt hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Current Fund budget for the year 2021 in the sum of \$7,715.72 which is now available as a revenue from:

Grants – Clean Communities

Special Items of General Revenue Anticipated with Prior Written Consent  
of the Director of Local Government Services:

**BE IT FURTHER RESOLVED** that a like sum of \$7,715.72 be and the same is hereby appropriated in the Current Fund budget under the caption of:

Grants – Clean Communities

General Appropriations Operations excluded from “CAPS” – Public and Private Programs off Set by  
Revenues:

**R-174-2021:** Authorize Zoning Escrow Refunds

**WHEREAS**, the following zoning applications were submitted along with the required escrow deposit of \$1,500.00 for the listed property locations: and,

**WHEREAS**, the application has been processed and necessary engineering fees were deducted from the escrow deposit, leaving unexpended funds; and,

**WHEREAS**, the Zoning Officer has advised that all of the fees associated with this application have been paid in full.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Sea Girt, that a refund of the unexpended escrow balances in the amount listed below be issued.

Property Location	Check Payable to	Address	Unexpended balance
2 Brooklyn Blvd.	Ron Pongrac	12 Brooklyn Blvd. Sea Girt, NJ 08750	1,080.00
604 Chicago Blvd.	The Heavens Realty & Development	36 Old Farm Road, Oakhurst, NJ 07755	1,080.00
401 Philadelphia Blvd.	Aqualand Pools	2413 Rt. 35, Manasquan, NJ 08736	1,290.00
410 Brooklyn Blvd.	Maryalice Dunne	410 Brooklyn Blvd. Sea Girt, NJ 08750	1,070.00
616 Brooklyn Blvd.	Offshore Pools	260 Brick Blvd. Brick, NJ 08723	870.00
209 Chicago Blvd.	The Pool House	105 Curtis Ave. #2 Manasquan, NJ 08736	1,500.00

4. **APPROVE MINUTES**

a. **Resolution No. 175-2021:** Approve Minutes, September 8, 2021 Regular Meeting – Virtual

**UPON MOTION** of Councilman Perry, seconded by Councilman Clemmensen, carried, that the Minutes of the Regular Meeting held on September 8, 2021 be and the same are hereby approved.

Recorded Vote:

	Ayes	Nays	Absent	Abstain
Councilman Clemmensen	X			
Councilman Perry	X			
Councilman Begley	X			
Council President Anthony	X			
Councilwoman Giegerich	X			
Councilwoman Richman	X			

5. **OPEN DISCUSSION** (Council is invited to speak on any subject)

6. **UNFINISHED BUSINESS:**

1. **Ordinance No. 17-2021:** The Mayor to read the said Ordinance by Title:

AN ORDINANCE TO AMEND CHAPTER TWELVE OF THE CODE OF THE  
BOROUGH OF SEA GIRT ENTITLED “BUILDING & HOUSING”

**BE IT ORDAINED**, by the Governing Body of the Borough of Sea Girt that Chapter 12, Section 12-1.6 entitled “Construction Fees” is hereby repealed to be replaced by a new section to read as follows:

**Section 12-1.6 Fees:**

The Borough of Sea Girt is a participant in a Regional Construction Office. Therefore, in compliance with the regulations promulgated by the State of New Jersey Department of Community Affairs, all fees shall be in accordance with the master fee schedule as established by the community hosting the regional Construction Office. Currently that community is the Borough of Spring Lake.

All current and future fee schedules shall be in compliance with the master fee schedule for the duration of the Borough of Sea Girt’s membership in the Regional Construction Office.

**BE IT FURTHER ORDAINED**, that all ordinances or parts of ordinance inconsistent with the foregoing are hereby repealed, but only to the extent of the inconsistency.

**BE IT FURTHER ORDAINED**, that this ordinance shall take effect immediately upon passage and publication according to law.

