

N/M

**MEETING AT MUNICIPAL BUILDING, 9508 SECOND AVENUE**  
**PRELIMINARY AGENDA FOR COUNCILMEMBERS**  
**SUBJECT TO CHANGE**

AGENDA Regular Meeting  

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Tuesday, July 19, 2016 4:30 PM

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**DOCK HEARING – PJM Construction Management LLC for Third &\* 97<sup>th</sup> Street LLC 9629-9633 Third Avenue**

**Ordinance 1484 Meter Box Violation Fee 2<sup>nd</sup> 3<sup>rd</sup> and final (1) Lane**

**Resolution – Easement – Marque possible (2)**

**Resolution – Opposing Seismic Air Gun Testing off Coast possible (3)**

**DISCUSSION:**

**Reverter request (4) Mastrangelo**

**Request – Stone Harbor Theater, LLC removal of tree (5)**

**RFP – Professionals - Lane**

**Statue – Library – Lane**

BOROUGH OF STONE HARBOR  
COUNTY OF CAPE MAY, NEW JERSEY

ORDINANCE 1484

AN ORDINANCE AMENDING CHAPTER 542 OF THE REVISED GENERAL ORDINANCES  
OF THE BOROUGH OF STONE HARBOR, 2005  
(Creating a Meter Box Violation Fee)

**Section 1:** Section § 542-6 is hereby amended by adding the following:

(2)

a. In the event the Borough discovers that a consumer's property is not in compliance with the requirement that its meter box is level, the Borough shall notify said consumer via regular mail and, if no response is received within 30 calendar days, then said consumer will be notified by certified mail, return receipt requested, of the noncompliance. Said notice shall inform the consumer that if the consumer does not come into compliance within 30 days from the date of mailing of the notice, and inform the Borough, in writing of such compliance, said consumer shall, in addition to the regular quarterly payment for water sewerage charges, be billed an additional charge of \$85. In the event of continued noncompliance such charge shall be imposed quarterly.

**Section 2.** If any portion of this ordinance is determined to be invalid by a Court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

**Section 3.** All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, are hereby repealed.

**Section 4.** This Ordinance shall take effect immediately upon final passage and publication as provided by law.

APPROVED:

\_\_\_\_\_  
Suzanne M. Walters, Mayor

ATTEST:

\_\_\_\_\_  
Suzanne C. Stanford, Borough Clerk

A RESOLUTION OPPOSING SEISMIC AIR-GUN TESTING OFF THE COAST OF NEW JERSEY

WHEREAS, the proposed seismic air gun blasting is utilized to search for oil and gas reserves deep beneath the sea floor; and

WHEREAS, such blasting is proposed for the East Coast; and

(3) WHEREAS, the seismic air use extremely loud blasts of air, 100,000 times more intense than a jet engine and repeated every 10 seconds, 24 hours a day for days to months on end; and

WHEREAS, the blasting can cause permanent hearing loss, injury and even death to whales, dolphins and larval fish when used at shore distances; and

WHEREAS, the air gun noise has been shown to decrease the catch rates within certain fisheries; and

WHEREAS, the commercial and recreation fishing in New Jersey supports over 63,000 jobs, all of which would be threatened by seismic blasting and the offshore drilling that would follow: and

WHEREAS, the Ocean-based tourism and recreation generates nearly 3.1 billion in GDP (Gross Domestic Profit) for the state and sustains over 79,000 jobs and

WHEREAS, the Obama Administration could decide in the next weeks to allow companies to use seismic air guns to search for oil and gas deposits in the Atlantic Ocean within the next few weeks; and

WHEREAS, the Borough of Stone Harbor, Mayor and Council urge Governor Christie to oppose the seismic air gun blasting off the coast of New Jersey

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stone Harbor that it offer its plea to New Jersey Sate Governor Chris Christie to oppose the seismic air gun blasting off the coast of New Jersey; and

BE IT FURTHER RESOLVED that a certified copy of his resolution be forwarded to the Cape May County Board of Chosen Freeholders, all Cape May County Mayors, the Honorable Chris Christie and President Obama.

