

**BOROUGH OF SPRING LAKE
MAYOR AND BOROUGH COUNCIL
REGULAR MEETING
SEPTEMBER 24, 2013**

Mayor Naughton called the Regular Meeting of the Mayor and Council of the Borough of Spring Lake to order at 7:00 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. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly, Mayor Naughton
ABSENT: NONE

ALSO PRESENT: Dina M. Partusch-Zahorsky, Deputy Borough Clerk
W. Bryan Dempsey, Borough Administrator
Joseph Colao, Esq, Borough Attorney
Peter Avakian, Borough Engineer

Workshop Discussion

Mayor Naughton introduced Matthew Zahorsky, Zoning Officer who is here to discuss two zoning issues, cabanas and generators. Mr. Zahorsky explained that there are many residents that are spending a lot of money, time, and effort on outdoor living space. Currently the definition of cabana is essentially a shed, cannot have utilities, bathroom, or shower. He has seen had a lot of cabana requests; the cabanas have a small kitchen, refrigerator, bathroom, and a shower. Given the size of the structure it could not be used as an apartment. To be able to have the Planning Board grant a C1 or C2 variance, the applicant has to have a hardship. However there is no hardship other than the convenience. Mr. Judge questioned what the maximum dimensions are. Mr. Zahorsky answered that it is 100 square feet; the size would not be changing.

Mr. Zahorsky discussed another issue with the ordinance; currently a homeowner can put the cabana, shed, pergola, etc. right up against the principle dwelling or the detached garage. He suggested that the ordinance be changed to require a ten foot separation between any accessory structure and the principle dwelling. The separation would help so that there is not a cluster of buildings. Mr. Judge asked if the rear yard setback would change. Mr. Zahorsky answered no; it would still be six feet.

Mr. Zahorsky then discussed the section of the ordinance which includes generators, air-conditioners, and pool equipment; currently generators and air-conditioning units are allowed in the side or rear yard, ten feet from any property line but it has to be within an eight foot envelope of any structure. There have been issues with generators; the exhaust per the building code has to be at least five feet from any operating window or even a garage door. That leaves a three foot envelope, the applicant would be able to meet the eight foot requirement in zoning however when they go to the building department they cannot meet the five foot requirement. He added that the ordinance should be changed from eight feet to twelve feet to alleviate the issue. Since the past two storms residents are installing larger generators. He does not feel that any neighbors would be impacted since the equipment still has to be ten feet from any property line. Mayor Naughton asked if the generators are limited decibels. Mr. Zahorsky answered that they have to meet the State code for noise as well as the local ordinance. Most of the generators are natural gas; they are muffled and have sound proof housings on them. He added that they cycle once a week for a fifteen to twenty minutes period.

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Mayor Naughton asked how many requests he has received for cabanas. Mr. Zahorsky answered that the requests are often, a couple times a month. Mrs. Venables questioned what types of utilities would be allowed in the cabanas. Mr. Zahorsky answered electrical, air-conditioning, plumbing, hot/cold water, shower, and no heat facilities so that they would have to winterize the unit. Mrs. Venables voiced her concern that it would be simple to plug in an electric heater; the Borough has been strict with these ordinances because we have been trying to phase out garage apartments and cottages. Mr. Zahorsky stated that it would be very difficult to have someone living there since it is a very small living area. If it was a concern the ordinance could state no cooking facilities and no air-conditioning. Mr. Judge asked if Mr. Zahorsky is receiving permits for air-conditioning in the cabanas. Mr. Zahorsky answered that he does not receive that much detail before he denies that permit. Mr. Judge does not think that air-conditioning should be restricted in a structure of this size; someone may want an air-conditioned bathroom. Mrs. Venables questioned what would be the setback between the cabanas and a structure. Mr. Zahorsky answered he is suggesting ten feet. Mrs. Venables would like to postpone the discussion on the cabanas for a future meeting. Mr. Drasheff suggested that this be brought to a Council meeting as an ordinance introduction and let the public come out and voice their opinions. Mrs. Reilly said she thinks the ordinance change would be a good idea. Mr. Judge explained that he has an open mind on this matter.

