

Borough of Stone Harbor
REGULAR MEETING AGENDA
Tuesday, June 20th, 2023
Borough Hall, 9508 Second Avenue, Stone Harbor

Call to Order: Immediately Following Work Session

Roll Call: Councilmember Dallahan Councilmember Foschini, Councilmember Parzych, Councilmember Casper, Councilmember Gensemer, Councilmember Moore

Statement of Public Notice: 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 of the Press and the Cape May County Herald on January 4, 2023.

Salute the Flag

Communications:

Approval of Minutes: Work Session and Regular Meeting ~ May 16th, 2023

Public Comment

OLD BUSINESS

Ordinance 1640 – Bond Ordinance – Providing for Improvements of Water/Sewer System (89th Street) \$316,000 – *2nd, 3rd & Final.*

Ordinance 1641 – Bond Ordinance – Appropriating \$2,202,500 Various Improvements Undertaken by the Borough of Stone Harbor – *2nd, 3rd, & Final.*

Ordinance 1642 – Amending Chapter 134, 156, 162, 241, 357, 363, 374 and 405 of the General Ordinances of the Borough of Stone Harbor- *2nd, 3rd & Final. (Vote down & Re-introduce as new business)*

Ordinance 1643- Appropriating \$325,000 from the Capital Improvement Fund- Reserve for Beach Replenishment for Beach Renourishment – *2nd, 3rd & Final.*

NEW BUSINESS

Ordinance 1644- Creating Chapter 453 of the Code of the Borough of Stone Harbor Entitled “Smoke-Free Environment”- *Intro*

Ordinance 1645- Authorizing a new Handicap Space 200 Block of 97th St.- *Intro*

Ordinance 1646- Authorizing a new Handicap Space 10018 Sunset Dr. St.- *Intro*

Ordinance 1647- Salt Storage- *Intro*

Ordinance 1648- Amending Chapter 134, 156, 162, 241, 357, 363, 374 and 405 of the General Ordinances of the Borough of Stone Harbor- *Intro*

Ordinance 1649- Removal of Chapter 363 of the General Ordinances of the Borough of Stone Harbor- *Intro*

Resolution 2023-S-148 Authorizing the renewal of a Plenary Consumption License to Quahogs Restaurant Inc.

Resolution 2023-S-149 Authorizing the renewal of a Club license to Yacht Club of Stone Harbor

Resolution 2023-S-150 Permitting Fireworks for July 4th (July 5th Rain date)

Resolution 2023-S-151 Authorizing Annual Food & Truck Festival in conjunction with the Festival of Lights July 15th

Resolution 2023-S-152 Authorizing Operation of Jitneys in the Borough

Resolution 2023-S-153 Appointing Cassandra Tirelli to position of Patrol Sergeant as authorized by Stone Harbor Code 10-46.1 (b)

Resolution 2023-S-154 Appointing Austin Rothman as temporary Detective as authorized by Stone Harbor Code 10-46.1 (b)

Resolution 2023-S-155 Authorizing DeBlasio to submit Grant application and execute Grant Agreement for NJDOT Fiscal Year 2024, Due July 1st

Resolution 2023-S-156 Authorizing Mayor to sign the State Aid Agreement for the Beach fill.

Resolution 2023-S-157 Retainer agreement for Barker, Gelfand, James & Sarvas

Resolution 2023-S- 158 Award I-Bank to PA Construction

Resolution 2023-S-159 Award contract for I-Bank Construction Phase to DeBlasio & associates

Resolution 2023-S-160 Authorize Mayor to sign Property Owners Certificate (Easement Holder for 10508 Golden Gate)

Resolution 2023-S-161 Authorizing Stone Harbor to sponsor Annual Pro Flight Paddle Tennis Tournament- August 10-13

Resolution 2023-S-162 Refund for 4 beach tags to Reese Moore (Duplicate Order)

Motion – Add painted crosswalk at the Intersection of 95th Street & First.

Motion- Special Event Applications

- Seashore Ace Tent Sale
- Wedding of the Sea

Motion - Approve the Bill List & Authorize the CFO to Pay the bills when the funds are available, and the vouchers are properly endorsed.

Resolution 2023-S-163 Closed Session regarding the Negotiations of a Collective Bargaining Agreement. Pending litigation of a personnel matter.

Discussion:

Public Comment

Adjournment

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE NO. 1640

BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT OF THE WATER AND SEWERAGE SYSTEM (89th STREET) IN AND OF THE BOROUGH OF STONE HARBOR, IN THE COUNTY OF CAPE MAY, NEW JERSEY, APPROPRIATING \$316,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$316,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF STONE HARBOR, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized as a general improvement to be made or acquired by The Borough of Stone Harbor, New Jersey. For the said improvement or purpose stated in said Section 3, there is hereby appropriated the sum of \$316,000 said sum being inclusive of all appropriations heretofore made therefor and including the sum of 16,000 as the down payment for said improvement or purpose required by law and now available therefor by virtue of provision in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

Section 2. For the financing of said improvement or purpose, including for the purposes of applicable United States Treasury regulations the reimbursement of expenditures heretofore or hereafter made therefor, and to meet the part of said \$316,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$300,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$300,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which said obligations are to be issued is the improvement of the water and sewerage system in and of the Borough, including the upgrade of existing and installation of new water and sewer pipes in and along 89th Street, together with all storm drains, pumps, roadway reconstruction, concrete curbs, gutters, structures, site work, equipment, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$300,000.

(c) The estimated cost of said purpose is \$316,000, the excess thereof over the estimated maximum amount of bonds or notes to be issued therefor being the amount of the said \$16,000 down payment for said purpose.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this bond ordinance is not a current expense and is a property or improvement which the Borough may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is forty (40) years.

(c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$300,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$35,000 for interest on said obligations, costs of issuing said obligations, engineering costs and other items of expense listed in and permitted under Section 40A:2-20 of said Local Bond Law may be included as part of the cost of said improvement and is included in the foregoing estimate thereof.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer, the acting chief financial officer or the treasurer of the Borough (the "Chief Financial Officer"), provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale at not less than par and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Borough at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and, unless paid from the revenues of the water and sewerage system of the Borough, the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 7. The capital budget or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Kim Stevenson, Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE NO. 1641

BOND ORDINANCE APPROPRIATING \$2,202,500 AND AUTHORIZING THE ISSUANCE OF \$2,092,375 BONDS OR NOTES OF THE BOROUGH, FOR VARIOUS IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF STONE HARBOR, IN THE COUNTY OF CAPE MAY, NEW JERSEY.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF STONE HARBOR, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized as general improvements to be made or acquired by The Borough of Stone Harbor, New Jersey. For the said several improvements or purposes stated in said Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriations made for said improvements or purposes, said sums being inclusive of all appropriations heretofore made therefor and amounting in the aggregate to \$2,202,500 including the aggregate sum of \$110,125 as the several down payments for said improvements or purposes required by law and more particularly described in said Section 3 and now available therefor by virtue of provision in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

