

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
MARCH 11, 2014**

Mayor Naughton called the Regular Meeting of the Mayor and Council of the Borough of Spring Lake to order at 7:03 P.M. with a moment of silent prayer. She then proceeded with the Pledge of Allegiance to the Flag. The Mayor announced that the meeting is being held in accordance with the Open Public Meetings.

PRESENT: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables, Mayor Naughton

ABSENT:

ALSO PRESENT: Jane Gillespie, Borough Clerk  
W. Bryan Dempsey, Borough Administrator  
Joseph Colao, Esq, Borough Attorney  
Peter Avakian, Borough Engineer

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**Workshop Discussion**

Street Openings – Mayor Naughton introduced the topic noting that there's been a great deal of discussion in connection with requiring contractors to repair the streets after a street opening. The Mayor continued stating that what the Borough has been experiencing is a street repair that results in sinkage after approximately three to six months. Further, the Mayor added, the bond for the work is released after the initial street repair when the work looks complete yet six months later when the pavement has sunk the Borough has no recourse. The Mayor offered a recommendation to change the ordinance requiring milling and paving or infrared paving in an effort to better protect the streets of the Borough. The Mayor offered that this is a relatively modest cost for those residents building a new house or doing major renovations, unlike for the Borough, where it's a significant cost, not to mention that the Borough's roads are pockmarked with repairs that have not held up. Mr. Dempsey added that the Borough used the infrared paving technology on Monmouth Avenue between Fourth and Fifth Avenues a couple of years ago and the result was beautiful.

Mr. Judge asked how much more, on average, the infrared paving would cost. Mr. Avakian responded that any additional cost for infrared paving, is in connection to the equipment and that milling and paving costs are more a function of labor and materials. Mr. Judge asked about timing. Mr. Avakian stated that the infrared paving would not be done right away noting that there would be a need for the sub-grade to settle. Mayor Naughton offered that they learned through the Monmouth Avenue paving effort that the most cost efficient approach is to identify one area and have the machine available for that specific area.

The Mayor suggested the Borough consider establishing an infrared paving schedule whereby street openings are paved according to the schedule and the charges are passed on to the resident. Mr. Dempsey voiced support for the idea noting that if the Borough could get the estimate for the work, the resident pay the estimated amount and then the Borough would schedule the work. Mr. Avakian added that this way the homeowner is impacted by the ordinance and not the administrative protocol.

Mr. Judge asked if there would be a contact established with a contractor. Mr. Dempsey stated that this would make sense adding that there are only a handful of companies that do this work. Mr. Judge stated that this would also save the homeowner from having to source contractors. Mr. Avakian agreed to present a couple of ordinances that have been used in other municipalities that address the issue. Mr. Dempsey stated that this ordinance can also include emergency street opening repairs as well. Mayor Naughton asked if any council members had any objections.

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Mr. Erbe offered a comment in connection with the utilities noting that there may be an opportunity to ensure that the coverage of work is ample to address the work they do. Mayor Naughton agreed reflecting on a recent job whereby the street needed to be repaired after a high pressure gas line was installed noting that approximately 5 blocks of the street is now in rather bad shape and the Borough will likely be stuck with fixing the street in the future.

Mr. Judge stated that he supports the recommendation. Mr. Erbe emphasized the need to address all the various occasions when streets are impacted by openings and asked if curb repair would also be included. Mr. Avakian stated that when a curb is replaced there is a need to excavate and repair the asphalt and infrared could definitely be coordinated with this work. Mayor Naughton offered her belief that the residents will likely be in favor of the effort given that it directly impacts the street in front of their home.

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**Approval of Minutes**

Mr. Judge offered a motion to approve the minutes of February 25, 2014, seconded by Mrs. Venables.

ROLL CALL:

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

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**Public Comments**

Lyle Marlowe, 110 Pennsylvania Avenue, asked if the Council could consider an ordinance in connection with how loud leaf blowers can be and perhaps change the hours that leaf blowers are allowed to be operated. Mr. Marlowe also asked if the Council would also consider changing the date from June 1st to Memorial Day in connection with restrictions on Saturday construction.

Peter Piro, 300 North Boulevard, expressed his thanks to Mr. Dempsey and the Borough Council for amending and modifying the outflow pipe in Lake Como stating that the crew did a great job. Mayor Naughton thanked Mr. Piro for his comments and reported that they are holding the first meeting with the three towns next week to discuss various topics in connection with the lake that effect all three towns.

Frank Suozzi, 112 Brown Avenue, stated that Ms. Elsie Dubac asked that he share with the Council that she had recently visited Ms. Eleanor Twomey who is doing okay.

Joe Curto, 1805 Ocean Avenue, reported that there has been a lot of dogs being walked on the boardwalk. The Mayor stated that she and the Chief of Police just spoke of this topic. Mr. Curto stated that he believes it's primarily nonresidents who are unaware of the ordinance. The Mayor agreed noting that the signage is poor and it is something that is being addressed.