**UPON MOTION** of Council President Anthony, seconded by Councilman Clemmensen, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public participating and **UPON MOTION** of Councilman Clemmensen, seconded by Councilman Perry, carried, the public hearing was closed.

**UPON MOTION** of Councilwoman Giegerich, seconded by Councilman Begley carried, that the said Ordinance No. 17-2021 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	Ayes	Nays	Absent	Abstain
Councilman Clemmensen	X			

Councilman Perry	X			
Councilman Begley	X			
Council President Anthony	X			
Councilwoman Giegerich	X			
Councilwoman Anthony	X			

7. **NEW BUSINESS:**

- i. **R -2021:** Authorize Curfew, October 30 and 31, 2021

**UPON MOTION** Councilman Clemmenssen, seconded by Councilman Begley, carried that the following Resolution be and the same is hereby adopted:

**WHEREAS**, the Borough Council of the Borough of Sea Girt feels it would be in the best interests of the citizens of the Borough of Sea Girt to enact a curfew for the evenings of October 30th and 31st, 2021.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Sea Girt, County of Monmouth that a curfew be enacted beginning at 8:00 PM on October 30<sup>th</sup> through 7:00 AM on October 31, inclusive, and beginning at 9:00 PM on October 31 through 7:00 AM on November 1, inclusive, for all children under the age of 17, unless accompanied by an adult.

Recorded Vote:

	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>
Councilman Clemmenssen	X			
Councilman Perry	X			
Councilman Begley	X			
Council President Anthony	X			
Councilwoman Giegerich	X			
Councilwoman Anthony	X			

A. **Ordinance No. 14-2021:** The Mayor to read the said Ordinance by Title:

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER III POLICE REGULATIONS, ARTICLE 3-1, NOISE; OF THE BOROUGH CODE IN THE BOROUGH OF SEA GIRT

§ 3-1 **NOISE.**

§ 3-1.1 **Definitions.**

[Ord. No. 307; Ord. No. 597 § 1; Ord. No. 11-2016]

As used in this section:

**COMMERCIAL OPERATOR**

Shall mean anyone performing construction and/or landscaping on a property other than the property owner and/or their immediate family.

**CONSTRUCTION**

Shall mean the construction, assembly, erection, reconstruction, alteration, conversion, demolition, removal, repair, painting or equipping of buildings or structures.

**CONSTRUCTION EQUIPMENT**

Shall mean equipment which may be mobile, semipermanent, or permanent, intended for heavy work such as earthmoving, lifting containers or materials, drilling holes in earth or rock, or concrete or paving application.

**dB(C)**

Shall mean the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

**Demolition**

Shall mean any dismantling, destruction or removal of buildings, structures, or roadways.

**Emergency work**

Shall mean any work or action necessary at the site of an emergency to restore or deliver essential public services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, abating life-threatening conditions or a state of emergency declared by a governing agency.

**Exempt Sounds**

Shall include:

- a.** Bells, chimes or carillons, which may include electronic devices that imitate the sounds of bells, chimes or carillons, while being used in conjunction with religious services;
- b.** Emergency energy release devices owned or controlled by a public utility or government entity;
- c.** When public health or safety is involved, emergency work to provide electricity, water, or other public utilities; to conduct emergency construction or demolition work, including tree, debris or rubble removal; to make emergency repairs to public roadways, beach, boardwalk or bridges; to address emergency incidents such as the cleanup of spills of hazardous materials;
- d.** National Warning System (NAWAS): Systems used to warn the community of attack or imminent public danger such as flooding or explosion. These systems are controlled by the New Jersey Department of Law and Public Safety;
- e.** Public celebrations that are government-sponsored or government-permitted events;
- f.** Public roadways;
- g.** Firing range or related activities at the National Guard Training Center.
- h.** Emergency or other Borough vehicles: Police, Fire department, beach department and public works departments vehicles, alarms and sirens shall be considered to fall under the Borough exception.
- i.** Train or train crossing sounds.
- j.** Emergency Generator utilized by Police Department, Department of Public Works, Municipal Offices and the National Guard training center.
- k.** Emergency generators for residents when necessitated by a power failure or state of emergency.

