

Borough of Stone Harbor
REGULAR MEETING AGENDA
Tuesday March 5, 2024
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 Carney

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 to the Press and the Cape May County Herald on January 4, 2024.

Salute the Flag

Communications:

Dock Hearing: Channel Marine 11605 Paradise Drive

Public Comment

NEW BUSINESS

Resolutions

2024-S-57	Resolution Adding Newspapers for the Publication of Legal Notices for the Year 2024
2024-S-58	Resolution Amending the Personnel Manual
2024-S-59	Resolution Opposing the State of New Jersey's New Proposed Shore Protection Rule
2024-S-60	Resolution to Approve Proposal for Engineering and Construction Phase Services- 114 th Street Sanitary Sewer Pump Station and Force Main Improvements- Additional Services for 96 th Street Crosswalk Replacement
2024-S-61	Resolution Authorizing a Change Order- 114 th Street Sanitary Sewer Pump Station and Force Main Improvements
2024-S-62	Resolution Awarding Contract for the FY2023 NJDOT Municipal Aid and Local Transportation Projects Fund- Reconstruction of 96 th Street

Motion- To approve the Bill List & authorize the CFO to pay the bills when the funds are available, and the vouchers are properly endorsed.

2024-S-63

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-**Matters Relating to the Employment Relationship**

Discussion:

Public Comment

Adjournment

BOROUGH OF STONE HARBOR
Cape May County, New Jersey

RESOLUTION

2024-S-57

RESOLUTION ADDING NEWSPAPERS FOR THE PUBLICATION OF LEGAL NOTICES FOR THE YEAR 2024

WHEREAS, it has been deemed necessary to select a newspaper as the official publication of all Borough advertising and per resolution 2024-S-16 the official newspapers for the Borough of Stone Harbor are The Herald and The Press of Atlantic City; and

WHEREAS, the Borough of Stone Harbor has deemed it necessary to add additional newspapers for publications; and

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Stone Harbor, County of Cape May, State of New Jersey, that The Star Ledger and Courier Post be permitted to be utilized by the Borough of Stone Harbor for publications.

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 March 5th, 2024, 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 Carney							

Attest: Emily Dillon Clerk

Mayor Judith Davies-Dunhour

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-58

RESOLUTION AMENDING THE PERSONNEL MANUAL

WHEREAS, the Borough Council of Stone Harbor recognizes the importance of effective service delivery to its citizens; and

WHEREAS, a structured and well-planned transition for employees entering retirement is crucial for maintaining the continuity and quality of services provided by the Borough; and

WHEREAS, it is deemed necessary by the Borough Council to amend the Personnel Manual to include a provision regarding prior written notice for retirement by employees;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of Stone Harbor, County of Cape May, State of New Jersey, as follows:

1. **Amendment to Personnel Manual:** The Personnel Manual of the Borough of Stone Harbor is hereby amended to include the following provision:
 - o **Retirement Notice Requirement:** All employees, upon making a decision to retire, are required to provide a minimum of two (2) months' prior written notice of their intended retirement date. This notice must be submitted to the Borough Council for acceptance.
2. **Purpose:** This amendment aims to ensure a smooth and efficient transition to any replacement, thereby minimizing any disruption in service delivery to the community.

Effective Date: This amendment shall take effect immediately upon adoption and shall be applicable to all current and future employees of the Borough of Stone Harbor.

Distribution: A copy of this resolution and the amended Personnel Manual shall be distributed to all employees and relevant departments for immediate implementation.

BE IT FURTHER RESOLVED, that a copy of this resolution be spread upon the minutes of the Borough Council and that a copy hereof be duly certified by the Borough Clerk and filed in the Office of the Borough Clerk.

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 March 5th, 2024, 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 Carney							

 Attest: Emily Dillon Clerk

 Mayor Judith Davies-Dunhour

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-59

**RESOLUTION OPPOSING THE STATE OF NEW JERSEY'S NEW PROPOSED
SHORE PROTECTION RULE**

WHEREAS, the State of New Jersey is proposing a new shore protection rule that would allow for the State Department of Environmental Protection (DEP) to restrict access to tidal waters and adjacent shorelines to protect threatened and endangered species of wildlife and their critical habitats; and

WHEREAS, while the County recognizes and understands the importance of the Department's service to protect critical habitat areas and endangered species throughout the State, for reasons including but not limited to public safety and recreational public access, the County has concern for the DEP's proposed new rule that would expand seasonal closures of beaches, tidal waterway, and beach entranceways during the high season in our shore town communities; and