# LOVELAND GARRETT & BATASTINI

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July 5, 2016

(Regular and email)  
Attention: Suzanne C. Stanford, R.M.C., Borough Clerk  
Borough of Stone Harbor  
9508 Second Avenue  
Stone Harbor, New Jersey 08247

(4) Re: 106 121<sup>st</sup> Street, Stone Harbor (Janet K. Marshall)  
Block 120.02, Lot 108  
102 121<sup>st</sup> Street, Stone Harbor (Martin H. & Janet K. Marshall)  
Block 120.02, Lot 109

Removal of Reverter

Dear Suzanne:

Our firm represents Janet K. Marshall and Marin H. Marshall, the owners of the referenced properties. The Marshalls respectfully request the removal of the referenced property from the restrictions set forth in the attached November 1, 1972 and November 13, 1972 Deeds restricting the property from possible consolidation with a neighboring lot; and, the removal that the Borough must approve or disprove the design of any building plans. Please list this matter on the Borough of Stone Harbor's next available municipal meeting.

The particular language in the relevant Deed includes the following:

Said lot shall not be increased or decreased in size; and, no license, easement, right of way or other uses shall be permitted or created by the purchaser and any subsequent owners. Any conveyance which would increase or decrease the size of a lot shall automatically cause the title to the entire lot to revert to the Borough.

...

Also, the rights reserved by the Borough to approve or disapprove the design of any building plans as restricted in said Ordinance and notice of sale.

According to N.J.S.A. 40:60-51.2, municipalities may waive, release, modify or subordinate building restrictions in conveyances by municipalities:

Any municipality is authorized....to waive, release, modify or subordinate any ...reverters imposed in sales and conveyances of lands...but only after public hearing held before such governing body describing the lands in question...and the reverters to be waived...shall first have been given by advertisement published once each week for two weeks in a newspaper published in said municipality .....however, that the power herein granted shall not be exercised to impair any vested or contractual rights of third parties.

Enclosed for your convenience is a copy of the filed restrictive Deeds at issue, the Deed for both Marshall properties and Resolution 2015-S-77 for a previous release of the restrictions for the properties located at 106 119th Street, Stone Harbor and 102 119th Street, Stone Harbor.

Should you require additional information, please do not hesitate to call. I remain,

Very truly yours,

*Jon D. Batastini*

Jon D. Batastini



JDB:bjl

Enclosure

cc: Martin H. and Janet K. Marshall  
Marcus Karavan (email only - [marcus@blaneykaravan.com](mailto:marcus@blaneykaravan.com))

**MINUTES OF THE REGULAR MEETING OF MAYOR  
AND COUNCIL OF THE BOROUGH OF STONE  
HARBOR HELD IN THE MUNICIPAL BUILDING, April  
21, 2015**

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The meeting was called to order by Mayor Walters at 4:30 p.m.

**ROLL CALL**

Suzanne M. Walters, Mayor  
  
Suzanne C. Stanford, Borough Clerk  
Michael Donohue, Esquire  
Jim Craft, CFO,  
Jill Gougher, Administrator

**PRESENT**

Councilmembers  
Barry D. Mastrangelo, Council President  
Judith Davies-Dunhour  
Joselyn Rich  
Joan Kramar ABSENT  
Karen Lane  
Albert Carusi

Mayor Walters announced that the meeting was now open. Adequate notice of the meeting was provided by posting a copy of the time and place on the Municipal Clerk's bulletin board and mailing a copy of same to the Press and the Cape May County Herald on January 8, 2015.

**SALUTE TO THE FLAG**

Mayor Walters asked for a moment of silence in honor of Councilmember Kramar's mother who passed away last week.