**Impulsive sound**

Shall mean either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

**Minor Violation**



Shall mean a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

**Noise Control Investigator (NCI)**

Shall mean an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

**Noise Control Officer (NCO)**

Shall mean the Chief of Police, all members of the Borough Police Department and code enforcement official may investigate and enforce the provisions of the Borough Noise Ordinances. Only a police officer who has received noise enforcement training and who is trained and certified to use the Model name/description ("approved sound level meter") shall issue a summons based on the readings from an approved sound level meter. Otherwise, the criteria not based on a sound level meter shall be utilized to determine a violation.

**PERSON**

Shall mean and include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, partnership, society or any other form of association or organization.

**Plainly Audible**

Shall mean any sound that can be detected by an officer, code enforcement official or resident using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words or the artist performing the song.

**POWER EQUIPMENT**

Shall mean equipment actuated by an additional power source and mechanism other than the solely manual labor used with hand tools.

Public space shall mean any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

**REAL PROPERTY LINE**

shall mean either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is

the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g. adjacent business).

**SOUND TRUCK**

Shall mean any type of vehicle, car, wagon, carriage or other means of transportation or locomotion, having mounted thereon or attached thereto any sound-amplifying equipment.

**SOUND-AMPLIFYING EQUIPMENT**

Shall mean any machine or device for the amplification of the human voice, music or any other sound,

**SOUND PRODUCTION DEVICE**

Shall mean any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

**§ 3-1.2 Noises Prohibited.**

[Ord. No. 307; Ord. No. 597 § 2; Ord. No. 601; New; Ord. No. 11-2016]

**a.**

The creation of any unreasonably loud, disturbing and unnecessary noises in the Borough is hereby prohibited.

**b.**

It shall be unlawful for any person to make, continue, or cause to be made or continued, or for any person to permit, allow or suffer on premises in their control, any unreasonably loud, disturbing, or excessive noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety of others within the limits of the Borough.

**c.**

No persons shall use, or cause to be used, a sound truck or vehicle with its sound-amplifying equipment in operation, in the Borough.

**d.**

For sounds measured by an approved sound level meter, the following criteria shall apply:

**TABLE I**

**MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS**

**WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property	Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
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TIME	8 a.m.-10 p.m.	10 p.m.-8 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	65	50	65

**TABLE II**  
**MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS**  
**WHEN MEASURED INDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility or non-residential portion of a multi-use property
TIME	8 a.m.-10 p.m.	10 p.m.-8 a.m.	24 Hours
Maximum A-Weighted sound level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

The procedure set forth in N.J.A.C. 7:29-2.9, and calculations set forth in N.J.A.C. § 7:29-2.10, shall be applied when utilizing an approved sound meter.

a. Sound measurements made by The Chief of Police, his designee, members of the police Department and code enforcement official shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in paragraph b below and with the definition of "real property line" as contained herein.

b. When conducting indoor sound level measurements across a real property line the measurements shall be taken to least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.0(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g. television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

c. Impulsive sound. Between 8:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 8:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II. Garbage collection is exempted from this section and can begin at 7 a.m. or, if performed by municipal employees, earlier if in the discretion of the Borough or its designee, it is advisable for the health or safety of municipal employees or residents.

Proof of violation of this article may be determined by plainly audible means as detected from the property line of the complaining resident closest to the entity or property from which the noise complained of is emanating, or from within the receptor's premises in the event the source and the receptor share a common or abutting wall, floor or ceiling or are on the same property.