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**Council Comments & Staff Reports**

Mr. Fay asked if the Resolution in connection with the Second Street property sale can include language that limits the use of proceeds to Wreck Pond. Mayor Naughton responded indicating that this language is already in the Resolution. Mr. Jordan asked what will happen in the event that all of the proceeds are not needed for the Wreck Pond project. The Mayor stated that she felt that was unlikely. Borough Attorney Colao stated that the Council could always make an amendment to the Resolution and dedicate the remaining proceeds to something else.

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Mr. Judge reported construction will begin soon on the COAH project at Warren Avenue. Mr. Dempsey added that a County Arborist has been at the site in connection with clearing trees from the land stating that they don't believe there is any value in the trees that are there now and once the project is complete they hope to place a different type of planting along the westerly edge. Mr. Dempsey stated that by the next council meeting they expect foundation to be in place and the project to be underway. Mayor Naughton inquired as to how long the project will take. Mr. Dempsey stated that they are being told it will take approximately six (6) months. Mr. Judge continued his remarks referencing the resolution in connection with the dog beach pilot and requesting a revision to the evening hours making them 6:00 pm until sunset. The Council agreed to the revision.

Mr. Frost reported that Mr. Mike Mattia gave an update to the Planning Board last week in connection with the pump station at Lake Como. Mr. Frost further reported stated that a committee has been formed to work with SMRSA in an effort to collaborate on the landscaping and façade of the mobile unit. The Borough will have input on the color and overall look of the unit prior to final decisions being made, Mr. Frost reported.

Mr. Jordan reminded the Council and public that this was the final week for residents and sponsored nonresidents to exclusively purchase lockers. Beginning March, 17, Mr. Jordan reported, sales are open to nonresidents without a sponsor.

Mr. Avakian reported that, in coordination with Mr. Dempsey and Mr. Phillips, they are monitoring the beach fill project and participating in ongoing calls and emails with the DEP and the Army Corps. Mr. Dempsey added that they will be meeting with the Army Corps of Engineers tomorrow. Mr. Dempsey stated that the beach profile being used by the Army Corps includes placing sand between the curb and the dune. Mr. Dempsey reported that he discussed in detail the Borough's desire not to have sand placed from the curb to the edge of the westerly dune. Mr. Dempsey also spoke to the likelihood of sand being approximately three (3) feet high under the boardwalk and the need to monitor the sand buildup. Mr. Judge inquired as to whether the Borough's permit allows the Borough to excavate sand from under the boardwalk. Mr. Dempsey confirmed that the permit allows for excavation up to four (4) feet below the boardwalk with the exception of low areas at the south end. Mr. Dempsey added that the Army Corps has agreed to keep the area around Pier Beach open in anticipation of the installation of the restrooms. Mr. Dempsey also reported that Phase II of the Third Avenue tree project will be starting in the next couple of weeks noting that the money for the project is coming from the Spring Lake 5, the BID, and other outside donations. In connection with the status of the beach replenishment project, Mr. Dempsey reported that they are currently working near the Essex and Sussex and expect to be finished in Spring Lake by the end of March.

Mr. Colao reported that he has one matter for Closed Session.

Mrs. Venables inquired as to the status of Brown Avenue beach and the need to routinely close it. Mayor Naughton addressed the question stating that the Borough has, for the last nine (9) years, been under an Executive Order to close the beaches at Brown and York Avenues if there is 1/10th of an inch of rain or more. The testing, the Mayor continued, shows that the water is cleaner and cleaner with each passing year and with the many beach closings that took place, there was only one or two incidents that bacteria levels were identified at a level that qualified for a closing. The Mayor added that an infrastructure study was also done involving the Borough's outflow pipes leading to Wreck Pond to ensure the Borough was not contributing to any form of pollution in Wreck Pond. As a result, the Borough is no longer under the Executive Order to close the beaches in that area, the Mayor stated.

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The Mayor noted that this is a temporary lifting of the Order, and they will continue to monitor the water quality after each rainfall.

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**Business Items Under Consideration**

**Shakespeare in the Park – Request for the use of Divine Park Swale for the 2014 Production** - Mr. Judge offered a motion to approve the use of the Divine Park Swale for the 2014 production of Shakespeare in the Park, seconded by Mrs. Venables. All in favor. None opposed.

**Spring Lake Sea Girt Little League – Annual Parade – April 26, 2014** - Mr. Judge offered a motion to approve the Little League Parade, seconded by Mrs. Venables. All in favor. None opposed.

**Shark River Lacrosse – Use of Marucci Park** - Mr. Judge offered a motion to approve the Little League Parade, seconded by Mrs. Venables. All in favor. None opposed.

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**Ordinances for Introduction**

Borough Attorney Colao read Ordinance No. 2014-003 entitled, "AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NUMBER 1-2002 ENTITLED: "AN ORDINANCE AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCE OF THE BOROUGH OF SPRING LAKE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, ADOPTED AUGUST 9, 1993, IN ORDER TO CREATE AND ESTABLISH AN EMERGENCY SERVICES VOLUNTEER LENGTH OF SERVICE AWARDS PROGRAM (LOSAP) IN THE BOROUGH OF SPRING LAKE PURSUANT TO P.L. 1997, C.388 (N.J.S.A. 40:14-183 ET SEQ.) FOR THE FIRE COMPANY#1 AND GOODWILL FIRE COMPANY #2" ADOPTED AUGUST 12, 2002, by title.