**REVERTER HEARING**

Solicitor Donohue stated there was an application from these homeowners some time ago to release the reverter clause on certain lots in town. As a result of that and investigating reverter clauses we found that when the Borough auctioned off lots from about 113<sup>th</sup> south over the course of a few decades, this reverter clause was included, essentially if you make the lot bigger or smaller the property comes back to the Borough. There is nothing in the legislative history as to the purpose, there are some educated guesses. A few weeks ago the Council had a closed session on this subject and the Council instructed Solicitor to make a definitive list of all these properties and we will very soon come back to Council with a Resolution to lift those reverter clauses on all these properties and allow Zoning to deal with any issues that might arise. When they were initially put in place we didn't really have what we call "modern" zoning and the current Municipal Land Use Law and that was all discussed in closed session. In the meantime, the property owners are back and would like to be heard through their attorney now, since there is a transaction waiting to take place. Don't see a problem, but is obviously up to Council, there is an application to remove the reverter clause from these two properties. It has been published in accordance with NJSA 40:60-51.2 which gives the Municipality authority to release these types of deed restrictions, after it has been published and having this hearing.

Jon D. Batastini, Esq. spoke on behalf of the owners of 106 – 119<sup>th</sup> Street (Herdelin) and 102 – 119<sup>th</sup> Street (Schnicky's View LLC)

He explained that the Borough placed reverter language in the Deeds for these two lots during the mid 1960's and asked that this particular language be removed for these two lots so these two owners could go through with their contract purchase, instead of waiting for some time in the future when all reverter are lifted, if that is the way the Borough so choses. Asked if there were any questions. This is the clause to be removed:

"This lot shall be considered as one entire parcel of land which may be used only for such use purposes as specified by the Borough's Zoning Ordinance provision applicable to the zone wherein the land is situated. The lot shall not be increased or decreased in size, and no license, easement, right of way or other uses shall be permitted or created by the purchaser and any subsequent owners. Any conveyance which would increase or decrease the size of a lot shall automatically cause the title to the entire lot to revert to the Borough."

Mayor asked if anyone was in the audience to speak for this application. No one spoke  
Mayor asked if anyone was in the audience to speak against this application. No one spoke.

Solicitor Donohue stated there is a resolution on the agenda tonight and he would indicate for the record the Statute cited previously does allow for this to be done by Resolution.

**RESOLUTION 2015-S-77** (Release Reverter Clauses)

Upon motion of  
Seconded by

Councilmember Barry D. Mastrangelo  
Councilmember Judy Davies-Dunhour

RESOLUTION RELEASING REVERTER CLAUSES ON  
BLOCK 118.02, LOT 108 AND BLOCK 118.02, LOT 109  
IN THE BOROUGH OF STONE HARBOR

WHEREAS, the Borough of Stone Harbor in the County of Cape May and State of New Jersey, placed certain reverter clauses into deeds to properties that were sold at auction over the course of several decades culminating in the 1980's; and

WHEREAS, the reverter clauses called for the reversion of ownership back to the Borough if such lots were increased or reduced in size; and

WHEREAS, the Borough Council has found that the legislative record is absent any statement of the intention for these clauses and that the Borough does not wish to interfere with property rights with regard to these properties nor produce results that would likely lead to litigation over the language and intent of the clauses and further has found that modern zoning capabilities were not well established at the time of the auctions and utilization of the modern Municipal Land Use Law will allow for any concerns to be addressed moving forward; and

WHEREAS, these lots were sold by the Borough in the South End from approximately 113<sup>th</sup> Street to 122<sup>nd</sup> Street; and

WHEREAS, the Borough Council has determined to release these reverter clauses and leave any planning or zoning concerns to the appropriate land use board; and

WHEREAS, the Borough is in the process of creating a definitive listing of all properties so situated and move forward with a blanket removal of said clauses in the near term; and

WHEREAS, in the interim there has been a request for the removal of two such clauses by the owners of Block 118.02, Lot 108 and Block 118.02, Lot 109 which were recorded in deeds with the Cape May County Clerk's Office in Deed Book 1224, page 461 and Deed Book 1225, page 92; and

WHEREAS, the clauses in the deeds of conveyance related to these properties state: *This lot shall be considered as one entire parcel of land which may be used only for such use purposes as specified by the Borough's Zoning Ordinance provisions applicable to the zone wherein the land is situated, The lot shall not be increased or decreased in size; and, no license, easement, right of way or other uses shall be permitted or created by the purchaser and any subsequent owners. Any conveyance which would increase or decrease the size of a lot shall automatically cause the title to the entire lot to revert to the Borough;* and