WHEREAS, according to the State of New Jersey website, the DEP promotes public access and use of tidal waterways and their shores based on the common law of the Public Trust Doctrine, which provides for that public rights to tidal waterways and their shores and further establishes the right of the public to fully utilize these lands and waters for a variety of public activities; and

WHEREAS, in the DEP's stakeholder presentation on September 19th, 2023 that outlined the new proposed rule, there is a reference to a series of pictures to serve as examples of "injurious uses" that would trigger the restriction for access; and

WHEREAS, those references to "injurious uses" include pictures of footsteps on the beach, walking along the shoreline, shoreline access by boat, and accessing the beach with an unleashed dog; and

WHEREAS, expanding the DEP's ability to restrict access to the public and municipal public safety departments to our waterways seems to be in conflict with the Public Trust Doctrine that that the state bases all of their public access rules on; and

WHEREAS, with Cape May County's #1 industry being tourism and our beaches being one of the main attractions for visitors to our County, restricting access to our public beaches may result in an adverse impact on the local economy and consequently a decrease in the hundreds of millions of State tourism tax dollars that the County generates for the State annually; and

WHEREAS, according to the federal Department of Homeland Security's Emergency Response Plan, the actions taken in the initial minutes of an emergency are critical; and

WHEREAS, while the local shore communities and County do our best to support the needs for emergency water response during the peak summer season, due to the seasonality and coastal geographical location of our area in combination with coastal storms that cause rough water conditions, water rescues and sadly, sometimes fatal drownings are a common occurrence throughout our area; and

WHEREAS, if the State is to establish this new rule with no changes, the proposed restriction of access to local and County public safety departments including but not limited to Police, Fire Department, and Beach Patrols for the purposes of emergency response will put life and safety of the general public at risk; and

WHEREAS, historically, new rules issued by the NJDEP have been promulgated pursuant to legislation; and

WHEREAS, again in this case like the case with the State's proposed NJPACT rules, there is no legislation that has authorized NJDEP to require more stringent requirements and restrictions on public lands; and

WHEREAS, for the reasons and concerns listed in this Resolution, the County has requested our Environmental Consultant, Lomax Environmental to analyze the proposed rule further and prepare a more detailed report of the impacts that this proposed new rule may have on our County and local communities, which is attached hereto this Resolution for reference as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor:

1. The preamble of this Resolution is incorporated here by reference and made a part hereof as the findings of the County Commissioners.
2. The County of Cape May hereby authorize a copy of this Resolution and Report to be submitted to the Offices of the State Representatives of Legislative District One, the Governor and DEP Commissioner of the State of New Jersey for their review and consideration in advance of release of the proposed new rule for public comment.
3. The County of Cape May hereby further requests that the Legislature be encouraged to exercise its legislative oversight authority to review and approve the new proposed shore protection rule prior to adoption that may have significant impacts on coastal communities statewide, so as to ensure the fairness and the maximum public acceptance of those new proposed regulations.

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 March 5th, 2024, 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 Carney							

Attest: Emily Dillon Clerk

Mayor Judith Davies-Dunhour

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-60

RESOLUTION TO APPROVE PROPOSAL FOR ENGINEERING AND CONSTRUCTION PHASE SERVICES- 114TH STREET SANITARY SEWER PUMP STATION AND FORCE MAIN IMPROVEMENTS- ADDITIONAL SERVICES FOR 96TH STREET CROSSWALK REPLACEMENT

WHEREAS, DeBlasio & Associates, Borough Engineer, 4701 New Jersey Avenue, Wildwood, N.J. 08260 has prepared a Proposal (copy attached) to provide Engineering and Construction Phase services which tasks include:

Replacing the concrete paver crosswalk with new, clay paver crosswalks embedded in a concrete base with curbing and the construction cost is \$82,440.93.

WHEREAS, the professional service fee for the above reference scope of work is listed below:

- Final Design Plans
- Contract Administration
- Shop drawing and submittal review
- Part time construction observation
(Based on 40 hours)

Total Professional Service Fee \$7,000.00

WHEREAS, it is the intention of Council to approve this proposal as presented, upon final approval of Borough Solicitor and Borough Administrator.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Stone Harbor in the County of Cape May and State of New Jersey that the Borough Council approves the attached Engineering & Construction Phase Cost Proposal for the Additional Services on this 5th day of March, 2024.