Section 2. For the financing of said improvements or purposes, including for the purposes of applicable United States Treasury regulations the reimbursement of expenditures heretofore or hereafter made therefor, and to meet the part of said \$2,202,500 appropriations not provided for by application hereunder of said down payments, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$2,092,375 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$2,092,375 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. The improvements hereby authorized and the several purposes for the financing of which said obligations are to be issued, the appropriation made for and estimated cost of each such purpose, and the estimated maximum amount of bonds or notes to be issued for each such purpose, are respectively as follows:

<u>IMPROVEMENT OR PURPOSE</u>	<u>APPROPRIATION AND ESTIMATED COST</u>	<u>ESTIMATED MAXIMUM AMOUNT OF BONDS AND NOTES</u>
(a) Improvement of 89 th Street in and by the Borough by the reconstruction and resurfacing thereof to provide a roadway pavement at least equal in useful life or durability to a roadway surface of Class B construction (as such term is used or referred to in Section 40A:2-22 of said Local Bond Law), including all guide rails, reflectors, signage, dividers, milling, drainage structures and improvements, equipment, site work, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved	\$333,000	\$316,350

(b) Acquisition by purchase of new and additional fire-fighting equipment for use by the Fire Department of the Borough for the preservation of life and property in the Borough, including one (1) ladder truck, together with all equipment, attachments and accessories necessary therefor or incidental thereto, all as shown on and in accordance with the specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved

1,340,000 1,273,000

(c) Improvement of municipally-owned properties, parks and facilities in and by the Borough including Borough Hall/Fire Building by the renovation and upgrade of the roof, the 97th Street and 82nd Street playgrounds by the renovation and upgrade thereof, the 81st Street lower basketball court by the renovation and upgrade thereof and various bulkheads by the rehabilitation thereof, together with for all the aforesaid all landscaping, site work, equipment, work, and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Borough Clerk and hereby approved

529,500 503,025
Totals \$2,202,500 \$2,092,375

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the said down payment for said purpose.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purposes described in Section 3 of this bond ordinance are not current expenses and each is a property or improvement which the Borough may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said purposes within the limitations of said Local Bond Law and taking into consideration the respective amounts of the said obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 11.20 years.

(c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$2,092,375, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) Amounts not exceeding \$200,000 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs and other items of expense listed in and permitted under Section 40A:2-20 of said Local Bond Law may be included as part of the costs of said improvements and are included in the foregoing estimate thereof.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer, the acting chief financial officer or the treasurer of the Borough (the "Chief Financial Officer"), provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at

public or private sale at not less than par and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof.

The Chief Financial Officer is directed to report in writing to the governing body of the Borough at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 7. The capital budget or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Kim Stevenson, Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE 1642

**AN ORDINANCE AMENDING ORDINANCES 134, 156, 162, 241, 357, 363, 374,
AND 405 OF THE GENERAL ORDINANCES OF THE BOROUGH OF STONE
HARBOR**

WHEREAS, the Borough Council, in response to inquiries from the Public Safety Committee, conducted a review of the Borough Code as it relates to the Stone Harbor Police Department's ability and authority to address offenses and/or situations occurring within the Borough that represent a breach of peace to the community; and

WHEREAS, the Borough Council has determined that the purposes of the aforesaid code sections would be advanced by providing clarification regarding the same; and deems it to be in the best interest of the Borough employees, the citizens of Stone Harbor and the general public welfare to amend the within ordinance to permanently supplement the aforesaid code section as previously adopted;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council, the Governing Body of the Borough of Stone Harbor, New Jersey as follows:

Section 1. Chapter 134 governing "Alcoholic Beverages" is hereby amended at §134-12 and §134-16 to include the following language in those subsections regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 2. Chapter 156 governing "Paid Beaches" is hereby amended at §156-8 to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 3. Chapter 162 governing "Bicycles, Skateboards, Roller-Skates and Segways" is hereby amended at §162-12 is hereby amended to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 4. Chapter 241 governing "Curfew" is hereby amended at §241-4 to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 5. Chapter 357 governing “Littering” is hereby amended at §357-10 to include the following language regarding violations:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 6. Chapter 363 governing “Loitering” is hereby amended at §363-5 to include the following language regarding violations:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 7. Chapter 374 governing “Noise” is hereby amended at §374-11(B) to include the following language:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 8. Chapter 405 governing “Peace and Good Order” is hereby amended at §405-4, §405-7 and §405-9 to include the following language regarding violations:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 9. 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 10. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, are hereby repealed

Section 11. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

APPROVED:

Judith Davies Dunhour - Mayor

ATTEST:

Kim Stevenson, Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE NO. 1643

**ORDINANCE APPROPRIATING \$325,000.00
FROM THE CAPITAL IMPROVEMENT FUND –
RESERVE FOR BEACH REPLENISHMENT
FOR BEACH RENOURISHMENT**

BE IT ORDAINED by the Borough Council of the Borough of Stone Harbor, in the County of Cape May, New Jersey as follows:

Section 1. \$325,000.00 is hereby appropriated from the Capital Improvement Fund – Reserve for Beach Replenishment for the following items:

Beach Renourishment \$325,000.00

Beach Renourishment are bondable capital improvement with a useful life that exceeds the minimum of five (5) years.

Section 2. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purpose authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

APPROVED:

Judith M. Davies- Dunhour, Mayor

ATTEST:

Borough Clerk

BOROUGH OF STONE HARBOR

ORDINANCE # 1644

AN ORDINANCE CREATING CHAPTER 453 OF THE CODE OF THE BOROUGH OF STONE HARBOR ENTITLED, “SMOKE-FREE ENVIRONMENT”

CHAPTER 453 SMOKE-FREE ENVIRONMENT

§ 453-1. Legislative Policy and Findings of Fact.

Borough Council hereby adopts the factual findings and declarations of the New Jersey Legislature as specified in the Smoke-Free Air Act (the "Act") (N.J.S.A. 26:3D-56) as its own:

- a. Tobacco is the leading cause of preventable disease and death in the State and the nation;
- b. Tobacco smoke constitutes a substantial health hazard to the nonsmoking majority of the public;
- c. Electronic smoking devices have not been approved as to safety and efficacy by the federal Food and Drug Administration, and their use may pose a health risk to persons exposed to their smoke or vapor because of a known irritant contained therein and other substances that may, upon evaluation by that agency, be identified as potentially toxic to those inhaling the smoke or vapor;
- d. The separation of smoking and nonsmoking areas in indoor public places and workplaces does not eliminate the hazard to nonsmokers if these areas share a common ventilation system;
- e. The prohibition of smoking at public parks and beaches would better preserve and maintain the natural assets of this state by reducing litter and increasing fire safety in those areas, while lessening exposure to secondhand tobacco smoke and providing for a more pleasant park or beach experience for the public; and
- f. Therefore, subject to certain specified exceptions, it is clearly in the public interest to prohibit the smoking of tobacco products and the use of electronic smoking devices in all enclosed indoor places of public access and workplaces and at all public parks and beaches.
- g. In addition, Borough Council further finds and determines that: Smoke or secondhand smoke, that is, smoke generated from the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other substance that can be smoked, including cannabis, or the inhaling or exhaling of smoke or vapor from an electronic smoking device is harmful and deleterious to the public health, safety and welfare.