### § 3-1.3 **Nonexclusive Enumeration of Prohibited Acts.**

[Ord. No. 307; Ord. No. 597 § 3; Ord. No. 605; Ord. No. 891; New; Ord. No. 11-2016]

#### a.

The following acts, among others, but not by way of limitation, are declared to be loud, disturbing and unnecessary noises in violation of this section but the following enumeration shall not be deemed to be exclusive:

#### 1.

Horns, Signaling Devices, etc. Subject to the exceptions set forth herein, the sounding of any horn or signaling device of any automobile, motorcycle, bus or other vehicle on any street or public place of the Borough, except as a danger warning; the creation by means of any horn or signaling device of any unreasonably loud or harsh sound, or the sounding of said horn or signaling device for any unnecessary and unreasonable period of time.

#### 2.

Radios, Audio Equipment, etc. The playing of any radio, television, phonograph, musical instrument or any machine or device for the producing or reproducing of sound, in such a manner or with such volume, during the hours after 10:00 p.m. and before 8:00 a.m. so as to unreasonably annoy or disturb the quiet,

comfort or repose of persons in any dwelling, hotel or any other type of residence, or to disturb the peace, quiet and comfort of the neighboring inhabitants, or to play or operate the same with louder volume than is necessary for convenient hearing for the person or persons who are in the room or chamber in which such machine or device is operated. As to any commercial establishment to which this subsection applies, a certified sound meter operated by an NCO shall be utilized for an alleged violation.

**3.**

Yelling, Shouting, etc. Yelling, shouting, or singing after the hour of 10:00 p.m. and before 8:00 a.m. or at any time or place, so as to unreasonably annoy and disturb the quiet, comfort or repose of persons in any office, dwelling, or residence, or of persons in the vicinity.

**4.**

Use of power equipment including but not limited to landscaping equipment (including lawn mowers, blowers, edgers, clippers and saws) or construction equipment is regulated during the following times:

**(a)**

Property owners and/or their immediate family members are permitted to perform construction or landscaping work between 8:00 a.m. and 6:00 p.m. on weekdays or between 9:00 a.m. and 5:00 p.m. on weekends and the public holidays of New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas.

**(b)**

Commercial operators are permitted to provide their services between 8:00 a.m. and 6:00 p.m. on weekdays or between 9:00 a.m. and 5:00 p.m. on Saturdays.

**(c)**

Except in the case of an emergency, commercial operators are prohibited from providing their services on Sundays or on the public holidays of New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas. Commercial operators are also prohibited from providing their services on Saturdays between the Saturday of Memorial Day weekend and Labor Day.

**5.**

Music or other amplified sound emanating from a vehicle which is plainly audible at a distance of 50 feet in any direction from the vehicle.

**6.**

The frequent or habitual howling, barking, meowing or other noise-making by a domestic animal.

**7.** No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table 1 when measured within the property line of a complainant (i.e. receptor). If the noise complaint is prompted by a person located in a dwelling then Table 2 shall be measured within the receptor's residence, otherwise at the

property line of the receptor's property line according to the measurement protocol in Subsection 3-1.2 of this section.

[1]

*Editor's Note: Additional noise regulations regarding construction may be found in Chapter 12, Building and Housing, and 17-5.4.*

#### § 3-1.4 **Enforcement.**

[Ord. No. 307; Ord. No. 597 § 5]

It shall be the duty of the Chief of Police, members of the Police Department and Code Enforcement Officer to determine if this section has been and is being complied with and to enforce the provisions of this section, against any person found to be violating the same.

The Chief of Police, members of the Police Department and Code Enforcement Officer shall have the authority within the Borough to investigate suspected violations of any section of this ordinance and pursue enforcement activities.

(B) The Chief of Police, members of the Police Department and Code Enforcement Officer shall retain the authority within the Borough to investigate suspected violations of any section of this ordinance that without the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities, including the issuance of a summons.