Mr. Judge offered a motion to introduce Ordinance No. 2014-003, seconded by Mrs. Venables.

ROLL CALL:

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Ordinance No. 2014-003 in full/Ordinance Book No. 1

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**Ordinances for Adoption** - None

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Mr. Judge asked, in connection with R-14-045, if an employee was being replaced or if this was an addition. Mr. Dempsey confirmed that this was replacing a part-time worker.

**Consent Agenda**

Mr. Judge offered a motion to approve the following Resolution and moved its adoption, seconded by Mrs. Venables.

R-14-044 - RESOLUTION – APPROVING RAFFLE LICENSE APPLICATION  
RA#15-2014 – ST. CATHARINE CHURCH -  
OFF PREMISE CALENDAR RAFFLE

WHEREAS, St. Catharine Church has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA#15-2014, and

WHEREAS, said license has been forwarded to the Spring Lake Police Department for their review and no objection was received, and

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WHEREAS, the appropriate fees and have been received and filed by the Borough Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that Raffle License No. RA#15-2014 be and the same is hereby approved as follows:

NAME: St. Catharine Church  
215 Essex Avenue, Spring Lake, NJ 07762  
Identification No.: 475-01-372  
LOCATION: St. Catharine Church  
215 Essex Avenue, Spring Lake, NJ  
DATE: Last Monday of Each Month from May 2014  
to October 2014 10:30 A.M.

**ROLL CALL:**

**AYES:** Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

**NAYS:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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Mr. Judge offered a motion to approve the following Resolution and moved its adoption, seconded by Mrs. Venables.

**R-14-045 - RESOLUTION – APPOINTMENT OF PUBLIC WORKS PART-TIME EMPLOYEE**

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough of the Borough of Spring Lake that the following be and hereby is appointed as a Public Works employee for boardwalk/locker projects at \$15.00 per hour, Jake Novack for the Department of Public Works effective March 10, 2014.

**ROLL CALL:**

**AYES:** Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

**NAYS:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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Mr. Judge offered a motion to approve the following Resolution and moved its adoption, seconded by Mrs. Venables.

**R-14-046 - RESOLUTION – APPOINTMENT OF SPRING LAKE ENVIRONMENTAL COMMISSION MEMBERS**

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that the appointment of the following Spring Lake Environmental Commission to fill the unexpired terms – Terms to Expire: December 31, 2015 be and hereby is confirmed.

Priscilla Reilly to fill unexpired term of Louise Decker  
Kate Darche to fill unexpired term of Theresa Mancuso  
Mary Kurtz to fill unexpired term of Rob Slifer

**ROLL CALL:**

**AYES:** Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

**NAYS:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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Mr. Judge offered a motion to approve the following Resolution and moved its adoption, seconded by Mrs. Venables.

R-14-047 - RESOLUTION – APPOINTMENT OF MONMOUTH COUNTY  
MASTER PLAN REPRESENTATIVE

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that W. Bryan Dempsey be and hereby is appointed Monmouth County Master Plan Representative for the Borough of Spring Lake.

ROLL CALL:

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

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Mr. Judge offered a motion to withdraw the following Resolution, seconded by Mrs. Venables.

R-14-039 – RESOLUTION – AUTHORIZING THE ACCEPTANCE OF BIDS FOR THE SALE OF BOROUGH PROPERTY  
– SECOND STREET PROPERTIES BLOCK 13, LOTS 2.01, 2.02 & 3.01

ROLL CALL:

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

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Mr. Judge offered a motion to approve the following Resolution and moved its adoption, seconded by Mrs. Venables.

R-14-048 – RESOLUTION - PILOT PROGRAM FOR ADDITIONAL TEMPORARY  
BEACH ACCESS FOR DOGS

WHEREAS, the Borough of Spring Lake is a municipal corporation in the County of Monmouth, State of New Jersey, and has been formed in compliance with the applicable statutes; and

WHEREAS, the Borough of Spring Lake has recently amended Section 107-8 to permit Dogs on a designated area of the beach during morning hours; and

WHEREAS, the Borough of Spring Lake wishes to now test the desirability and feasibility of dogs on the beach during certain evening hours and temporarily suspend the enforcement of the applicable prohibitive ordinance.

NOW, THEREFORE, BE IT AGREED that:

Dogs will be permitted on the "Dog Beach" from 6:00 p.m. to sunset, 7 days a week.

This additional limited beach access for dogs will be temporarily permitted from May 15, 2014 through July 15, 2014.

Applicable portions of Section 107-8 of the General Ordinance of the Borough of Spring Lake which prohibits dogs on the beach will be suspended during said pilot period.

Ordinance 114-25 permits the Borough Council to make additional rules and regulations pertaining to the beach.

ROLL CALL:

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

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Mr. Judge offered a motion to approve the following Resolution and moved its adoption, seconded by Mrs. Venables.