§ 453-2. Purpose.

- a. The Smoke-Free Air Act (hereinafter referred to as “Act”) now prohibits smoking in all indoor public places and workplaces and at a public park or beach and further prohibits smoking in any area of any building of, or on the grounds of, any public or nonpublic elementary or secondary school regardless of whether the area is an indoor public place or is outdoors.
- b. Since the Act is binding upon all municipalities in the State of New Jersey, and except, as expressly excepted herein, and in reliance on the Act, the Borough intends to prohibit smoking in the interior of all public buildings and facilities, as well as in and on the exterior of all public buildings and facilities; in the interior of all quasi-public buildings and facilities; in the interior workplace of all business and commercial enterprises, including, but not limited to, bars and food service establishments, offices, retail establishments, grocery stores, convenience stores, and other similar type operations in order to address the health hazards of smoking, including the inhaling and exhaling of smoke, including the recognized dangers of second-hand smoke, and for the purpose of protecting the public health, safety, and welfare.
- c. It is the intention of this section to restrict smoking to private homes, apartments, or residences and to private automobiles or motor vehicles. It is the further intent to restrict smoking to those sections of hotels and motels that are specifically reserved for smoking.
- d. Nothing contained herein shall be construed to supersede or otherwise diminish the provisions of Borough Code § 134-9(C)

§ 453-3. Definitions.

- a. As used in this section, the following words shall have the following meaning unless the context clearly requires a different meaning:

BAR — A business establishment or any portion of a nonprofit entity which is devoted to the selling and serving of alcoholic beverages for consumption by the public, guests, patrons or members on the premises and in which the serving of food, if served at all, is only incidental to the sale or consumption of such beverages.

CIGAR BAR — Any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

CIGAR LOUNGE — Any establishment, or area within an establishment, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere; except that a cigar lounge that is in an area within an establishment shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking areas and smoke is not back-streamed into the nonsmoking areas.

ELECTRONIC SMOKING DEVICE — An electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe.

INDOOR PUBLIC PLACE — A structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the state or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

PERSON HAVING CONTROL OF A PUBLIC PARK OR BEACH — The person having supervisory authority over a public park or beach or that person's designee, as applicable.

PERSON HAVING CONTROL OF AN INDOOR PUBLIC PLACE OR WORKPLACE — The owner or operator of a commercial or other office building or other indoor public place from whom a workplace or space within the building or indoor public place is leased.

PUBLIC PARK OR BEACH — A state park or forest, a county or municipal park, or a state, county, or municipal beach, but does not include any parking lot that is adjacent to, but outside of, the public park or beach.

SMOKING — The burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco, cannabis, or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

TOBACCO RETAIL ESTABLISHMENT — An establishment in which at least 51% of retail business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

WORKPLACE — A structurally enclosed location or portion thereof at which a person performs any type of service or labor.

- b. The following additional definitions shall be included in this section:

PLAYGROUND — An area of land designated by the term "playground" and equipped with recreation equipment specially designed for young children such as swings, sliding boards and other equipment of the same or similar type. The term shall include the definition of "public property or facilities and public places" defined herein.

PUBLIC PROPERTY OR FACILITIES AND PUBLIC PLACES — All Borough-owned or -controlled parks, public rights-of-way, public streets, beaches, beach accesses, boardwalk, athletic fields, marinas, playgrounds, buildings and grounds, and shall include the area within the buildings, outside areas, and appurtenances and all other Borough-owned or -controlled facilities.

QUASI-PUBLIC BUILDINGS AND FACILITIES — Any commercial operation which is engaged in the sale or services of goods or services and to which the public is invited during scheduled hours of operation although the same is under private ownership or control. [Source: Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/quasi-public>]

§ 453-4. Smoking Prohibited.

Smoking shall be prohibited:

- a. In all workplaces, indoor public places, public property or facilities and public places and on all public grounds adjacent to or upon which any public building is located or constructed including any parking area or parking lot associated therewith. This includes, but not limited to, Borough Hall, Police Department, Fire Department, Beach Patrol Building, Recreation Building, Public Works Building and related facilities, and all buildings and grounds under the supervision and control of the Stone Harbor Board of Education.
- b. In all parks, playgrounds, pavilions, the beach and the approaches thereto; all recreation fields under the supervision and control of the Borough.
- c. In all Borough motor vehicles and equipment.
- d. In all public rest rooms.
- e. In food service establishments, including those licensed for the sale and consumption of alcoholic beverages.
- f. The owner-operator of any business which has a designated private off-street parking area for the convenience of its customers may, at the option of the owner or operator, prohibit smoking in such parking area and, unless prohibited by such owner-operator, smoking shall be permitted. If smoking is prohibited, then appropriate signage shall be posted to that effect.

§ 453-5. Exceptions.

This section shall not prohibit smoking or apply to any of the following:

- a. Any cigar bar or cigar lounge that, in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines, and is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if: (1) in the preceding calendar year, the cigar bar or lounge generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and (2) the cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004; [Source: State statute]
- b. Any tobacco retail establishment, or any area the tobacco retail establishment provides for the purposes of smoking; [Source: State statute]
- c. Any tobacco business when the testing of a cigar or pipe tobacco by heating, burning, or smoking is a necessary and integral part of the process of making, manufacturing, importing, or distributing cigars or pipe tobacco; [Source: State statute]
- d. Private homes, private residences, and private automobiles; provided, however, that the owner or managing agent or any rental property licensed by the Borough may prohibit, by lease or otherwise, smoking in the rental unit and on the adjacent grounds and property. Any such prohibition, if enacted, shall be the responsibility of the owner or the Managing Agent to enforce in the same manner as other landlord-tenant matters are adjudicated in New Jersey but an owner or managing agent shall have no private right of enforcement under this section. (See § 453-6 below, Violations, Fines, etc.) The Borough shall have no power or authority to enforce any such private restriction or prohibition applicable to rental properties or units.