#### § 3-1.5 **Violations and Penalties.**

[Ord. No. 597 § 6; Ord. No. 708 § 1; New; Ord. No. 09-2014]

The Chief of Police, any Police Officer of the Borough, the Code Enforcement Officer, or any taxpayer or resident of the Borough may make complaint in the Municipal Court of the Borough of Sea Girt for any violation of this section or any subsection, or provision thereof. Unless a specific penalty is established below, any person violating any provision of this section shall, upon conviction, be subject to the penalty stated in Chapter 1, Section 1-5.

Borough Code	Description	Fine		Payable*
3-1	Noise	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
3-1.2	Disturbing the peace	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No
3-1.3	Unnecessary noise	1st	\$250	No
		2nd	\$500	No
		3rd	\$2,000	No

#### **Public nuisance.**

Exclusive of any other remedy set forth herein, the operation or maintenance of any noise source in violation of any provision of this chapter shall be deemed and is declared to be a public nuisance and

may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction, or in any other manner available for the abatement of public nuisances. Any remedy available pursuant to this chapter shall be considered separate and not exclusive of any other remedy available hereunder.

**Partial Invalidity.** If any provision or portion of a provision of this section is held to be unconstitutional, preempted by Federal or State Law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the section shall not be invalidated.

**b.**

All ordinances or parts of ordinances, which are inconsistent with any provisions of this section, are hereby repealed as to the extent of such inconsistencies.

**c.**

No provision of this section shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this section or from other law.

**§ 12-2.2Additional Regulations.**

[Ord. No. 891a.-i.; Ord. No. 913; Ord. No. 918; Ord. No. 2007-16; New; Ord. No. 15-2012]

**i.**

Construction is permitted during the following times:

[Amended 5-22-2019 by Ord. No. 15-2019]

**1.**

Construction Hours Permitted.

Monday through Friday — 8:00 a.m. to 6:00 p.m.

Saturday — 9:00 a.m. to 5:00 p.m. Sunday-prohibited

Except in the case of an emergency, no commercial construction shall take place on Sundays or on the public holidays of New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas, but is permitted on those days if done solely by the property owner and/or their immediate family between 9:00 a.m. and 5:00 p.m. Commercial construction is also **prohibited on Saturdays beginning on the Saturday of Memorial Day weekend in May and ending on Labor Day**, inclusive, but is permitted if done solely by the property owner and/or their immediate family between 9:00 a.m. and 5:00 p.m. The official date of Observance shall govern.

**2.**

Use of Power Tools. The use of power equipment or tools by both commercial operators and property owners for construction, repair or alteration of buildings, landscaping and lawn maintenance is permitted during the following times:

**(a)**

Mondays through Fridays, (except on the public holidays of New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas), between the hours of 8:00 a.m. and 6:00 p.m.

**(b)**

On Saturdays between the hours of 9:00 a.m. and 5:00 p.m. (Except the provision of services by commercial operators is **not permitted on Saturdays beginning on the Saturday of Memorial Day weekend in May and ending on Labor Day, inclusive**). The official date of Observance shall govern. Individual property owners and/or their immediate family members are permitted to perform construction and/or landscaping work on all Saturdays, Sundays and the public holidays of New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas between the hours of 9:00 a.m. and 5:00 p.m.

**(c)**

In the absence of a permanent connection to the power grid, property owner or his designated representative shall provide a temporary connection to the power grid to provide power to the site during the period of construction, repair or alteration of buildings in excess of 300 square feet.

**§ 17-5.4 Mechanical Equipment.**

[Ord. #855, § 4-1; Ord. No. 20-2018]

All exterior mechanical equipment, including units for heat, ventilation, air- conditioning, pool pumps and accessories, heat pumps, other than individual air- conditioners and permanently installed generators, to serve a building shall be located in the rear yard and/or on the top story of either the principal building or accessory buildings, either inside or outside. If installed in the yard, they shall comply with the rear yard and setback provisions. If installed on the buildings they shall not be visible from the front or side street and shall be located behind physical buffer such as a parapet wall or solid short fence so as to dampen noise effects on neighboring properties.