R-14-049 - RESOLUTION – APPROVAL OF BILLS – MARCH 11, 2014

WHEREAS, the Borough of Spring Lake received certain claims against it by way of vouchers received during the period ending March 11, 2014, and

WHEREAS, the Borough Finance Committee has reviewed said claims.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake, County of Monmouth, that the following claims be certified by the Chief Financial Officer for approval and payment.

**SUMMARY**

CURRENT FUND (1)	177,393.24
WATER/SEWER OPERATING (9)	25,081.21
DOG TRUST (13)	974.20
PLANNING BOARD ESCROW 1 (21)	27,684.31
RECREATION (25)	152.15
BEACH OPERATING (81)	9,740.61
BEACH CAPITAL (84)	14,550.00
POOL OPERATING (91)	1,657.08
POOL CAPITAL (94)	79,954.61
TOTAL	\$337,187.41

**ROLL CALL:**

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

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Mr. Judge asked to discuss the minimum bid price. Mr. Judge stated that what is proposed is to reduce the appraised price by 10% resulting in minimum bid amounts of \$450,000, \$468,000 and \$495,000 for the individual lots. Mr. Judge offered that perhaps the minimum bids are too high and may impact the Borough's ability to generate enough interest. Mr. Judge suggested that the Borough consider lowering the minimum bid to an amount equal to 15% below the appraised price. Mayor Naughton asked how we came up with the 10% figure. Mr. Dempsey stated that they requested guidance from Mr. Bob Gagliano, who did the appraisals, who suggested they market the properties at 10% below the appraised value. Mayor Naughton asked if this was a casual answer or based upon best practice. Mr. Dempsey stated they he felt it was more of casual response. Mr. Colao stated that he felt it was consistent with best practice. Mr. Jordan asked what the assessed value is. Mr. Dempsey offered that the assessed amount is more than the appraised value. Mr. Fay asked if we spoke with more than one appraiser. Mayor Naughton offered that there are only a couple of appraisers in the area with expertise in this arena and the Borough spoke to one. Mr. Dempsey offered that the appraiser they spoke with is the same appraiser that does the Borough's tax appeal work. Mr. Dempsey added that there was another appraiser that the Borough contacted but they were unavailable to do the work. Mr. Judge stated that although he is not an expert, he fears a developer may find the prospect of making money on a resale too risky. Mayor Naughton asked if only developers are likely to bid. Mr. Dempsey stated that they may get individual interest. Mr. Dempsey added that even if the minimum is lowered and there's enough interest, the bids may likely come in higher and closer to the 10% below appraised value. Mr. Judge asked if the Borough is not successful obtaining the minimum bid would the lots be held. Mayor Naughton offered that they could perhaps be rebid. Mrs. Venables asked Mr. Colao if it would be a cleaner process for the Borough to rely on the recommendation of the professional appraiser. Mr. Colao suggested that the Borough should rely on the appraiser's recommendation within

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a 10 – 15% range. Mr. Dempsey offered that it will likely all work out given that one lot may sell lower while another may sell higher than expected. Mrs. Venables stated that although she doesn't have a strong opinion either way, she agrees with Mr. Judge that we should do all we can to generate enough interest to obtain the highest sale price. Mayor Naughton asked for additional opinions.

Mr. Erbe stated that he tends to agree with Mr. Dempsey stating that he too believes it will likely work out fine with the 10% number and if the Borough fails to get that minimum bid, they can always put it out to bid again at a lower minimum. Mr. Frost stated that he agrees with Mr. Judge's thoughts that he would be happy if the three lots sold at the 15% discount noting that this would give the Borough the revenue it needs to move forward with the project.

Mr. Judge offered a motion to approve the following Resolution with the provision that the minimum bid be changed to reflect a reduction of the appraised value by 15% and moved its adoption, seconded by Mrs. Venables.

R-14-050 – RESOLUTION - RESOLUTION OF THE BOROUGH OF SPRING LAKE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AUTHORIZING THE SALE OF REAL PROPERTY NOT NEEDED FOR PUBLIC USE AND KNOWN AS BLOCK 13, LOT 3.01 ON THE SPRING LAKE TAX MAP AND ALSO KNOWN AND DESIGNATED AS 310 SECOND STREET, SPRING LAKE, NEW JERSEY PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.

WHEREAS, the Borough of Spring Lake is a municipal corporation in the County of Monmouth, State of New Jersey, and has been formed in compliance with the applicable statutes; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-13(a) authorizes the sale by municipalities of any real property, capital improvements or personal property, or interests therein, not needed for public use by open public sale at auction to the highest bidder after the required newspaper advertisements; and

WHEREAS, the Borough of Spring Lake currently holds title to real property known as Block 13, Lot 3.01 and also known and designated as 310 Second Street, Spring Lake, New Jersey; and

WHEREAS, the governing body of the Borough of Spring Lake has determined that said property is not needed for public use, and that it is in the best interest of the Borough to sell the property.

WHEREAS, the governing body has further determined that the proceeds from the sale of the property will be dedicated to infrastructure or other expenditures for Wreck Pond flood control.