Lisa Deberardine, 10 Brown Avenue stated that the ten foot separation between a garage and cabana is very high. It may be impossible for a smaller lot to have both. Mr. Zahorsky stated that he would have to look take a look at the smaller lots; however he thinks that ten feet would be reasonable.

Gil Santaliz, 101 Monroe Avenue stated that his concern is that residents will not place large televisions outside for an outdoor movie theater. He then asked if there are other ordinances to protect against the noise from these cabanas. Mayor Naughton answered that there is a noise ordinance. Mr. Zahorsky added that the Planning Board just approved and outdoor living area with a relatively large television.

Lyle Marlowe, 110 Pennsylvania Avenue questioned if there is any way to limit the generators from cycling. Mr. Zahorsky answered that it would probably void any warranty if they did not have the generator cycle.

Harry Zarb, 2205 Third Avenue asked if there are any restrictions on the portable generators. Mr. Zahorsky answered not that he is aware of; they are for emergencies and they are not permanent structures.

Mr. Santaliz stated that the mobile generators are twice as loud and put out all kinds of emissions.

Elsie Dubac, 415 St. Clair Avenue stated that she just recently had a generator installed and it just barely fit into the required space. It does cycle once a week for approximately ten minutes and it sounds like a lawn mower, the sound is very minimal.

Mayor Naughton stated that the generator ordinance will be modified and introduced soon. She added that there will be some discussion among the Council in regards to the cabanas. Mayor Naughton thanked Mr. Zahorsky for brining the issues to the Council's attention.

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Public Comments

Helen Motzenbecker, 4 Glenwood Avenue asked about the benches. Mr. Dempsey explained that there are approximately twenty-five benches at the south end and there are fifty benches at the yard that have to be assembled by public works. Mr. Dempsey added that there was an issue with the current benches and the company was contacted so that they are fixed. The bar underneath the bench is supposed to be stainless steel and there is some rust on it already. Mr. Judge stated that as the new benches come in, they asked the DPW to spread them out.

Lyle Marlowe, 110 Pennsylvania Avenue stated that it seems to him that there has been a lot of work going on Saturdays. Mayor Naughton explained that construction work can be done on Saturday's after Labor Day. Mr. Marlowe feels that the contractors are taking advantage of the rules; they start work too early in the morning or even on Sundays. Mayor Naughton explained that the Code Enforcement Officer is not in the office on the weekends, if there is an issue residents should make it a point to bring these issues to the Borough's attention. Mr. Marlowe put together a rendering for the access points; hopefully the Council will consider it.

Harry Zarb, 2205 Third Avenue supports Mr. Marlowe's idea about the access points.

Dave Frost, 306 Pitney Avenue stated that the Borough may be able to receive Open Space Grant money for the beach front or the entrances to the town. He then asked if any grants have been applied for. Mr. Dempsey mentioned that a DOT grant was applied for. Mr. Frost stated that the deadline for the Open Space Grant was last week. Mr. Dempsey explained that is a matching Grant, he feels that there are a lot more pressing issues, one being streets. Mr. Frost stated that the Borough only applied for the Open Space Grant one time four years ago when Marucci Park was done. Mr. Jordan thought that possible projects were discussed. Mr. Dempsey explained that it was discussed but a project was never decided on. Mr. Frost feels that it would be a good idea to use grant money for the access points at the beach, two other towns received funding for this; Atlantic Highlands and Neptune City. Mr. Frost the grants should at least be applied for.