- e. The owner-operator of any business which has a designated private off-street parking area for the convenience of its customers may, at the option of the owner or operator, prohibit smoking in such parking area and, unless prohibited by such owner-operator, smoking shall be permitted. If smoking is prohibited, then appropriate signage shall be posted to that effect.
- f. Any business or commercial enterprise, including bars and/or food service establishments may, in the discretion of the owner-operator, designate a section of its exterior private property where smoking is permitted for the convenience of the owner or employees. Any such area must be clearly marked and identified, and it shall be an area where customers and patrons do not generally transact business or consume food or drink. Such area shall be clearly marked by appropriate signage designating it as a smoking permitted zone.
- g. When so requested by one or more employees, the Department Head in charge of each municipal building or facility shall designate an exterior space where employees may smoke during breaks. Such area shall be clearly delineated, and smoking shall be confined to that specific area and none other. The location shall be remote from areas where the public come to transact business and may be changed by the Department Head from time to time as circumstances require. The designated location shall be approved by the Department/Division Head and the Business Administrator and such location may be changed from time to time as deemed necessary. In accordance with § 453-4c. above, smoking is prohibited in all Borough motor vehicles and equipment.
- h. Smoking shall be permitted in any area or location except where it is expressly prohibited by this section.

§ 453-6. Violations, Fines, Penalties; Enforcement.

- a. The person having control of an indoor public place or workplace shall order any person smoking in violation of this section to comply with the provisions of this section. A person, after being so ordered, who smokes in violation of this section is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense. A penalty shall be recovered in accordance with the provisions of Subsections c and f of this section.
- b. The Borough Council, as the Local Board of Health or the board, body, or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that an indoor public place or workplace covered by the provisions of this section is or may be in violation of the provisions of this section, shall, by written notification, advise the person having control of the place accordingly, and order appropriate action to be taken. A person receiving that notice who fails or refuses to comply with the order is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense, and \$1,000 for each subsequent offense. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act and this section.
- c. A penalty recovered under the provisions of this act/chapter shall be recovered by and in the name of the local board of health. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.
- d. The Superior Court or a municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this act/chapter if the violation has occurred within the territorial jurisdiction of the court, except that the Superior Court shall have exclusive jurisdiction over violations that occur in an indoor public place or public park or beach that may be issued against a state or local government entity pursuant to Subsection b of this section. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.). Process shall be in the nature of a summons and shall issue only at the suit of the local board of health, as plaintiff.
- e. The penalties provided in Subsections a and b of this section shall be the only civil remedy for a violation of this section, and there shall be no private right of action against a party for failure to comply with the provisions of this section.
- f. A penalty may be imposed and recovered for a violation at a public park or beach and, if so imposed and recovered, it shall be done in accordance with the provisions of this section, and shall involve the person having control of a public park or beach, the Department of Health or the local board of health or the board, body, or officers exercising the functions of the local board of health according to law, and the courts, as provided in this section, except that any penalty recovered for a violation at a public park or beach that is recovered by and in the name of the Commissioner of Health or by and in the name of the local board of health shall be paid 50% to the Treasury of the State and be dedicated to smoking cessation programs administered by the State Department of Health, and 50% shall be paid to the treasury of the municipality where the violation occurred.

- g. Borough Council is hereby authorized to appoint one or more individuals to enforce this section on its behalf. Such appointees may include the Chief of Police and any individual(s) so designated by the Chief.

§ 453-7. Rules and Regulations.

Borough Council is empowered to adopt rules and regulations to aid in the efficient and orderly enforcement of this section. Such rules and regulations shall be adopted by resolution.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Borough Clerk

BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY

ORDINANCE NO. 1645

**AN ORDINANCE AMENDING CHAPTER 520
OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF STONE HARBOR 2005
(ADDING HANDICAPPED PARKING SPACE)**

Section 1. Chapter 520-29 (A) is hereby amended as follows:

[add the following language to the schedule of handicapped parking spaces]

97th Street - An angled parking spot to be designated as handicap is located approx. 90 ft east of 3rd Ave. it is the first spot east of the private parking lot. It will be an 8ft wide space with a dedicated access area between the space and parking lot entrance.

Section 3. 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 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

Section 5. This Ordinance shall take effect immediately upon publication as provided by law.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Borough Clerk

BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY

ORDINANCE NO. 1646

**AN ORDINANCE AMENDING CHAPTER 520
OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF STONE HARBOR 2005
(ADDING HANDICAPPED PARKING SPACE)**

Section 1. Chapter 520-29 (A) is hereby amended as follows:

[add the following language to the schedule of handicapped parking spaces]

Adjacent to property commonly referred to as 10018 Sunset Drive, for Margaret Crisman.

Section 3. 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 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same are hereby repealed.

Section 5. This Ordinance shall take effect immediately upon publication as provided by law.

APPROVED:

Judith M. Davies-Dunhour, Mayor

ATTEST:

Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 1647

**AN ORDINANCE OF THE BOROUGH OF STONE HARBOR, COUNTY OF CAPE
MAY, NEW JERSEY ESTABLISHING REQUIREMENTS OF PRIVATELY OWNED
SALT STORAGE FACILITIES TO PREVENT SALT EXPOSURE TO STORMWATER**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF STONE
HARBOR, COUNTY OF CAPE MAY, NEW JERSEY, THAT CHAPTER 470-4 BE
AMENDED AS FOLLOWS:

470-4-S. Privately-Owned Salt Storage

(1) The purpose of this ordinance section is to prevent stored salt and other solid de-icing materials from being exposed to stormwater. This section establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the Borough of Stone Harbor, to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

(2) For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(a) “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

(b) “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

(c) “Storm drain inlet” means the point of entry into the storm sewer system.

(d) “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

1. Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
2. The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
3. The structure shall be erected on an impermeable slab;
4. The structure cannot be open sided; and

5. The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

(e) "Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

(3) Deicing Material Storage Requirements:

(a) Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th, but no longer than 30 days without prior written approval from the Department of Public Works:

1. Materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
2. Materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, and/or ditches or other stormwater conveyance channels;
3. Materials shall be formed in a cone-shaped storage pile;
4. All storage piles shall be covered as follows:
 - a. The cover shall be waterproof, impermeable, and flexible;
 - b. The cover shall extend to the base of the pile(s);
 - c. The cover shall be free from holes or tears;
 - d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind;
 - e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.

(1) Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used.

5. The site shall be free of all de-icing materials between April 16th and October 14th.

(b) De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of solid deicing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 April 15.

(c) The property owner shall designate a person(s) responsible for operations at the site where these materials are stored, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met.

(4) This ordinance does not apply to facilities where the stormwater discharges from salt storage activities are regulated under another NJPDES permit.

(5) This ordinance shall be enforced by the Code Official of the Borough during the course of ordinary enforcement duties.

(6) Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines of up to One Hundred Dollars (\$100) per offense at the discretion of the Public Works Committee.