NOW, THEREFORE, BE IT AGREED that the property shall be offered in accordance with N.J.S.A. 40A:12-13(a) and the following terms and conditions, as may be amended, shall prevail and shall be hereinafter published in a public notice pursuant to the Statute:

1. There shall be a public sale at auction on a date, time and location to be announced by the Borough, where the properties shall be offered to the highest bidder pursuant to N.J.S.A. 40A:12-13(a). There shall be a minimum bid price, which is fifteen (15) percent below the appraisal value of the property. The fee simple market value of the property, as reported in a February 24, 2014 Appraisal Report prepared by Gagliano & Company, is Five Hundred Thousand Dollars (\$500,000.00). Thus, the minimum bid for this property is Four Hundred Twenty-Five Thousand Dollars (\$425,000.00).
2. Upon completion of the bidding, the highest bid may be accepted, and all bids, including the highest bid, may be rejected by the Borough Council.
3. The successful bidder shall be required to deposit ten (10) percent of the minimum bid amount for the particular property at the time of the auction. This deposit shall be made by a certified check, money order or cash. All monies received will be credited to the total sale price.
4. Except as provided in paragraph 10 of this Resolution, the deposit made by the purchaser is non-refundable. The purchaser is not entitled to a refund of this deposit in any case except where the Borough is unable to convey marketable title. The risk of loss is on the purchaser.



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5. The successful bidder shall be required to pay, at the time of closing of title, the proportionate cost of legal advertising of the sale of the property which is the subject of this auction and other reasonable closing costs incurred by the Borough.
6. The successful bidder shall close within sixty (60) days of the Borough Council's acceptance of the bid. NO POSTPONEMENT OF CLOSING IS PERMITTED UNLESS the Borough's title is unmarketable in which event the Borough shall be allowed a reasonable time to perfect title and to close.
7. All conveyances shall be by deed of bargain and sale from the Borough of Spring Lake to the successful bidder, to be dated on the date of closing.
8. The sale and conveyance hereunder shall be subject to all covenants, conditions, easements and restrictions of record and shall be subject to all present and existing municipal rules, regulations and ordinances, including zoning ordinances and amendment thereto of the Borough of Spring Lake. The sale of said parcel shall in no way bind the Borough to make any improvements including access to the property or utility installations to the property.
9. This sale is also subject to the further condition that if the State of New Jersey or any upland owner has any rights or claims to the land being sold herein by reason of a riparian interest or otherwise, any charges which are levied or are to be so levied by the State of New Jersey or upland owner for said riparian interest or otherwise are to be borne by the purchaser, in addition to the sale price bid for said property.
10. All successful bidders are required to conduct all required title searches at their expense prior to the date of closing. If the title to this property shall prove to be unmarketable, the liability of the Borough shall be limited to the repayment to the purchaser of the amount of his or her deposit and any other portion of the purchase price paid without any further cost, expense, damage or claim. Notice of any alleged defect in title or claim of unmarketability shall be given to the Borough in writing no later than ten (10) days after the date of confirmation of the sale; failure to give such notice shall be deemed conclusive evidence that the purchaser accepts title in its then present condition.
11. All prospective purchasers are put on notice that no employee, agent or officer of the Borough of Spring Lake has the authority to waive, modify or amend any of the conditions of sale.
12. A failure by the purchaser to fully comply with the terms, conditions, requirements and regulations of sale as herein contained shall be considered, at the option of the Borough of Spring Lake, as a material breach of the conditions of sale whereupon the Borough of Spring Lake may declare said contract or purchase terminated and at an end. All monies paid on behalf of the purchase price, by way of deposit or otherwise, may be retained by the Borough as its liquidation damages and it may therefore resell said property and/or such other and further legal or equitable remedies as it may have and the defaulting purchaser shall continue to remain liable for all damages and losses sustained by the Borough of Spring Lake by reason of any such default.
13. Any descriptions of the properties published by the Borough are intended as a general guide only and may not be accurate. No representations of any kind are made by the Borough of Spring Lake as to the condition of the property, said premises are being sold in their present "AS IS" condition.
14. The sale is made subject to all applicable laws and ordinances of the State of New Jersey and the Borough of Spring Lake.
15. Successful bidder(s) agrees to following conditions:
  - a. To pay prorated real estate taxes for the balance of the current year, as of the date of closing.
  - b. To abide by all appropriate zoning, subdivision, health and building regulations and codes and stipulations that this sale will not be used as grounds to support a challenge of existing assessment of the subject property, nor shall the purchase price be used as a comparable sale to challenge assessments with regard to other properties.
  - c. That the failure to close title as agreed shall forfeit to Borough of Spring Lake any and all money deposited with Borough.

**ROLL CALL:**

**AYES:** Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

**NAYS:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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Mr. Judge offered a motion to approve the following Resolution with the provision that the minimum bid be changed to reflect a reduction of the appraised value by 15% and moved its adoption, seconded by Mrs. Venables.

R-14-051 – RESOLUTION - RESOLUTION OF THE BOROUGH OF SPRING LAKE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AUTHORIZING THE SALE OF REAL PROPERTY NOT NEEDED FOR PUBLIC USE AND KNOWN AS BLOCK 13, LOT 2.02 ON THE SPRING LAKE TAX MAP AND ALSO KNOWN AND DESIGNATED AS 320 SECOND STREET, SPRING LAKE, NEW JERSEY PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.