Gil Santaliz, 101 Monroe Avenue stated that it makes sense on a regular basis to apply for these grants. Mayor Naughton explained that the biggest issue is that the grants are a match; it was a difficult budget year and next year will be the same. The Open Space Grants are typically for land acquisition or if there is a significant improvement to an existing facility. We received the Marucci Park Grant because there were significant structural improvements to the facility. When it is a match, the Borough has to be ready to match that money and the project should be something on the priority list. Mr. Avakian added that it is not just a match, the regulations from the County include a phase 1 environmental assessment and extreme administrative oversight, and this would add \$10,000 to \$15,000 to the project. Mr. Jordan is concern since it took three years to receive the Marucci Park Grant which was a very legitimate project. He added that this is a result of zero tax increase; things just do not get done. Mr. Dempsey stated that an application can be filed after the deadline it would just get put in the queue; it is something that we can start working on. Mayor Naughton suggested having capital project workshop. Mr. Jordan agreed.

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Mayor Naughton explained that the Borough sets aside \$600,000 per year for capital projects and if it is not spent, debt is paid off. Another \$175,000 for other projects that might come up and we would need that funding. The Borough does a very good job budgeting, it would be better to do an overall plan to evaluate the costs and priorities.

Mrs. Motzenbecker commended the Council in receiving monies from the County and State for projects.

Approval of Minutes – None

Proclamations, Presentations, & Special Guests - None

Council Comments & Staff Reports

Mayor Naughton congratulated the Community House; they had a tremendous gala celebrating their 90th birthday. It was really well attended and beautifully done. She reported that she was fortunate enough to be invited to the National Council of Mayors City Design Group. They are a group of professionals, engineers, architects and planners. They offer advice to the Mayor's of the cities or towns that have had something tragic happen. This year they took six small New Jersey towns that were affected by Sandy and invited them to a two day symposium, she came away with some good ideas.

Mr. Drasheff reported that the experience with the dog beach this summer was very successful. He discussed the possibility of extending the use for few more weeks; many residents prefer the confined area. In speaking with Frank Phillips whose concern was leaving the fence up too long, would probably removed the fence around November 1. If the Council has no objection he would like to ask to extend the dog beach a few more weeks and also extend the hours to ten or eleven. Mr. Judge stated that he would have no objection to this but would the hours really need to be restricted this time of year. Mrs. Reilly agreed that the time does not matter. Mr. Dempsey added that dogs are allowed on the beach at anytime now but they have to have a leash on.

Mr. Drasheff offered a motion to extend the pilot dog beach program to the point when the DPW determines the fence needs to be removed and eliminate the hours, seconded by Mr. Judge. Unanimously approved.

Mr. Judge reported on the North end locker bids which were due on September 18, only one bid was received which was slightly over \$560,000 for the construction and installation of the lockers. The beach committee is not making a recommendation to accept or reject the bid at this time. He added that they are exploring the possibility of having it done in house.

Borough Engineer's Report

Mr. Avakian reported on a trust fund application, the roadway improvement application to the Department of Transportation for Ludlow Avenue; it is really phase two, Third Avenue to the railroad tracks. He also reported on the Wreck Pond watershed tour, a lot of people attended and they had the opportunity to review some of the current projects. Many people from other towns who are along the watershed attended however all of the work is being done here in Spring Lake. He took the tour down to the spillway structure and talked about the sluice gate project. Mr. Avakian and Mr. Dempsey are meeting with the representative from DEP Dam