APPROVED:

Judith Davies-Dunhour, Mayor

ATTEST:

Borough Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE 1648

**AN ORDINANCE AMENDING SECTIONS 134, 156, 162, 241, 357, 374, AND 405
OF THE GENERAL CODE OF THE BOROUGH OF STONE HARBOR**

WHEREAS, the Borough Council, in response to inquiries from the Public Safety Committee, conducted a review of the Borough Code as it relates to the Stone Harbor Police Department's ability and authority to address offenses and/or situations occurring within the Borough that represent a breach of peace to the community; and

WHEREAS, the Borough Council has determined that the purposes of the aforesaid code sections would be advanced by providing clarification regarding the same; and deems it to be in the best interest of the Borough employees, the citizens of Stone Harbor and the general public welfare to amend the within ordinance to permanently supplement the aforesaid code section as previously adopted;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council, the Governing Body of the Borough of Stone Harbor, New Jersey as follows:

Section 1. Chapter 134 governing "Alcoholic Beverages" is hereby amended at §134-12 and §134-16 to include the following language in those subsections regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 2. Chapter 156 governing "Paid Beaches" is hereby amended at §156-8 to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 3. Chapter 162 governing "Bicycles, Skateboards, Roller-Skates and Segways" is hereby amended at §162-12 is hereby amended to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable loud and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 4. Chapter 241 governing "Curfew" is hereby amended at §241-4 to include the following language regarding violations:

"A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace."

Section 5. Chapter 357 governing “Littering” is hereby amended at §357-10 to include the following language regarding violations:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 6. Chapter 374 governing “Noise” is hereby amended at §374-11(B) to include the following language:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 7. Chapter 405 governing “Peace and Good Order” is hereby amended at §405-4, §405-7 and §405-9 to include the following language regarding violations:

“A violation of this section, in combination with conduct by the offender that either causes terror and/or alarm to others, incites violence, hinders or obstructs any Borough employee in performance of its duties, is unreasonable load and/or boisterous, offends the sensibilities of the public given the time and pace of the conduct, and/or otherwise has a deleterious impact on public order, shall constitute a breach of the peace.”

Section 8. 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 9. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, are hereby repealed

Section 10. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

APPROVED:

Judith Davies Dunhour - Mayor

ATTEST:

Megan Brown, Deputy Clerk

**BOROUGH OF STONE HARBOR
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE 1649

**AN ORDINANCE REPEALING SECTIONS 363 OF THE GENERAL CODE OF
THE BOROUGH OF STONE HARBOR**

WHEREAS, Chapter 363 of the General Code of the Borough of Stone Harbor entitled “Loitering” was adopted by the Borough Council of the Borough of Stone Harbor as Sec. 4-6 of the 1982 Revised General Ordinances; and

WHEREAS, Chapter 363 prohibits conduct, as specified therein, within the Borough of Stone Harbor and prescribes penalties for violations of the same; and

WHEREAS, the Borough Council has determined that provisions contained within Chapter 363 are pre-empted by State law and/or are otherwise unenforceable and to avoid the possibility that the Borough would be enforcing a unconstitutional ordinance, the governing body has determined it to be appropriate to repeal the same in its entirety,

NOW, THEREFORE, BE IT ORDAINED by the Borough Council, the Governing Body of the Borough of Stone Harbor, New Jersey as follows:

Section 1. Chapter 363 of the General Code of the Borough of Stone Harbor governing “Loitering” is hereby repealed in its entirety.

Section 2. The above-referenced averments are incorporated herein by reference.

Section 3. 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 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, are hereby repealed

Section 5. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

APPROVED:

Judith Davies Dunhour - Mayor

ATTEST:

Borough Clerk

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S-148

**A RESOLUTION AUTHORIZING THE RENEWAL OF A PLENARY RETAIL
CONSUMPTION LICENSE
TO: QUAHOGS RESTAURANT INC.**

WHEREAS, Quahog’s Restaurant, Inc. 206- 97th Street License #0510-32-004-010 has made application to the Mayor and Council of the Borough of Stone Harbor, New Jersey, for a Plenary Retail Consumption License for the year beginning July 1, 2023, to June 30, 2024; and

WHEREAS, the Issuing Authority has found that:

- a) the submitted application forms for renewal are complete in all respects.
- b) the applicants are qualified to be licensed according to all statutory, regulatory, and local government ABC laws and regulations; and
- c) the applicants have disclosed, and the Issuing Authority has reviewed any additional financing obtained in the previous license term for use in the licensing businesses and there was none; and

WHEREAS, no objections have been filed with the Borough Clerk and this body is of the opinion that said application should be granted and a license issued; and

WHEREAS, all legal requirements have been complied with and a check in the amount of \$2,500.00 for the Plenary Retail Consumption License has been attached to the application of the above mentioned applicant.

NOW, THEREFORE, BE IT RESOLVED on this 20th day of June, 2023 by the Mayor and Council of the Borough of Stone Harbor in the County of Cape May and State of New Jersey, that a Plenary Retail Consumption License for the sale of alcoholic beverages shall be signed, issued and delivered to Quahog’s Restaurant Inc. at 206 – 97th Street, Stone Harbor, N.J. That said license shall become effective on July 1, 2023 and be for the one year from said date expiring at the close of business on June 30, 2024 and that said license shall be delivered by the Borough Clerk who is designated as the proper person to sign all licenses on behalf of the Borough Council under Revised General Ordinances 2005, Borough of Stone Harbor, New Jersey.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

.....
Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-149

**A RESOLUTION AUTHORIZING THE RENEWAL OF A CLUB LICENSE
TO: YACHT CLUB OF STONE HARBOR**

WHEREAS, The Yacht Club of Stone Harbor, License #0510-31-005-001 has made application to the Mayor and Council of the Borough of Stone Harbor, New Jersey, for a Club License for the year beginning July 1, 2023, to June 30, 2024 and,

WHEREAS, the Issuing Authority has found that:

- a) The submitted application forms for renewal are complete in all respects.
- b) The applicants are qualified to be licensed according to all statutory, regulatory, and local governmental ABC laws and regulations; and,
- c) The applicants have disclosed, and the Issuing Authority has reviewed any additional financing obtained in the previous license term for use in the licensed businesses and there was none; and,

WHEREAS, no objections have been filed with the Borough Clerk and this body is of the opinion that said application should be granted and a license issued; and,

WHEREAS, all legal requirements have been complied with and a check in the amount of \$188.00 for the Club License has been attached to the application.