WHEREAS, the Borough of Spring Lake is a municipal corporation in the County of Monmouth, State of New Jersey, and has been formed in compliance with the applicable statutes; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-13(a) authorizes the sale by municipalities of any real property, capital improvements or personal property, or interests therein, not needed for public use by open public sale at auction to the highest bidder after the required newspaper advertisements; and

WHEREAS, the Borough of Spring Lake currently holds title to real property known as Block 13, Lot 2.02 and also known and designated as 320 Second Street, Spring Lake, New Jersey; and

WHEREAS, the governing body of the Borough of Spring Lake has determined that said property is not needed for public use, and that it is in the best interest of the Borough to sell the property.

WHEREAS, the governing body has further determined that the proceeds from the sale of the property will be dedicated to infrastructure or other expenditures for Wreck Pond flood control.

NOW, THEREFORE, BE IT AGREED that the property shall be offered in accordance with N.J.S.A. 40A:12-13(a) and the following terms and conditions, as may be amended, shall prevail and shall be hereinafter published in a public notice pursuant to the Statute:

16. There shall be a public sale at auction on a date, time and location to be announced by the Borough, where the properties shall be offered to the highest bidder pursuant to N.J.S.A. 40A:12-13(a). There shall be a minimum bid price, which is fifteen (15) percent below the appraisal value of the property. The fee simple market value of the property, as reported in a February 24, 2014 Appraisal Report prepared by Gagliano & Company, is Five Hundred Twenty Thousand Dollars (\$520,000.00). Thus, the minimum bid for this property is Four Hundred Forty-Two Thousand Dollars (\$442,000.00).
17. Upon completion of the bidding, the highest bid may be accepted, and all bids, including the highest bid, may be rejected by the Borough Council.
18. The successful bidder shall be required to deposit ten (10) percent of the minimum bid amount for the particular property at the time of the auction. This deposit shall be made by a certified check, money order or cash. All monies received will be credited to the total sale price.
19. Except as provided in paragraph 10 of this Resolution, the deposit made by the purchaser is non-refundable. The purchaser is not entitled to a refund of this deposit in any case except where the Borough is unable to convey marketable title. The risk of loss is on the purchaser.
20. The successful bidder shall be required to pay, at the time of closing of title, the proportionate cost of legal advertising of the sale of the property which is the subject of this auction and other reasonable closing costs incurred by the Borough.
21. The successful bidder shall close within sixty (60) days of the Borough Council's acceptance of the bid. NO POSTPONEMENT OF CLOSING IS PERMITTED UNLESS the Borough's title is unmarketable in which event the Borough shall be allowed a reasonable time to perfect title and to close.
22. All conveyances shall be by deed of bargain and sale from the Borough of Spring Lake to the successful bidder, to be dated on the date of closing.
23. The sale and conveyance hereunder shall be subject to all covenants, conditions, easements and restrictions of record and shall be subject to all present and existing municipal rules, regulations and ordinances, including zoning

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ordinances and amendment thereto of the Borough of Spring Lake. The sale of said parcel shall in no way bind the Borough to make any improvements including access to the property or utility installations to the property.

24. This sale is also subject to the further condition that if the State of New Jersey or any upland owner has any rights or claims to the land being sold herein by reason of a riparian interest or otherwise, any charges which are levied or are to be so levied by the State of New Jersey or upland owner for said riparian interest or otherwise are to be borne by the purchaser, in addition to the sale price bid for said property.
25. All successful bidders are required to conduct all required title searches at their expense prior to the date of closing. If the title to this property shall prove to be unmarketable, the liability of the Borough shall be limited to the repayment to the purchaser of the amount of his or her deposit and any other portion of the purchase price paid without any further cost, expense, damage or claim. Notice of any alleged defect in title or claim of unmarketability shall be given to the Borough in writing no later than ten (10) days after the date of confirmation of the sale; failure to give such notice shall be deemed conclusive evidence that the purchaser accepts title in its then present condition.
26. All prospective purchasers are put on notice that no employee, agent or officer of the Borough of Spring Lake has the authority to waive, modify or amend any of the conditions of sale.
27. A failure by the purchaser to fully comply with the terms, conditions, requirements and regulations of sale as herein contained shall be considered, at the option of the Borough of Spring Lake, as a material breach of the conditions of sale whereupon the Borough of Spring Lake may declare said contract or purchase terminated and at an end. All monies paid on behalf of the purchase price, by way of deposit or otherwise, may be retained by the Borough as its liquidation damages and it may therefore resell said property and/or such other and further legal or equitable remedies as it may have and the defaulting purchaser shall continue to remain liable for all damages and losses sustained by the Borough of Spring Lake by reason of any such default.
28. Any descriptions of the properties published by the Borough are intended as a general guide only and may not be accurate. No representations of any kind are made by the Borough of Spring Lake as to the condition of the property, said premises are being sold in their present "AS IS" condition.
29. The sale is made subject to all applicable laws and ordinances of the State of New Jersey and the Borough of Spring Lake.
30. Successful bidder(s) agrees to following conditions:
  - a. To pay prorated real estate taxes for the balance of the current year, as of the date of closing.
  - b. To abide by all appropriate zoning, subdivision, health and building regulations and codes and stipulations that this sale will not be used as grounds to support a challenge of existing assessment of the subject property, nor shall the purchase price be used as a comparable sale to challenge assessments with regard to other properties.
  - c. That the failure to close title as agreed shall forfeit to Borough of Spring Lake any and all money deposited with Borough.