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Safety on Thursday in an attempt to obtain the last permit which would allow the Borough to take the constructions plans and go out to bid for the installation of gates on the spillway openings. Mayor Naughton asked if Mr. Avakian anticipated any issues with that permit. Mr. Avakian answered no, he already spoke with John Richie from DEP and he is very much in favor of the project. Mr. Avakian then reported on the infrastructure grant, all of the sight assessments and internal video work is complete. The reports have been drafted. He did find a sanitary sewer line that ran through a storm manhole that was paved over with two courses of asphalt, which was probably buried a long time ago. The sanitary line had a fracture in the top of the pipe, so if the manhole filled with water during a storm activity they could have come mingled and the waste water would have gone into the storm drain and discharged into Brown Avenue outfall. That is one area where they were receiving possible readings, the repair was made. He added that the next phase is a \$500,000 environmental infrastructure trust loan, which is actually a principle forgiveness loan and it was set up by the DEP and the Wreck Pond group for this project. Mayor Naughton asked if there are more repairs. Mr. Avakian answered that they identified defects which were found that maybe don't have a direct discharge but something that might fail in the future. Mr. Avakian explained something that was noticed during the cleaning was the amount of sediment found in the pipes directly attributable to Sandy. All of that is cleaned and removed so they will be much more efficient. The whole infrastructure was cleaned, televised, dye and smoke tested, and checked connections. He added that Wreck Pond itself has some issues that are not caused by Spring Lake's infrastructure. Mr. Jordan confirmed that Sea Girt also did this testing. Mr. Avakian explained that Sea Girt did the Baltimore Blvd outfall, which was smaller and there were no impacts found there at all. Mrs. Reilly asked if they figured out where it is coming from. Mr. Avakian answered that they will continue their reading. One of the girls who works with Bruce Friedman, Sherry Schifrin who has been here, did a very interesting time lapse projection of her reading, a fecal bacteria reading, and how it migrates from west to east. As far as we know it could be coming into the pond and stagnating and unless there is a storm it does not get flushed out.

Gil Santaliz, 101 Monroe Avenue questioned is there an expectation that now when it rains the South end beaches will not have to close. Mr. Avakian answered that there absolutely is. Mayor Naughton added that they do tests every time the beach is closed and very few times is there ever a reading that would have justified that close. Mr. Santaliz explained that Lake Como has changed in the past thirty years especially with Hurricane Sandy, now water can be pumped from Lake Como into the ocean. Scientifically the eco-system is changing dramatically when this is done and would it be a possibility to monitor Lake Como just to make sure that we do not have a situation in the future that could become like Wreck Pond. Mr. Avakian agreed that it would be a good idea.

Frank Suozzi, 112 Brown Avenue stated that regardless of where the human waste in the pond is coming from, during a flood, people in the flood zone have it sloshing around in the homes, streets, and neighbors hood. Mayor Naughton explained that the DEP should continue to look evaluate the issue; they wanted us to do this infrastructure study because they thought it was coming from the Borough. They should be looking maybe upstream or other areas for where it originating from. Mr. Suozzi wanted to make sure that the Borough is completely unrestricted and we have total discretion of when the sluice gate will be opened and closed. Mr. Avakian

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answered that is exactly what the memorandum of understanding is. He pointed out that the bacterial reading in the pond is not necessarily human waste; there is a lot of animal activity in the water shed. The purpose of the infrastructure assessment was done to eliminate any possible contaminate from Spring Lake's sanitary sewer, storm drainage system from getting into the pond. Through these studies we feel pretty comfortable that we have done that and by doing that he thinks the State will be able to take the next step.

Borough Attorney's Report

Mr. Colao – Nothing for tonight.

Borough Administrator's Report

Mr. Dempsey reported that Duggan Building is moving along nicely, currently they are working in the back of the building on the new addition. Hopefully in the next couple of months it will be done. There have been several progress meetings and still discussion on the options of some change orders that would decrease the amount. The progress is progressing smoothly. He then reported on the North End Pavilion it is finally looking like a building. The roof is on and the bathrooms are roughed out. He added that the boardwalk in front is being laid down by the public works department; they are probably going to stop at the end of this week. They are at a point where they are in the area where they are interfering with the contractor. The site work should be starting within in the next week or two; we are waiting on a permit from the County. Once we have the permit the paving, curbs, and sidewalks will be finished. Mr. Drasheff inquired about having an open house after the North End Pavilion is near completion for the residents in town who may want to take a look, before it is closed up for the winter. Mr. Judge agreed that is a good idea.

Harry Zarb, 2205 Third Avenue asked if there will still be a restroom will be open this winter. Mr. Dempsey answered yes. Mr. Zarb thanked Mr. Dempsey.

Business Items Under Consideration

Brielle Fire Company – Annual Request to Use Beach Tractors – October 25 & 26, 2013 - Mrs. Venables offered a motion to approve request, seconded by Mrs. Reilly. Unanimously approved.