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 March 5th, 2024, 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 Carney							

Attest: Emily Dillon Clerk

Mayor Judith Davies-Dunhour

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-61

**RESOLUTION AUTHORIZING A CHANGE ORDER – 114th STREET SANIATARY
SEWER PUMP STATION AND FORCE MAIN IMPROVEMENTS**

WHEREAS, the Borough of Stone Harbor has entered into a Contract with Fred M. Schiavone Construction of Franklinville, NJ for the 114th Street Sanitary Sewer Pump Station and Force Main Improvements; and

WHEREAS, it is the recommendation of the Borough's Engineer, DeBlasio and Associates to authorize Change Order No. 1 –for the replacement of the two 96th Street brick paver crosswalks; and

WHEREAS, Change Order No. 1 –will result in an increase of \$82,440.93 from the original contract amount of \$1,288,771.00 to an amended contract amount of \$1,371,211.93 which represents a change order of 6.40% of the original contract; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, duly assembled in public session this 5th day of March 2024, as follows:

1. That the provisions of the above preamble of this Resolution are hereby incorporated herein, by this reference, as if set forth at length.
2. That the Borough Council, the governing body of the Borough of Stone Harbor, hereby authorizes the Mayor and Clerk to execute Change Order No. 1 –to the subject Contract.
3. 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 March 5th, 2024, 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 Carney							

Attest: Emily Dillon Clerk

Mayor Judith Davies-Dunhour

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-62

RESOLUTION AWARDING A CONTRACT FOR THE FY2023 NJDOT MUNICIPAL AID AND LOCAL TRANSPORTATION PROJECTS FUND- RECONSTRUCTION OF 96TH STREET

WHEREAS, three (3) bids were received by the Stone Harbor Borough Clerk and Engineer on February 28, 2024, on the Borough’s request for proposals for the aforementioned project in accordance with the specifications prepared by the Borough of Stone Harbor, which specifications are hereby incorporated herein and made a part hereof by reference, all in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*; and

WHEREAS, the Borough Engineer and Solicitor have reviewed the bids submitted and have recommended the contract be awarded to the lowest responsible bidder and deemed same acceptable, South State Inc., PO Box 68, Bridgerton, NJ 08302 in the amount of \$327,792.80; and

WHEREAS, the Chief Financial Officer has determined the funds are available; and

WHEREAS, this Resolution, and the incorporated proposal shall constitute a contract and that the Mayor and Clerk be and are hereby authorized and directed to execute said contract on behalf of the Borough.

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 in public session this 5th day of March, 2024 as follows;

1. That the preamble of this Resolution is hereby incorporated herein by reference;
2. That a contract for the aforementioned project be and the same is hereby awarded to South State Inc. in the amount of \$327,792.80.
3. That the Mayor and Clerk are hereby authorized and directed to execute the contract for same in accordance with the bid submitted and incorporated herein as stated above.
4. That the Borough Clerk is authorized to return the bonds of 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 March 5th, 2024, 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 Carney							

Attest: Emily Dillon Clerk

Mayor Judith Davies-Dunhour

BOROUGH OF STONE HARBOR

Cape May County, New Jersey

RESOLUTION

2024-S-63

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 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) Matters Required by Law to be Confidential: Any matter which, by express provision of Federal law or state statute or rule of court shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.
- _____ (2) Matters Where the Release of Information Would Impair the Right to Receive Funds: Any matter in which the release of information would impair a right to receive funds from the Government of the United States.
- _____ (3) Matters Involving Individual Privacy: Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information, relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.
- _____ (4) Matters Relating to Collective Bargaining Agreement: Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.
- _____ (5) Matters Relating to the Purchase, Leas or Acquisition of Real Property or the Investment of Public Funds: Any matter involving the purchase, lease or

acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

_____ (6) Matters Relating to Public Safety and Property: Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

_____ (7) Matters Relating to Litigation, Negotiations and the Attorney- Client Privilege: Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

___X___ (8) Matters Relating to the Employment Relationship: Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance or promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

_____ (9) Matters Relating to the Potential Imposition of a Penalty: Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party bears responsibility.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Stone Harbor, assembled in public session on February 20, 2024, that an executive session closed to the public shall be held on this date for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon 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 March 5th, 2024, with the voting record as indicated below.

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Councilmember Dallahan							
Councilmember Foschini							
Councilmember Parzych							
Councilmember Casper							
Councilmember Gensemer							
Councilmember Carney							

Emily Dillon, Borough Clerk

Judith Davies-Dunhour, Mayor