**ROLL CALL:**

**AYES:** Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

**NAYS:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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Mr. Judge offered a motion to approve the following Resolution with the provision that the minimum bid be changed to reflect a reduction of the appraised value by 15% and moved its adoption, seconded by Mrs. Venables.

R-14-052 - RESOLUTION – RESOLUTION OF THE BOROUGH OF SPRING LAKE,  
COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AUTHORIZING THE SALE OF REAL  
PROPERTY NOT NEEDED FOR PUBLIC USE AND KNOWN AS BLOCK 13, LOT 2.01 ON  
THE SPRING LAKE TAX MAP AND ALSO KNOWN AND DESIGNATED AS 330 SECOND  
STREET, SPRING LAKE, NEW JERSEY PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.

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WHEREAS, the Borough of Spring Lake is a municipal corporation in the County of Monmouth, State of New Jersey, and has been formed in compliance with the applicable statutes; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-13(a) authorizes the sale by municipalities of any real property, capital improvements or personal property, or interests therein, not needed for public use by open public sale at auction to the highest bidder after the required newspaper advertisements; and

WHEREAS, the Borough of Spring Lake currently holds title to real property known as Block 13, Lot 2.01 and also known and designated as 330 Second Street, Spring Lake, New Jersey; and

WHEREAS, the governing body of the Borough of Spring Lake has determined that said property is not needed for public use, and that it is in the best interest of the Borough to sell the property.

WHEREAS, the governing body has further determined that the proceeds from the sale of the property will be dedicated to infrastructure or other expenditures for Wreck Pond flood control.

NOW, THEREFORE, BE IT AGREED that the property shall be offered in accordance with N.J.S.A. 40A:12-13(a) and the following terms and conditions, as may be amended, shall prevail and shall be hereinafter published in a public notice pursuant to the Statute:

31. There shall be a public sale at auction on a date, time and location to be announced by the Borough, where the properties shall be offered to the highest bidder pursuant to N.J.S.A. 40A:12-13(a). There shall be a minimum bid price, which is fifteen (15) percent below the appraisal value of the property. The fee simple market value of the property, as reported in a February 24, 2014 Appraisal Report prepared by Gagliano & Company, is Five Hundred Fifty Thousand Dollars (\$550,000.00). Thus, the minimum bid for this property is Four Hundred Sixty-Seven Thousand Five Hundred Dollars (\$467,500.00).
32. Upon completion of the bidding, the highest bid may be accepted, and all bids, including the highest bid, may be rejected by the Borough Council.
33. The successful bidder shall be required to deposit ten (10) percent of the minimum bid amount for the particular property at the time of the auction. This deposit shall be made by a certified check, money order or cash. All monies received will be credited to the total sale price.
34. Except as provided in paragraph 10 of this Resolution, the deposit made by the purchaser is non-refundable. The purchaser is not entitled to a refund of this deposit in any case except where the Borough is unable to convey marketable title. The risk of loss is on the purchaser.
35. The successful bidder shall be required to pay, at the time of closing of title, the proportionate cost of legal advertising of the sale of the property which is the subject of this auction and other reasonable closing costs incurred by the Borough.
36. The successful bidder shall close within sixty (60) days of the Borough Council's acceptance of the bid. NO POSTPONEMENT OF CLOSING IS PERMITTED UNLESS the Borough's title is unmarketable in which event the Borough shall be allowed a reasonable time to perfect title and to close.
37. All conveyances shall be by deed of bargain and sale from the Borough of Spring Lake to the successful bidder, to be dated on the date of closing.
38. The sale and conveyance hereunder shall be subject to all covenants, conditions, easements and restrictions of record and shall be subject to all present and existing municipal rules, regulations and ordinances, including zoning ordinances and amendment thereto of the Borough of Spring Lake. The sale of said parcel shall in no way bind the Borough to make any improvements including access to the property or utility installations to the property.
39. This sale is also subject to the further condition that if the State of New Jersey or any upland owner has any rights or claims to the land being sold herein by reason of a riparian interest or otherwise, any charges which are levied or are to be so levied by the State of New Jersey or upland owner for said riparian interest or otherwise are to be borne by the purchaser, in addition to the sale price bid for said property.
40. All successful bidders are required to conduct all required title searches at their expense prior to the date of closing. If the title to this property shall prove to be unmarketable, the liability of the Borough shall be limited to the repayment to the purchaser of the amount of his or her deposit and any other portion of the purchase price paid without any further cost, expense, damage or claim. Notice of any alleged defect in title or claim of unmarketability

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shall be given to the Borough in writing no later than ten (10) days after the date of confirmation of the sale; failure to give such notice shall be deemed conclusive evidence that the purchaser accepts title in its then present condition.