Ordinances for Introduction - NONE

Ordinances for Adoption

Borough Attorney Colao read the following: "Ordinance No.2013-010 – AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 225, LAND DEVELOPMENT SECTION 58 OF THE BOROUGH CODE" by title.

Mrs. Venables offered a motion to open the Public Hearing on Ordinance No. 2013-010, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

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NAYS: NONE
ABSENT: NONE
ABSTAIN: NONE

PUBLIC HEARING NOW OPEN

Mrs. Venables discussed this ordinance, the Business Improvement District asked the Council to consider this ordinance. It would give the Borough a mechanism for an opportunity to see what uses would be undertaken in a space in the commercial district. That is important because there are certain ordinance about what uses are appropriate in certain areas, there needs to be a mechanism for evaluating the new tenant or buyer to make sure that they comply. There should be control over parking issues or garbage removal issues. Zoning enforcement is very important, especially downtown. The Council has passed an ordinance about retail uses on Third Avenue which has made a tremendous difference in town. This would also need a mechanism to enforce the ordinances.

Mr. Zahorsky explained from a zoning perspective it makes a lot of sense. Currently the Borough requires a certificate of occupancy inspections for rentals and re-sales for residential properties, there is no control over the commercial space that is downtown. There should be a mechanism in place where the history of the all the businesses is recorded. There are some existing non-conforming uses that can be continued. There is nothing currently in the ordinance that would make a commercial use, which is changing a space to come before himself or Mr. Roe for a permit. Mr. Jordan asked if there are fire inspections that happen on an annual basis and does the Borough charge for those. Mr. Dempsey answered yes there are fire inspections but they only check for the building fire code not the use and there is a charge. Mr. Jordan asked what the fee is. Mr. Dempsey explained that it depends on the use but generally they are \$45. Mr. Jordan asked what the Business Improvement Districts opinion on this. Mrs. Venables answered that they are supportive of it.

Rich Clayton, 1207 Third Avenue explained that they wanted this ordinance in place five years ago. There are businesses that have snuck in; he feels that if this ordinance was in place. For example, if the ordinance was in place over the winter one business would have been able to open several months sooner which would have increased revenue for that business and the property owner as well. It is something that needs to be done. There was business that just closed and he heard a rumor of what it is going to be.

Mr. Judge supports having a mechanism however he feels like this ordinance has too much regulation. It puts in a mechanism where it sets up an inspection to be done with each new lease and requires the property owner to pay a fee. The property owners are already paying \$45 for the fire inspection. He thinks the ordinance should require them to make an application where they identify their use, Mr. Zahorsky can review it and it is not something that needs a \$25 fee, he added that this could be seen by people as getting another tax. Mrs. Reilly does not feel that it is a tax; Mr. Zahorsky is putting his time in and effort. Mr. Judge explained that the ordinance is creating an inspection that did not occur before and increasing the obligation of the zoning officer to conduct an inspection where none was required before. He feels that it is excessive regulation by requiring another inspection and imposing a fee which some people would describe as a tax. Mayor Naughton asked if the inspection is important or not. Mr. Zahorsky explained that if there is an instant where there is a need to go out and look at the property not to call the potential tenant and tell that the he needs to get inside and do a full

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inspection before they move in. Mr. Judge stated that is how the ordinance reads. Mr. Zahorsky explained that the ordinance states that an ordinance may be required. Mr. Judge said that he does not understand why a site visit would be required. Mr. Zahorsky explained that in another town it happens all of the time. In that town it is called a transfer permit which is basically a zoning permit and we charge \$35, if there is a question about the application then he has the ability to go and do an inspection. He added that he is not going to do an inspection every time. Mr. Colao noted that Mr. Zahorsky is not the one getting the \$25; it is simply a clerical/administrative fee to cover the cost of paper work or some aspect of handling those types of things. He added that the inspection is an option if required, it is not a prerequisite. If they view the application as appropriate and there is no rumor or aspect of anything that is not straight forward, that application can be issued without an inspection. Mr. Zahorsky stated that a fee is a fee and normally there would be a charge for an application and review. From a zoning perspective there should be a history of uses that are in a commercial space.