**UPON MOTION** of Councilman Clemmensen, seconded by Councilman Perry, carried, that the said Ordinance be and the same is hereby adopted on first reading, directing the Clerk to post and publish as required by law and setting the date of the public hearing as October 27, 2021.

Recorded Vote:

	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>	<b>Abstain</b>
Councilman Clemmensen	X			
Councilman Perry	X			
Councilman Begley	X			
Council President Anthony	X			
Councilwoman Giegerich	X			
Councilwoman Richman	X			

**1. 2020 Audit Report**

- Audit finds that the Borough's financial condition is excellent;
- Audit contains no comments or recommendations for improvement.

**2. Resolution No. 176-2021:** Governing Body Certification/Acceptance of Audit Report – governing body must certify that they are familiar with, at a minimum, the sections entitled “General Comments” and “Recommendation.”

**UPON MOTION** of Councilman Begley, seconded by Councilman Perry, carried, that the following Resolution be and the same is hereby adopted:



**WHEREAS**, *N.J.S.A. 40A:5-4* requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

**WHEREAS**, the Annual Report of Audit for the year 2020 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to *N.J.S.A. 40A:5-6*, and a copy has been received by each member of the governing body; and,

**WHEREAS**, *R.S. 52:27BB-34* authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and,

**WHEREAS**, the Local Finance Board has promulgated *N.J.A.C. 5:30-6.5*, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled “General Comments” and “Recommendations”; and,

**WHEREAS**, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled “General Comments” and “Recommendations” as evidenced by the group affidavit form of the governing body attached hereto; and,

**WHEREAS**, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to *N.J.A.C. 5:30-6.5*; and,

**WHEREAS**, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and.

**WHEREAS**, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of *R.S. 52:27BB-52*, to wit:

*R.S. 52:27BB-52*: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Girt hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Recorded Vote:

	Ayes	Nays	Absent	Abstain
Councilman Clemmensen	X			
Councilman Perry	X			
Councilman Begley	X			
Council President Anthony	X			
Councilwoman Giegerich	X			
Councilwoman Richman	X			

## 8. COUNCIL REPORTS:

Councilman Clemmensen reported that garden pickup is tomorrow; bulk pickup is October 18<sup>th</sup>; Borough wide recycling begins December 1<sup>st</sup> – January 12<sup>th</sup>. On Sunday, the National Guard Training Center is hosting the Military Review between 9am-12 noon. The Police Department is re-introducing house checks and key box program; please visit their website to register.

Councilwoman Richman commented she has a Community Alliance meeting tomorrow and will update next meeting.

Councilman Begley noted there was a finance committee yesterday and they reviewed current year finances through end of September; preparation for 2022 Budget is underway.

Councilman Perry thanked the Sea Girt 5K Committee for donating bike lights for the elementary school children; he thanked The Police and Mr. Gant for their assistance installing the lights on the bikes; please visit our website to see all the programs being offered in the community. The Hayride is scheduled for October 22<sup>nd</sup> at the Firehouse from 6:30pm – 8:30pm; please bring a healthy snack.

Councilwoman Giegerich noted the beach is officially closed for the season. There will be an antique car show on November 6<sup>th</sup> (rain date November 13<sup>th</sup>) from 9am-noon in the Library parking lot.

Council President Anthony commented there is a Clean Ocean Action Beach Sweep on October 23<sup>rd</sup> from 9am-12:30pm; please contact Mrs. Rodgers to volunteers at [6rodgers@optonline.net](mailto:6rodgers@optonline.net). Sea Girt Conservancy, Shade Tree Committee and other volunteers held a cleanup around Wreck Pond and Rt. 71; next cleanup is November 6<sup>th</sup> and 13<sup>th</sup> from 9am-11am at Edgemere Park. A report is expected for the Municipal Building at the next council meeting. A second application of a DEP approved herbicide on non-native invasive in Crescent and Edgemere Parks and along The Terrace. Bell Place Bike Path is scheduled to commence the end of October.