NOW, THEREFORE, BE IT RESOLVED on this 20th Day of June 2023 by the Mayor and Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey, that a Club License for the sale of alcoholic beverages shall be signed, issued, and delivered to The Yacht Club of Stone Harbor of 90th Street and Sunset Drive, Stone Harbor, New Jersey. That said license shall become effective on July 1st, 2023, and be for the one year from said date expiring at the close of business on June 30, 2024 and that said license shall be delivered by the Borough Clerk who is designated as the proper person to sign all licenses on behalf of the Borough Council under Revised General Ordinances 2005, Borough of Stone Harbor, New Jersey.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

.....
Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S-150

FIREWORKS DISPLAY

July 4, 2023

WHEREAS, the Volunteer Fire Company of the Borough of Stone Harbor has applied to the Governing Body of the Borough of Stone Harbor for permission to have a Fireworks display on a barge in the ocean at 96th Street on July 4th, 2023, with an inclement weather date of July 5th 2023; and

WHEREAS, N.J.S.A. 21:3-3 permits the governing body of a municipality, upon posting of a suitable bond, and pending the receipt of a current Workers Compensation Liability certificate, to grant a permit for the purchase and public display of fireworks by organizations approved by the governing body; and

WHEREAS, the Fire Official shall be the person who will be satisfied that the display shall be made in a location where same shall not be hazardous to persons and property;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the Borough of Stone Harbor in the County of Cape May and State of New Jersey on this 20th day of June, 2023 that permission is hereby granted to the Fire Department of the Borough of Stone Harbor to sponsor a fireworks display in the ocean on a barge off Stone Harbor on July 4th, 2023, with an inclement weather date of July 5th, 2023, so long as the location thereof and the operator thereof are approved by the Chief of the Stone Harbor Police and Stone Harbor Fire Department.

BE IT FURTHER RESOLVED that Lewis Donofrio Jr. Fire Department President, is the person authorized to purchase, or otherwise order, the fireworks, and the fireworks shall be of the specific types and/or kinds as set forth on the attached sheets.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

.....
Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S-151

**AUTHORIZING THE ANNUAL STONE HARBOR FOOD TRUCK FESTIVAL AND
FEES**

WHEREAS, the Borough of Stone Harbor will hold a Food Truck Festival on Saturday, July 15, 2023 from 7:00pm to 10:00pm at the 81st Street Marina Lot in Stone Harbor; and

WHEREAS, the Food Truck Festival will provide safe and convenient access for Borough residents and visitors to view the Stone Harbor Yacht Club Festival of Lights Boat Parade; and

WHEREAS, all vendors must complete the an application to participate, abide by the rules & regulations established and return completed form and payment check along with photocopies of appropriate permits, insurance certificates and licenses to the Borough before they will be allowed to participate in the Food Truck Festival event.

WHEREAS, it has been recommended that the fee for the Food Truck Festival be set at \$100.00 per truck or 10' X 10' tent and \$50.00 for vendors that also participate in the Stone Harbor Farmers Market.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey, duly assembled in public session this 20th day of June 2023 that this Resolution is hereby approved.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

.....
Borough Clerk

.....
Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S-152

RESOLUTION PERTAINING TO THE OPERATION OF JITNEYS IN THE BOROUGH OF STONE HARBOR

WHEREAS, the Borough of Stone Harbor passed Ordinance 1413 on February 19, 2013 allowing the Borough to regulate autobuses, commonly known as Jitneys under N.J.S.A. 48:16-23 ; and

WHEREAS, on (Date) the Borough received Resolution(Number) from the Borough of Avalon approving their 2023 Jitney licenses and Schedule A which is a list of Jitney owners approved by the Borough of Avalon, and

NOW, THEREFORE, BE IT RESOLVED on this 20th day of June, 2023 by the Members of Council of the Borough of Stone Harbor, in the County of Cape May and State of New Jersey that the Borough Council of the Borough of Stone Harbor approves the attached Schedule “A” list of Jitney owners; and the applications for Jitney Owner-Operator Licenses with the exception of the application for License # 185.

BE IT FURTHER RESOLVED AS FOLLOWS:

1.The Atlantic City Jitney Association is hereby granted permission to operate jitneys in the Borough of Stone Harbor on a predetermined route and to charge the normal and customary passenger fares in the Borough of Stone Harbor conditioned upon the following:
Jitney operators who have submitted to and satisfactorily passed a criminal history background check, either for the Borough of Stone Harbor, the Borough of Avalon, or for another municipality, or who have been previously licensed by the Boroughs of Stone Harbor or Avalon and shall be permitted to operate jitneys in the Borough of Stone Harbor effective immediately (operations in the Borough of Stone Harbor prior to the adoption of this resolution are hereby approved nunc pro tunc)

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S-152

PROVIDED THAT: Evidence of completing a criminal history background check for individual jitney operators consistent with the requirements of subsection (a) above shall be filed with the Stone Harbor Chief of Police or his designee as a condition of being able to operate a jitney in the Borough;

AND

Any license fees otherwise payable to the Borough of Stone Harbor are suspended and eliminated for this season and for the duration of the period of operations set forth herein. Jitney operators shall comply with all other provisions of the Jitney Regulations set forth in the applicable regulations of the Borough of Stone Harbor, except for the specific provisions pertaining to licensing. License fees and term and the criminal history background check. The route, schedule, dates and times of operation, fares, certificates of liability insurance and all other administrative matters pertaining to the operation of jitneys for the approved term is delegated to the Stone Harbor Business Administrator or his designee for the duration of the period of operation authorized herein.
Attachment – Schedule “A”

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-153

**APPOINTING CASSANDRA TIRELLI
TO THE POSITION OF PATROL SERGEANT
AS AUTHORIZED BY STONE HARBOR CODE 10-46.1 (b)**

WHEREAS, the Stone Harbor Police Department is in need of a Patrol Sergeant; and

WHEREAS, the Borough’s Public Safety Committee has recommended that Cassandra Lynn Tirelli be promoted to Patrol Sergeant; and

WHEREAS, the Chief of Police has also recommended the promotion to Patrol Sergeant; and;

WHEREAS, such promotion would be in accordance with the policies and procedures of the Borough and the Police Department and in accordance with applicable law;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, County of Cape May, State of New Jersey, duly assembled this 20th day of June, 2023, that the Chief of Police be and hereby is authorized and directed to promote Cassandra Lynn Tirelli to the position of Patrol Sergeant for the Stone Harbor Police Department, with all the duties, rights and obligations of such command position effective June 30, 2023.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2023-S- 154

**APPOINTING AUSTIN ROTHMAN
TO THE POSITION OF TEMPORARY DETECTIVE
AS AUTHORIZED BY STONE HARBOR CODE 10-46.1 (b)**

WHEREAS, the Police Administration of the Borough of Stone Harbor in the County of Cape May, State of New Jersey has determined a need for a Temporary Detective within the Police Department as of June 30, 2023; and

WHEREAS, the Public Safety Committee of the Borough has reviewed the request and recommended to Council that same be approved.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, duly assembled this 20th day of June, 2023, that the appointment of Officer Austin Rothman to the position of Temporary Detective is hereby approved in accordance with Stone Harbor Code 10-46.1 (b) beginning June 30, 2023, under and subject to the Rules and Regulations of the Police Department; all applicable Borough Policies and Collective Bargaining Agreement provisions.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-155