WHEREAS, N.J.S.A. 40:60-51.2, states: *Any municipality is authorized....to waive, release, modify or subordinate any ...reverters imposed in sales and conveyances of lands...but only after public hearing held before such governing body describing the lands in question...and the reverters to be waived...shall first have been given by advertisement published once each week for two weeks in a newspaper published in said municipality .....however, that the power herein granted shall not be exercised to impair any vested or contractual rights of third parties.;* and

WHEREAS, the Borough Clerk has duly advertised a notice of hearing on the removal application in accordance with the statute, proof of which is on file with the Borough Clerk's Office; and

WHEREAS, on April 21, 2015, the Borough Council of the Borough of Stone Harbor conducted a hearing on the application to remove these reverters and the applicants were represented by Jon Batistini, Esquire, who appeared on their behalf and the matter was opened to any persons wishing

to speak in favor of or against the application; and

WHEREAS, the Borough Council considered the application as well as any comments for or against at the time of said hearing; and

WHEREAS, there appears to be no third party or parties whose vested or contractual rights would be impaired by the release of these reverter clauses; and

WHEREAS, the Borough Council has determined to release these and similar reverter clauses upon the aforementioned lots auctioned by the Borough several decades ago;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor duly assembled in public session this 21<sup>st</sup> day of April, 2015, as follows:

1. That the preamble of this Resolution is hereby incorporated by reference and adopted as the finding-of-fact of the Borough Council:
2. That, in accordance with N.J.S.A. 40:60-51.2, the Borough of Stone Harbor hereby releases the aforementioned reverter clauses on Block 118.02, Lot 108 and Block 118.02, Lot 109 which were recorded in deeds with the Cape May County Clerk's Office in Deed Book 1224, page 461 and Deed Book 1225, page 92.
3. That recordation of this Resolution by the applicant is hereby authorized.

Vote 5 Councilmembers AYE

### **MOTION CONCERNING THE MINUTES**

Upon motion of Councilmember Barry D. Mastrangelo  
Seconded by Councilmember Joselyn O. Rich

Since all members of Council have been provided with a copy of the minutes of the Regular Meeting of March 17, 2015 and the Work Session of April 7, 2015, if there are no additions or corrections, I move we dispense with the reading of the minutes and that they be approved.

Vote 5 Councilmembers AYE

### **REPORTS OF COMMITTEES AND OFFICERS**

#### **PUBLIC SAFETY**

Councilmember Carusi said Public Safety meeting was held on April 16<sup>th</sup> all members present with the exception of Barry Mastrangelo who was on vacation, Captain Tom Schutta was also present.

#### Highlights

COURTS – congratulations to Laura who gave birth to a baby girl and thanks to part time assistant, Jane for picking up the slack. No issues at this time.

OEM – Ken Hawk attended the County Emergency Management Meeting. Scott Morgan has replaced the late Art Treon in the Ass't County OEM Manager. There was a discussion on the possibility of the County OEM headquarters being re-located from the present location at the library basement in CMCH to the County airport at Lower Township. The ultimate goal is to establish a County wide dispatch service. Avalon and Stone Harbor have done this and are a pilot program for the County.

FIRE/EMS – Jonathan Schwartz has successfully passed his test for the Fire Inspector course. Radio communication were experiencing some coverage difficulties and the technical recommendation was to move it to the top of the water tower. Our new fire truck is on schedule for delivery to Stone Harbor by the middle of next month. The manufacturer, Pierce, has asked to display our truck at the FDIC show due to some unique features that were incorporated. The new ATV was ordered on April 15<sup>th</sup> The old ATV will be handed over to the Recreation Department. Chief Stanford has the action to see the feasibility of conducting CPR for the community. This would include training for our emergency personnel as well as church & civic organizations. Chief Stanford will request attendance at a BRT meeting to coordinate support w/ lifeguard operations. There were 25 fire calls in March, 89 YTP, 13 mutual aid, 44 YTD, 27 EMS calls, 80 YTD. Of note in the mutual aid is significant support to the Avalon fire department due to their ladder truck being out of service. Wedding fireworks request for June 6<sup>th</sup> denied by the PS Committee.

POLICE – Request tonight for 3 SLEO I for May 1 through September 30 to support increased police