Mayor Fetzer commented that he attended a Library Trustee meeting and discussed plans for an addition to the Library as well as the 2022 Budget. He noted The Borough recently was awarded arbitration which was filed by the PBA over a language clause in their contract. The new Fire Truck is expected to arrive in January; he thanked the Borough on behalf of the Fire Company for approving a resolution for NJ American Water to add a fire hydrant for backup water supply near Crescent Park.

## **9. ADMINISTRATOR REPORT:**

The Borough submitted a direct effect grant through the Christopher and Dana Reeve Foundation for \$25,000.00 for ADA accessibility at the beach. He also commented he is meeting with Rick Papera to resume in person council meetings in the near future.

Clerk Harriman commented that beginning with the 2021 election Monmouth County will have 10 specially designated in-person early voting locations that will be open Saturday, October 23 through Sunday, October 31. Hours will be Monday-Saturday, 10:00 a.m. to 8:00 p.m. and Sunday, 10:00 a.m. to 6:00 p.m. Voters can go to any one of these locations during the nine day period to vote as well as the Borough Hall on November 2<sup>nd</sup>.

## **10. Resolution No. 177 -2021: Payment of Bills**

BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt, County of Monmouth that the bills be paid as appearing on the attached bill lists dated September 28, 2021 and October 8, 2021 in the totals as follows:

CURRENT FUND	\$ 611,361.72
WATER/SEWER OPERATING FUND	\$ 111,384.10
BEACH OPERATING FUND	\$ 17,106.66

RECREATION TRUST FUND	\$	24,518.26
TRUST FUND	\$	4,314.00
DOG TRUST FUND	\$	4.20
GENERAL CAPITAL	\$	286.50
WATER CAPITAL	\$	20,761.30

Recorded Vote:

	Ayes	Nays	Absent	Abstain
Councilman Clemmensen	X			
Councilman Perry	X			
Councilman Begley	X			
Council President Anthony	X			
Councilwoman Giegerich	X			
Councilwoman Richman	X			

#### 11. PUBLIC PARTICIPATION ON ANY SUBJECT: (Comments limited to 7 minutes)

Tom Schnurr, Beacon Boulevard congratulated the governing body for their embracing and usage of various Citizen Committees; he noted the First Avenue loading zone worked well; staffing was commensurate with weather and traffic; less traffic cones was appreciated and hopes council will memorialize the usage of First Avenue. He then asked for clarification on the hours to use power equipment to maintain his property.

Phil Vasan, Ocean Avenue commented he sought input and support from residents on the addition of a second paddleball court in Crescent Park; he hopes the council will consider the petition put forth.

Fred Marziano, New York Boulevard commented on the value of citizenry expressing their views to councilmembers; he is unclear as to why the petition isn't on the November ballot. Mr. Bogan commented that councilmembers have taken this matter into consideration when making their decision, it had full accounting with more than one public hearing; councilmembers listen very carefully to the citizenry.

There being no further comments from the public participating and by consensus, the public comment period was closed at 8:07 PM. Mayor Fetzer advised that Council has matters to discuss in Executive Session, and requested a motion to adjourn for purposes of the discussion; he further noted that action may be taken by Council upon return to public session and that the public may remain in the virtual meeting until Council returns to public session. **UPON MOTION** of Councilwoman Giegerich, seconded by Councilman Perry, carried, that the following **Resolution No. 178-2021** 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:

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 litigation, but not limited to pending litigation and personnel matters.
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 Clemmensen	X			
Councilman Perry	X			
Councilman Begley	X			
Council President Anthony	X			
Councilwoman Giegerich	X			
Councilwoman Richman	X			

There being no further business, and **UPON MOTION** of Councilman Begley, seconded by Councilman Perry, carried, that the meeting be finally and immediately adjourned at 9:05PM.

*Dawn Harriman*

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Dawn Harriman, RMC