AUTHORIZING DEBLASIO TO SUBMIT GRANT APPLICATION & EXECUTE AGREEMENT FOR NJDOT FISCAL YEAR 2024

WHEREAS, the New Jersey Department of Transportation accepts applications for the Municipal Aid Program; and

WHEREAS, this program is available to all counties and municipalities in the State of New Jersey; and

WHEREAS, subject to funding appropriation, the Municipal Aid Program is established to address specific focused local transportation issues throughout the State; and

WHEREAS, these projects are approved at the discretion of the Commissioner; and

WHEREAS, this grant program does not require a local match; and

WHEREAS, the Borough of Stone Harbor carefully considers grant programs that assist the Borough in achieving projects and programs that are priorities for the community; and

WHEREAS, the Borough of Stone Harbor wishes to apply for to the Municipal Aid Program for a grant for Northbound Second Avenue from 85th to 87th Streets for the FY2024 NJDOT Municipal AID Program (State Project # MA-2024- -00050); and

WHEREAS, the Borough of Stone Harbor wishes to have DeBlasio and Associates make said application for Mutual Aid with the NJDPT on behalf of the Borough;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of Stone Harbor formally approves a Municipal Aid Program grant application.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2024-Northbound Second Avenue Resurfacing-00050 to the New Jersey Department of Transportation on behalf of Stone Harbor Borough.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-156

AUTHORIZING THE MAYOR TO SIGN THE STATE AID AGREEMENT FOR CONSTRUCTION OF THE TOWNSENDS INLET TO CAPE MAY INLET, NEW JERSEY SHORE PROTECTION PROJECT FOURTH PERIODIC NOURISHMENT CYCLE

WHEREAS, The Water Resources Development Act of 1986, Public Law 99-662, as amended by the Water Resources Development Act of 1999, Public Law 106-53, authorized the federal government, through the Army Corps of Engineers to participate in the construction and the periodic renourishment of a fifty-year shore protection project, Townsends Inlet to Cape May Inlet, New Jersey; and

WHEREAS, the New Jersey Department of Environmental Protection and the U.S. Army Corps of Engineers, entered into a Project Cooperation Agreement (“PCA”) on March 8, 2002, for the initial construction of the shore protection features consisting of engineered beach and dune and seawall, periodic renourishment of the engineered beach and dune, and construction of ecosystem restoration features; and

WHEREAS, the Borough of Stone Harbor has the full authority to perform all of its responsibilities for the Project under N.J.S.A. §§ 40:56-1, et seq., 40:69A-1, et seq., and 40A:12-1, et seq. and the applicable municipal code, and the Mayor of the Municipality is duly authorized to enter this Agreement.

WHEREAS, the NJDEP and the Borough entered into a State Aid Agreement 6036-I, dated May 6, 2008, for the initial construction and future operation and maintenance of the Project, SAA 6036-R1 dated April 11, 2011 for the first periodic renourishment, SAA 6036-R2, dated December 7, 2012 for the second partial periodic renourishment, and SAA 6036-R3 dated January 5, 2017 for the third partial periodic renourishment, and no periodic renourishment activities occurred in the Borough in 2019 due to funding constraints and hardships from the Coastal Barrier Resource Act prohibitions in in Hereford Inlet; and

WHEREAS, the cost sharing of the initial beach fill construction was 65% federal and 35% non-federal and periodic renourishment, set at a three-year cycle, over the fifty-year life of the project is 65% federal and 35% non-federal as set forth in the PCA. In the event of periodic renourishment, 75% of the non-federal share will be paid by the Department and the remaining 25% will be paid by the Municipality, and each future periodic renourishment will be subject to a subsequent State Aid Agreement; and

WHEREAS, the NJDEP and the Borough desire to enter into this State Aid Agreement for the construction of the fourth periodic renourishment of the Project; and

WHEREAS, the estimated cost of the fourth periodic renourishment cycle within the Borough of Stone Harbor is projected to be \$26,082,140.12 with the Government’s 65% share of such costs projected to be \$16,953,391.08 and the non-federal 35% share projected to be \$9,128,749.04, with the Department paying 75% of the non-federal share projected to be \$6,846,561.78 and the Municipality’s 25% share projected to be **\$2,282,187.26**, and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor in the County of Cape May, duly assembled in public session this 20th day of June 2023, that the Mayor is hereby authorized to sign the State Aid Agreement as detailed herein.:

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-157

**AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT FOR
CONFLICT LABOR COUNSEL**

WHEREAS, the Borough of Stone Harbor has determined the need to conduct an investigation in response to certain employment complaints and allegations raised; and

WHEREAS, the scope of the investigation would normally fall within the purview of the Professional Services Contract for Borough’s Labor Counsel, William G. Blaney, Esquire of the law firm of Blaney, Donohue, & Weinberg, P.C., (“Labor Counsel”) but a conflict has been identified that precludes the same; and

WHEREAS, Labor Counsel has identified another law firm, Barker Gelfand James & Sarvas, P.C. (“Conflict Labor Counsel”), competent to handle the subject investigation and solicited a proposal and Agreement to Provide Legal Services from Conflict Labor Counsel, the terms of which are incorporated by reference herein; and

WHEREAS, the governing body of the Borough of Stone Harbor desires to retain said Conflict Labor Counsel and enter into a Professional Services Agreement with Conflict Labor Counsel.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, duly assembled in public session this 20TH day of June 2023, as follows:

That the provisions of the above preamble of this Resolution are hereby incorporated herein, by this reference, as if set forth at length.

That the Borough Council, the governing body of the Borough of Stone Harbor, hereby authorizes the award of a Professional Services Contract to Vanessa E. James, Esquire, of Barker Gelfand James & Sarvas, P.C. in an amount not to exceed \$17,500.

That the Mayor and Municipal Clerk are hereby authorized and directed to sign said Resolution.

That all appropriate municipal officials and employees are hereby empowered to undertake the necessary actions to further the execution of said agreement.