Mike Mattia, 313 Jersey Avenue agrees with Mr. Judge, there should not be a fee involved. He added that the fire department has a list of all of the store owners. The store owners already pay the fire department fee and the Business Improvement District fee. He disagrees with Mr. Clayton that this ordinance would have helped a particular store owner. He feels that the store owner should have done their due diligence to see what they could put in ahead of time.

Mr. Jordan asked Mr. Zahorsky if he has access to the fire department records. Mr. Zahorsky answered not on a routine basis no. It is something that he could request however he lists everything by block and lot. Also the fire department records may not have the exact use, probably just the name of the business.

Mr. Judge asked if the Business Improvement District support the \$25 fee. Mr. Clayton answered that they have no control over the fee and that it does not matter either way. He personally as a commercial property owner does not have an issue with the fee.

Mayor Naughton asked Mr. Zahorsky what the turnaround time would be the review. Mr. Zahorsky answered that if it was straight forward, approximately five business days.

Eleanor Twomey, 108 Vroom Avenue does not think that the tenants leave their merchandise out in the doorway not at the front of the building as the ordinance permits. Mr. Dempsey stated that this ordinance would not cover those issues. Mayor Naughton added that there is a display ordinance and it is very clear about not blocking the doorways, so maybe there just needs to be better enforcement for those things.

Elsie Dubac, 415 St. Clair Avenue suggested that the ordinance be changed to not have a fee associated with the application however if Mr. Zahorsky had to go and do an inspection then the fee would be charged. Mrs. Venables explained that some minimal fee has to be placed on the application so that people are not taking advantage of Mr. Zahorsky about general ideas because the review may require more time than one thinks, she added that the fee could even be \$15.

Mrs. Venables proposes that the ordinance be amended; the \$25 fee can go to \$15 fee.

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There being no further comments from the public, Mrs. Venables offered a motion to close the Public Hearing on Ordinance No. 2013-010, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

PUBLIC HEARING NOW CLOSED

Mrs. Venables offered a Resolution to adopt Ordinance No. 2013-010 with the fee being reduced to \$15.00, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mrs. Reilly

NAYS: Mr. Judge

ABSENT: NONE

ABSTAIN: NONE

Borough Attorney Colao read the following: "Ordinance No.2013-011 – AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 225, LAND DEVELOPMENT OF THE BOROUGH CODE" by title.

Mrs. Venables offered a motion to open the Public Hearing on Ordinance No. 2013-011, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

PUBLIC HEARING NOW OPEN

Mr. Zahorsky discussed this ordinance is amending the building height ordinance; this ordinance was introduced at the last meeting. There are a few homes at the north end of town near Lake Como that have a finished first floor of about 12.5 feet, the new flood elevation there is 10 feet. The current ordinance states that a resident can only raise their house three feet above the ABFE. These residents' homes can meet the original building height definition and the original crawl space definition; they unfortunately are hamstrung by being in a flood zone. These residents would potentially be able to raise their house to an elevation of 14 feet. Some of these homes received 18 inches of flooding during Hurricane Sandy; the homes also meet the thirty-five feet building height from the top of curb elevation at the midpoint of the lot. Even if a resident is in the flood zone and the home can meet the definition of crawl space and building height, that the resident would be exempt from the three foot limitation. The elevation of the properties at the north end of town are higher than the south end of town, generally at the north end the elevation is nine or ten and the south end of town it is about six or seven. That's why we limited the base flood plus three feet because we do not want eight feet out of the ground. Mayor Naughton asked how many properties this effects. Mr. Zahorsky answered that it is the South Blvd. area where they had the extreme, they were flooded to elevation 13 plus. The extreme flooding in that area could have been due to the equivalent of a one hundred year

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storm or due to the fact that the pipes collapsing. He added that if a resident is rebuilding and were already flooded at elevation 13.5 feet are you really going to set your finished floor 13 feet.