41. All prospective purchasers are put on notice that no employee, agent or officer of the Borough of Spring Lake has the authority to waive, modify or amend any of the conditions of sale.
42. A failure by the purchaser to fully comply with the terms, conditions, requirements and regulations of sale as herein contained shall be considered, at the option of the Borough of Spring Lake, as a material breach of the conditions of sale whereupon the Borough of Spring Lake may declare said contract or purchase terminated and at an end. All monies paid on behalf of the purchase price, by way of deposit or otherwise, may be retained by the Borough as its liquidation damages and it may therefore resell said property and/or such other and further legal or equitable remedies as it may have and the defaulting purchaser shall continue to remain liable for all damages and losses sustained by the Borough of Spring Lake by reason of any such default.
43. Any descriptions of the properties published by the Borough are intended as a general guide only and may not be accurate. No representations of any kind are made by the Borough of Spring Lake as to the condition of the property, said premises are being sold in their present "AS IS" condition.
44. The sale is made subject to all applicable laws and ordinances of the State of New Jersey and the Borough of Spring Lake.
45. Successful bidder(s) agrees to following conditions:
  - a. To pay prorated real estate taxes for the balance of the current year, as of the date of closing.
  - b. To abide by all appropriate zoning, subdivision, health and building regulations and codes and stipulations that this sale will not be used as grounds to support a challenge of existing assessment of the subject property, nor shall the purchase price be used as a comparable sale to challenge assessments with regard to other properties.
  - c. That the failure to close title as agreed shall forfeit to Borough of Spring Lake any and all money deposited with Borough.

**ROLL CALL:**

**AYES:** Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

**NAYS:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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**Public Comments**

Pat Boyle, 107 York Avenue, stated, as a follow up to Mr. Dempsey's comments in connection with the beach replenishment project and the large amount of sand being added back to the inlet area, it remains of great importance to the Wreck Pond area residents that there is a means to ensure drainage of water from Wreck Pond to avoid flooding. Mr. Boyle asked if there was a way to get a head start on the sand removal and begin cutting the channel now versus waiting until a potential storm hits. Mayor Naughton asked if the Borough has the permission of the DEP to keep this area open. Mr. Dempsey stated that the Borough was authorized to keep it open only when the piping plover season was not in effect. Mr. Dempsey stated that the Borough does have the equipment and he has been in touch with Mr. Phillips in Public Works who confirmed that they can indeed work to get the inlet opened further once the beach replenishment effort moves on.

Lyle Marlowe, 110 Pennsylvania Avenue, asked if the second pipe for Wreck Pond has been designed. Mr. Avakian stated that there is a conceptual design that's been presented to US Fish and Wildlife who will contract with American Littoral Society who will decide on how the design progresses.

Frank Suozzi, 112 Brown Avenue, asked about the status of the sluice gates. Mr. Avakian stated that the fabrication is underway with various technical challenges being resolved.

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Lyle Marlow, 110 Pennsylvania Avenue, asked for an update on the living shoreline. Mr. Avakian stated that he recently met with Turner Shell from Monmouth County and the project design is close to being authorized. Mr. Marlow also asked about the Brown Avenue ramp. Mr. Avakian stated that there is a plan in place which includes securing a pile driving subcontractor. Finally, Mr. Marlow asked about the scheduling of the FEMA meeting in connection with flood maps. The Mayor agreed to follow-up on the status.

Harry Zarb, 2205 Third Avenue, asked about the status of the opening of the public restroom at the north end pavilion. Mr. Dempsey stated that a Certificate of Occupancy should be forthcoming in the next week or so.

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Mr. Judge offered a motion to approve the following Resolution and moved its adoption, seconded by Mrs. Venables.

R-14-053 - RESOLUTION – PURSUANT TO N.J.S.A. 10:4-13 – EXECUTIVE SESSION

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that pursuant to N.J.S.A. 10:4-13, the Mayor and Council shall adjourn to Executive Session for the purpose of discussing: Spring Lake Coastal Permit Determination.

BE IT FURTHER RESOLVED that upon conclusion of said matter(s) this discussion will be disclosed by the Borough Clerk via Executive Session Minutes upon written authorization from the Borough Attorney.

ROLL CALL:

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

TIME OF ADJOURNMENT TO EXECUTIVE SESSION: 8:07 P.M.

MEETING IS RECONVENED: 8:15 P.M.

Adjournment

Mr. Judge offered a motion to adjourn the meeting, seconded by Mrs. Venables.

AYES: Mr. Erbe, Mr. Fay, Mr. Judge, Mr. Frost, Mr. Jordan, Mrs. Venables

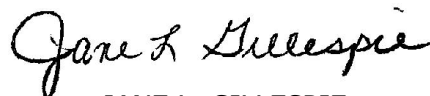
NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Time of Adjournment: 8:15 PM

Respectfully submitted,



JANE L. GILLESPIE  
Borough Clerk

Approved at a meeting held on: March 25, 2014