That notice of this Resolution shall be published according to law.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-158

**AWARDING A CONTRACT FOR THE CONSTRUCTION OF THE NJDEP IBANK
WATER MAIN IMPROVEMENTS AND THE THIRD AVENUE SANITARY SEWER
IMPROVEMENTS**

WHEREAS, eight (8) bids were received by the Stone Harbor Deputy Clerk on June 15, 2023 at 10:00 am on the Borough's Notice to Bidders for the aforementioned project in accordance with the plans and specifications prepared by DeBlasio and Associates, the Borough Engineer, bearing project number SH-C-048, which plans and specifications are hereby incorporated herein and made a part hereof by reference, all in accordance with Local Public Contracts Law, N.J.S.A 40A:11-1 *et seq.*; and

WHEREAS, P & A Construction, Inc., P. O. Box 28 Colonia, New Jersey 07067 submitted the lowest responsible and conforming bid in the amount of \$7,646,931.00; and

WHEREAS, the Borough Engineer has reviewed the bids and has recommended the contract be awarded to P&A Construction, Inc. and the bid has been found to be responsible and in conformity by the Borough Solicitor; and

WHEREAS, the Chief Financial Officer of the Borough has determined that sufficient funds are available as evidenced by the Chief Financial Officer's Certification attached hereto and contingent upon the closing of the loan from the IBank,

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor in the County of Cape May, duly assembled in public session this 20th day of June 2023, as follows:

That the preamble of this Resolution is hereby incorporated herein by reference;
That the Contract for the aforementioned project bearing DeBlasio and Associates Project Number SH-C-048 and the same is hereby awarded P&A Construction, Inc. in the mount of \$7,646,931.00;
That Mayor and Council are hereby authorized and directed to execute the Contract for same in accordance with the bid submitted and incorporated herein as stated above;
That the Borough Engineer is hereby directed and authorized to issue an appropriate Notice of Award and Notice to P proceed as called for within the Contract;
That the Borough Deputy Clerk is authorized to return the bonds to the unsuccessful bidders.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-159

AWARDING A CONTRACT FOR THE CONSTRUCTION PHASE SERVICES OF THE NJDEP IBANK WATER MAIN IMPROVEMENTS AND THE THIRD AVENUE SANITARY SEWER IMPROVEMENTS

WHEREAS, DeBlasio and Associates, Borough Engineer, 4701 New Jersey Avenue, Wildwood, NJ 08260 has provided a proposal dated May 17, 2023 to provide Construction Phase Services; for the DeBlasio and Associates Project No. SH-C-048, Construction of the NJDEP IBank Water Main Improvement and Third Avenue Sanitary Sewer Improvements; and

WHEREAS, the Borough wishes to engage DeBlasio and Associates to provide all Bid Phase Service, Construction Phase and Engineering Services, Contract Administration, Periodic Construction Observation, NJDEP Construction Administration requirements, and Construction Inspection and Observation Services; and

WHEREAS, the Borough Engineer has provided a detailed scope of service proposal dated May 17, 2023 to be billed on a time and material basis in accordance with the contractual hourly rate schedule not to exceed Four Hundred and Eighty Thousand Dollars (\$480,000); and

WHEREAS, the Chief Financial Officer of the Borough has determined that sufficient funds are available and contingent upon the closing of the loan from the I Bank,

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor in the County of Cape May, duly assembled in public session this 20th day of June 2023, that the proposal dated May 17, 2023 be approved, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-160

**AUTHORIZING THE MAYOR TO SIGN THE PROPERTY OWNERS’
CERTIFICATION FOR A LAND USE MANAGEMENT PROGRAM PERMIT
APPLICATION FOR 10518 GOLDEN GATE DRIVE, STONE HARBOR**

WHEREAS, Rexian Properties I LLC, care of Matthew P. and Kelley A. Gardner, is the owner of Block 201, Lots 86, 87 and 88 in the Borough of Stone Harbor, commonly referred to as 10518 Golden Gate Drive; and

WHEREAS, the Borough of Stone Harbor possess an easement within said property for the purposes of underground piping installation; and

WHEREAS, the Owner of 10518 Golden Gate Drive seeks to apply for a permit through the Land Use Regulation division of the New Jersey Department of Environmental Protection for beneficial use of the property, and

WHEREAS, the NJDEP Permit application requires the Easement Holder to affix a signature certifying the holding of the easement; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor in the County of Cape May, duly assembled in public session this 20th day of June 2023, that the Mayor is hereby authorized to sign the Permit Application to the NJDEP on behalf of the Borough as the Easement Holder.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-161

SPONSORING THE PROFLIGHT PADDLE TENNIS TOURNAMENT

WHEREAS, the Borough of Stone Harbor recognizes the importance of the ProFlight Paddle Tennis Tournament and the Borough wishes to sponsor the event at the 96th Street Paddle Tennis Courts from August 10 to August 13, 2023; and

WHEREAS, the Borough will provide the venue at 96th Street Paddle Tennis Courts as well as labor support for the setup and breakdown of the event as well as ancillary items such as trash collection; and

WHEREAS, the Borough recognizes all other costs associated with the event including prize monies are the responsibility of the ProFlight Event Committee,

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor in the County of Cape May, duly assembled in public session this 20th day of June 2023, that the event known as the ProFlight Paddle Tennis Tournament shall be sponsored by the Borough of Stone Harbor as detailed herein including all limitations on funding.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-162

REFUNDING BEACH TAG FEES FOR DUPLICATE MAIL IN ORDER

WHEREAS, Reese & Phyllis Moore of 121-110th Street Stone Harbor, NJ 08247 purchased four (4) seasonal beach tags in error; and

WHEREAS, A mail in order was received from Mr. & Mrs. Moore on May 22nd, 2023 in the amount of \$128.00 for the purchase of four (4) beach tags and on May 26, 2023 four (4) beach tags were also purchased in person at the beach tag booth.

WHEREAS, Mr. & Mrs. Moore have requesting is a refund in the amount of \$128.00 for the duplicate purchase; and

WHEREAS, the Borough received the request before the June 30 deadline, established by Resolution 72 of 1979 and the request has been approved by the CFO.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Stone Harbor, in the County of Cape May on this 20th day of June 2023 that \$128.00 be refunded to Mr. & Mrs. Moore, and that the proper Borough officers make the proper adjustments in their records.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	<u>MOTION</u>	<u>SECOND</u>	<u>AYE</u>	<u>NAY</u>	<u>RECUSE</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2023-S-163

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC
IN ACCORDANCE WITH THE PROVISIONS OF
THE NEW JERSEY OPEN PUBLIC MEETINGS ACT,
N.J.S.A. 10:4-12

WHEREAS, the Borough Council of the Borough of Stone Harbor is subject to certain requirements of the *Open Public Meetings Act*, N.J.S.A. 10:4-6, et seq., and

WHEREAS, the *Open Public Meetings Act*, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution, and

WHEREAS, it is necessary for the Borough Council of the Borough of Stone Harbor to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

- 1. *Negotiations of a Collective Bargaining Agreement*
- 2. *Pending Litigation of a personnel matter*

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Stone Harbor, assembled in public session on June 20th 2023 that an Executive Session closed to the public shall be held on June 20th, 2023 at or about 4:30 P.M. in the Borough Hall of the Borough of Stone Harbor, 9508 Second Avenue, Stone Harbor, New Jersey, for the discussion of matters relating to the specific items designated above.

Official action may be taken as a result of said executive session.

It is anticipated that, in accordance with law and in a timely manner, the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the Borough Council of the Borough of Stone Harbor, New Jersey at the Regular Meeting held on June 20th, 2023, with the voting record as indicated below.

	MOTION	SECOND	AYE	NAY	RECUSE	ABSTAIN	ABSENT
Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Moore							

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Borough Clerk

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Mayor