Lyle Marlowe, 110 Pennsylvania Avenue stated that this ordinance seems to only apply to homes in the flood zone. Mr. Dempsey answered yes. Mr. Marlow stated that it seems that any structure in the flood zone has to meet this requirement and cannot go back to the old one. Mayor Naughton explained that is not what is intended, the residents can do either or. Mr. Zahorsky agreed. Mr. Dempsey explained to make this clearer the new regulation can be added as number four and add the thirty-five feet requirement. Mayor Naughton noted that it is redundant we can add it so that is clear. Mr. Zahorsky agreed.

There being no further comments from the public, Mrs. Venables offered a motion to close the Public Hearing on Ordinance No. 2013-011, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

PUBLIC HEARING NOW CLOSED

Mrs. Venables offered a Resolution to adopt Ordinance No. 2013-011 as amended the new language would now be a separate paragraph number four and added to that, would be the language that the building height would be thirty-five feet from the top of curb, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Consent Agenda

Mrs. Venables offered the following Resolution and moved its adoption, seconded by Mrs. Reilly.

**R-13-169 - RESOLUTION – INTERLOCAL SERVICE AGREEMENT FOR LAKE COMO
FLOODING EMERGENCY MANAGEMENT**

WHEREAS, Lake Como is a coastal lake bordered by Belmar, Spring Lake and Lake Como with SMRSA maintaining pumping operations in the immediate vicinity of the Lake; and

WHEREAS, flooding at Lake Como; both driven by large rainfall events and storm surge events; effects life safety of the residents of the boroughs of Belmar, Spring Lake and Lake Como and results in repetitive property loss and damage by all parties due to flooding; and

WHEREAS, it is in the public safety and financial interests of the Parties to responsibly manage Lake Como; including the establishment of an emergency management protocol to mitigate the damages incurred by flooding; and

WHEREAS, and in order to ensure that all personnel, equipment and resources are properly allocated, the Parties desire to structure an arrangement for Lake Como Flooding Emergency Management; and

WHEREAS, the Parties have agreed to the emergency management protocol in accordance with the terms and conditions of this Agreement; and

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WHEREAS, Belmar, Spring Lake, Lake Como and SMRSA have authorized and approved this Agreement by resolutions of their governing bodies.

NOW, THEREFORE, with the foregoing recital paragraphs incorporated herein by this reference and in consideration of the mutual covenants contained herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Authority The Parties agree to establish primary and alternate persons of authority to bind the parties into financial and operational obligation.
2. Term
 - A. The term of this Agreement shall commence immediately upon execution by all Parties governing bodies (the "Effective Date"), and shall continue until January 1, 2016 (the "Term"), unless terminated sooner pursuant to the terms and conditions of Paragraph 5 of this Agreement.
 - B. Notwithstanding the foregoing, by resolutions of the governing bodies of all Parties, this Agreement may be extended for additional terms of three (3) years up to a total of fifteen (15) additional years.
3. Consideration
 - A. The Parties agree to an equal share of all financial obligations incurred through this agreement (25% share for each party).
 - B. The incurring of financial obligation under this agreement may only be reached by an agreement of the majority of the parties by way of the established primary persons identified herein. Should the established primary person be unavailable, the party's alternate may join their party in the primary person's absence. Such agreement must be memorialized by electronic or written correspondence circulated to all parties.
 - C. Belmar shall act as the authorized entity for necessary procurement practices and direct payment of financial obligations agreed to under this agreement. Belmar shall bill the appropriate share of the accumulated expenses to the other parties not less than quarterly.
4. Chain of Command
 - A. The following identification of primary and alternate representatives of the Parties shall represent those with authority to bind the party into financial and operational obligation with regard to this agreement:

Belmar:	Mayor or Business Administrator	
	Alternate:	Superintendent of Public Works
Lake Como:	Mayor or Business Administrator	
	Alternate:	Chief of Police
Spring Lake:	Mayor or Business Administrator	
	Alternate:	Director of Public Works
SMRSA:	Executive Director	
	Alternate:	SMRSA Chairperson
 - B. All employees providing services under this Agreement shall be under the exclusive authority and control of their employer and governing authority. All complaints, instructions, requests, including requests for information, or other lines of communication by any party shall be through the identified primary contacts above.
5. Regular & Special Meetings
 - A. The Parties shall meet quarterly to discuss the provision of the Services under this Agreement; the costs associated with same; and any other matter concerning this Agreement. Such meetings must be attended by at least one of the afore detailed authorized representatives from each party.
 - B. The Parties shall convene special meetings as required due to emergent or unfolding conditions including but not limited to weather and storm formations. Any of the authorized representatives listed above may convene a special meeting for emergent conditions.
6. Termination
 - A. This Agreement may be terminated at any time upon mutual agreement of the Parties; however, unless otherwise agreed by the Parties, such a termination shall not become effective for a minimum of six (6) months following the adoption of resolutions by all governing bodies authorizing the termination.

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- B. Any party may terminate this Agreement at any time and for any reason upon giving the other parties six (6) months-notice of its intent to terminate.
 - C. In the event any party defaults in the performance of any of its obligations under this Agreement after receiving written notice of same and failing to cure such default within thirty (30) days of said written notice, the non-defaulting party(ies) shall be entitled to terminate this Agreement and shall be entitled to all other remedies available at law, in equity, or both.
 - D. In the event of a termination pursuant to any subsection of this Paragraph, the Parties shall take all steps necessary to ensure that the services are transitioned in a manner which does not jeopardize the health, welfare or safety of the residents of either party.
- 7. Choice of Law Any dispute under this Agreement or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.
 - 8. Entire Agreement This Agreement represents the entire agreement between the parties and cannot be changed or modified orally.
 - 9. Severability If any part of this Agreement shall be held to be unenforceable, the rest of this Agreement shall nevertheless remain in full force and effect.
 - 10. Waiver Failure to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement at any one time shall not be deemed a waiver of such term, covenant, or condition at any other time nor shall any waiver or relinquishment of any right or power herein at any time be deemed a waiver or relinquishment of the same or any other right or power at any other time.
 - 11. Modification This Agreement may not be changed orally, and may be modified or amended only by a written agreement signed by all Parties.

NOW, BE IT FURTHER RESOLVED, by the Mayor and Borough Council of the Borough of Spring Lake that the Mayor and Borough Administrator be and hereby are authorized to execute the Interlocal Agreement between Belmar, Lake Como, and SMRSA for Lake Como Flooding Emergency Management.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Mrs. Venables offered the following Resolution and moved its adoption, seconded by Mrs. Reilly.

R-13-168 - 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 recycling employee at \$12.50 per hour, George Palmer for the Department of Public Works effective September 23, 2013.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Resolutions

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Judge.

R-13-170 RESOLUTION – APPROVAL OF BILLS – SEPTEMBER 24, 2013

WHEREAS, the Borough of Spring Lake received certain claims against it by way of vouchers received during the period ending September 24, 2013, and

WHEREAS, the Borough Finance Committee has reviewed said claims.

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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.

<u>SUMMARY</u>	
CURRENT FUND (1)	632,110.51
GENERAL CAPITAL (4)	9,000.18
WATER/SEWER OPERATING (9)	32,609.28
DOG TRUST (13)	910.00
RECREATION (25)	5,314.98
BEACH OPERATING (81)	67,205.28
POOL OPERATING (91)	9,040.22
POOL CAPITAL (94)	443,666.41
TOTAL	\$1,199,856.86

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Mr. Colao stated that it was discussed that Resolution R-13-169 would be tabled, and agreement is not attached and there are some financial obligations. Mayor Naughton agreed this Resolution should be rescinded.

Mrs. Venables offered a motioned to rescind adoption of Resolution R-13-169, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Public Comments - NONE

Executive Session - None

Adjournment

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

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Jordan, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

Time of Adjournment: 9:10 P.M.

Respectfully submitted,

DINA M. PARTUSCH-ZAHORSKY
Deputy Borough Clerk

Approved at a meeting held on: