

**MINUTES
AUGUST 9, 2023**

The regular/virtual meeting of the Borough of Sea Girt Council was called to order by Mayor Don Fetzter at 7:02 PM on Wednesday, August 9, 2023. Mayor Fetzter asked for a moment of silence and to keep Phil Brisben and his family in our thoughts and prayers; he was a lifelong resident in Sea Girt and served two terms as Fire Chief; Phil is the reason I became a Fireman. He then led those participating in the Pledge of Allegiance.

The Municipal Clerk read the compliance statement: This meeting is called pursuant to the provisions of the Open Public Meetings Act, Chapter 231, P.L.1975: adequate notice of this meeting has been given by posting the Notice on the Borough’s Bulletin Board and by transmitting the Notice to the Borough’s two official newspapers, *The Asbury Park Press* and *The Coast Star*, as required by law.

1. ROLL CALL

	Present	Absent
Council President Anthony	X	
Councilman Clemmensen	X	
Councilman Downey		X
Councilman Perry	X	
Councilwoman Richman	X	
Councilman Zakin	X	
Mayor Fetzter	X	

2. CONSENT AGENDA - UPON MOTION of Councilman Perry, seconded by Councilman Clemmensen, carried, that the following Resolutions be and the same are hereby adopted:

- **R-115-2023: Authorize Escrow Fees for Planning/Zoning Board**

WHEREAS, the following zoning application was submitted along with the required escrow deposit of \$1,500.00 for the listed property location; and,

WHEREAS, the application has been processed and necessary engineering fees were deducted from the escrow deposit, leaving unexpended funds; and,

WHEREAS, the Planning Board Secretary has advised that all of the fees associated with this application have been paid in full.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Sea Girt, that a refund of the unexpended escrow balances in the amount listed below be issued:

Property Location	Check Payable To	Address	Unexpended Balance
708 Morven Terrace	Harper Emp. Consulting, LLC	Block 7, Lot 7	\$2,454.00
208 The Terrace	Michael and Monica Anderson	Block 42, Lot 15	\$3,454.00
415 Chicago Boulevard	Aquatech Mechanical, Plumbing and Electrical, LLC	Block 65, Lot 7	\$3,916.00

- **R-116-2023: Authorize Refund for Overpayment of Utility Bill for 103 Philadelphia Boulevard**

WHEREAS, there has been an overpayment of the water/sewer utility bills due to a municipal error where the previous owner was paying the bills through direct debit on a home they no longer own; and

WHEREAS, an adjustment was made for this overpayment on account #2339 located at 103 Philadelphia Boulevard in the amount of \$4,745.25 needs to be refunded back to the previous owner.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Sea Girt that a check in the amount of \$4,745.25 be refunded to Frank and Krista Speno for repayment of the utility expenses they inadvertently paid.

- **R-117-2023: Authorize Additional Staff for Jr. Lifeguard Cadets**

WHEREAS, the Beach Department has advised that there is a need for additional staff during the 2023 Jr. Lifeguard Program as noted below; and,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Girt that the following changes to the Jr. Lifeguard Program is and the same are hereby approved:

Blake Nitche, Ivy Slavinksi, Emily Sudol, Luke Sudol, Sydney Van DeBoe - \$13/hr.

- **R-118-2023: Authorize the Sale of Personal Property No Longer Needed for Public Use to The Borough of Spring Lake**

WHEREAS, the Borough of Sea Girt has determined that certain personal property as described below is no longer needed for public purposes; and,

WHEREAS, pursuant to N.J.S.A.40A:11-36, “Sale or other disposition of personal property,” the governing body may authorize the public sale of municipal owned property no longer needed for public use; and

WHEREAS, The Borough of Sea Girt authorizes the sale of the below borough vehicles to The Borough of Spring Lake in the amount of a \$1.00 donation; and

NOW, THEREFORE BE IT RESOLVED, by the Council of the Borough of Sea Girt, County of Monmouth that we do hereby declare that the personal property listed below is surplus and no longer needed for Borough use and sold to The Borough of Spring Lake for \$1.00.

	Year	Make/Model	Color	Vin#/Serial#			
PUBLIC WORKS	5-Ton Dump Body	1990	BMY HARSCO	M929A2	2900386	10000	with snow plow
PUBLIC WORKS	5-Ton Cargo Body	1990	BMY HARSCO	M923A2	2500402	8000	
PUBLIC WORKS	Cargo Trailer	1984	Turtle Mtn Mfg	M105A2	PC056-721	1500	1.5-ton 2 wheel / No Title

- **R-119-2023: Authorize Commodity Resale Agreement Between the County of Monmouth and The Borough of Sea Girt**

The County and the Local Government Entity enter into this agreement pursuant to the Rules governing cooperative purchasing, namely *N.J.A.C. 5:34-7.15 et seq.*

IT IS AGREED:

1. **Commodities Offered.** The County will offer the commodities listed on Exhibit A to the Local Government Entity through the Monmouth County Commodity Resale System (SYSTEM IDENTIFIER 99174 – MCCRS).
2. **Amendment to Services Offered.** The County, in its discretion, may amend Exhibit A from time to time, upon approval by the Director of the Division of Local Government Services, if necessary, and written notice to the Local Government Entity.
3. **No Obligation by Local Government Entity.** The Local Government Entity is under no obligation to purchase any commodities offered by the County.
4. **No Obligation by County.** The County is under no obligation to provide a commodity requested by the Local Government Entity if the County is not in a position to honor the request.
5. **Total Cost Undetermined.** The total cost of the commodities to be provided under this agreement cannot be estimated in advance, but will be determined by the extent to which the Local Government Entity avails itself of the commodities available.
6. **Effective Dates.** This agreement shall be in effect for a five (5) year period through September 30, 2028.
7. **Early Termination.** Either party may terminate this agreement, with or without cause, upon thirty (30) days written notice to the other party.
8. **County's Representative.** The County's Administrator or its Director of Public Works and Engineering, or his/her respective designee, will act on behalf of the County with regard to the commodities available to the Local Government Entity.
9. **Local Government Entity's Representative.** The Local Government Entity's James Gant, or his respective designee, will act on behalf of the Local Government Entity with regard to a request for commodities from the County.
10. **Payment of Invoices.** The Local Government Entity will pay the County for commodities purchased under this agreement within thirty (30) days of the County's invoice for those commodities. If the Local Government Entity disputes a County invoice, the Local Government Entity will pay the undisputed portion and attempt to resolve the remaining portion in accordance with paragraph 11 below.
11. **Disputes.** This contract shall be governed by and be interpreted in accordance with the laws of the State of New Jersey. All disputes arising under this Contract shall be resolved exclusively in the Superior Court of New Jersey, Monmouth County.
12. **Indemnification.** Each party will indemnify the other party and hold the other party harmless for the negligent or intentional acts of the indemnifying party.
13. **Authority to Execute Agreement.** The execution of this agreement has been duly authorized by the governing bodies of the County and the Local Government Entity.
14. **Counterparts.** This agreement may be fully executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement binding upon all parties, notwithstanding that all parties have not signed the same counterpart. Such executions may be transmitted to the parties electronically or by facsimile, and such electronic or facsimile execution shall have the same force and effect as an original signature.
15. **Notices.** Any notices that are provided pursuant to this agreement shall be in writing (including facsimile and electronic transmissions) and mailed or transmitted or delivered as follows:

EXHIBIT A

MONMOUTH COUNTY COMMODITY RESALE SYSTEM

Commodities available:

- Gasoline
- Diesel fuel
- Snow removal chemicals
- Public works materials and supplies, including road and roadway construction materials
- Such other materials as may be approved by the Director of the Division of Local Government Services

Pricing:

It is the intent that the County will recoup its actual costs, but no profit. Therefore, the cost of the commodities shall be the actual cost paid by the County for the commodities plus a modest administrative fee, as quoted by the County.

Procedure:

If the Local Government Entity is interested in purchasing a commodity through the County's Commodity Resale System, the Local Government Entity will submit a completed Request Form to the County. If the County is able to honor the request, the County will approve the request and issue a price quotation. The Local Government Entity will then decide, at its option, whether or not to complete the requested purchase, at the price(s) quoted by the County.

- **R-120-2023: Authorize the Application of the Borough of Sea Girt for the 2023 New Jersey Urban and Community Forestry Program Grant**

WHEREAS, the purpose of the Sea Girt Shade Tree Commission includes making recommendations for programs and actions that promote healthy and sustainable Borough tree resources, maintaining the health of existing trees and reducing potential damage or hazards resulting from trees on public lands; advocating for resources necessary to carry out the Sea Girt Borough Community Forestry Management Plan (CFMP); and preparing grant applications, as appropriate, to assist in CFMP implementation; and

WHEREAS, the New Jersey Urban and Community Forestry (NJUCF) Program has announced the availability of financial assistance under the NJUCF Stewardship Grant Program to assist local governments in the implementation of approved CFMPs; and

WHEREAS, the Borough of Sea Girt is eligible to apply for such financial assistance as it has a currently approved CFMP and is in compliance with requirements for accreditation under the NJUCF program, including training and reporting requirements; and

WHEREAS, the Shade Tree Commission wishes to make an application to the 2023 NJUCF Stewardship Grant Program for the purpose of canopy resiliency in Edgemere Park.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt that the Shade Tree Commission shall prepare and submit said grant application to the 2023 NJUCF Stewardship Grant Program.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

3. APPROVE MINUTES:

- **R-121-2023: Approve Regular Meeting Minutes of July 12, 2023**

UPON MOTION of Council President Anthony, seconded by Councilman Zakin, carried, that the Regular Minutes of the Regular Meeting held July 12, 2023 be and the same are hereby approved.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry				X
Councilwoman Richman	X			
Councilman Zakin	X			

- **R-122-2023: Approve Executive Session Minutes of July 12, 2023**

UPON MOTION of Councilman Clemmensen, seconded by Councilman Zakin, carried, that the Minutes of the Executive Session Meeting held July 12, 2023 be and the same are hereby approved.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

4. OPEN DISCUSSION:

Council President Anthony thanked the Sea Girt Conservancy, The Shade Tree Commission and volunteers for their assistance in planting 500 plants in the pollinator garden at Edgemere Park. She attended a Garden Tour in Lake Como; Candide’s Garden focuses on New Jersey Native plants, pollinator flowers, trees, plant materials and shrubbery; it was a wonderful tour.

Mayor Fetzer along with Councilpersons Anthony, Downey and Zakin attended the NGTC OCS Graduation; it was a nice event and we were honored to be present. Mayor Fetzer participated in a conference call with Atlantic Shores regarding the wind turbines projected to be built off the coast and the route through Sea Girt which the borough is not in favor of.

Alan Zakin noted the Board of Public Utilities or the State has not met with the Borough yet regarding wind turbines.

5. UNFINISHED BUSINESS:

a. ORDINANCE No. 08-2023: The Mayor to read the said Ordinance by Title:

AMEND AND SUPPLEMENT SECTION 9-1.2 OF CHAPTER IX OF THE BOROUGH CODE OF THE BOROUGH OF SEA GIRT ENTITLED “BEACHES AND BOARDWALK”

BE IT ORDAINED by the Borough Council of the Borough of Sea Girt as follows:

Section 1. Section 9-1.2 of Chapter IX, “Beaches and Boardwalks” is hereby amended and supplemented as follows:

§ 9-1.2 Rules and Regulations.

[Ord. No. 17-2010 § 2; New; Ord. No. 07-2013; Ord. No. 10-2014 § 1; Ord. No. 10-2018]

m. Operation of Bicycles on Boardwalk.

1. No person shall ride or have custody or control of a bicycle on the boardwalk except between the hours of 5:00 a.m. and 10:00 a.m. from May 15 to September 15. Bicycles are permitted on the boardwalk from September 16 through May 14.
2. No person shall use, operate or ride upon any electric powered or assisted *bicycle or scooter, or* gas-powered or assisted bicycle or scooter on the boardwalk at any time, with the exception of motorized personal mobility transportation devices used by persons with mobility challenges or disability.

UPON MOTION of Councilman Clemmensen, seconded by Council President Anthony, carried, that the meeting be opened to the public for comments on the said Ordinance only. There were no comments from the public. Borough Attorney, Ray Bogan noted there were a couple clarifying words left out of the publication, but referenced earlier. **UPON MOTION** of Councilman Perry, seconded by Councilman Clemmensen, carried, the public hearing was closed.

UPON MOTION of Councilman Clemmensen, seconded by Council President Anthony, carried, that the said Ordinance No. 08-2023 be adopted on final reading, directing the Clerk to post and publish as required by law.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

6. NEW BUSINESS:

a. ORDINANCE No. 09-2023: The Mayor to read the said Ordinance by Title:

ORDINANCE APPROVING DEED OF OPEN SPACE EASEMENTS FOR BLOCK 84, LOT 20, BLOCK 78, LOT 1, BLOCK 91, LOT 1 AND BLOCK 84 LOT 1

Borough Attorney, Ray Bogan explained the Borough Council believes it is in the best interest for the Borough to comply with the court’s requirements of the settlement agreement and to preserve the properties for public park, recreation, and open space purposes.

WHEREAS, the Borough was the subject of a Mount Laurel exclusionary zoning suit filed in the Superior Court of New Jersey entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, (the plaintiffs shall be collectively referred to as the “Developer”), Docket No. MON-L-000102-20, seeking to compel the Borough to provide a realistic opportunity for the construction of housing affordable to low and moderate-income households and their fair share of the housing region’s need for such housing, (the “Builder’s Remedy Action”); and

WHEREAS, the Borough instituted a declaratory judgment action entitled In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-2312-2020 (the “Mt. Laurel Litigation) wherein the Borough sought a declaration as to its affordable housing obligation and the opportunity to develop a plan to meet its constitutional obligation to provide for its fair share of affordable housing so as to prevent additional builder’s remedy lawsuits; and

WHEREAS, the Borough and the Borough Planning Board entered into a Settlement Agreement with the Developer in the Builder’s Remedy Action and the Court approved the Settlement Agreement after conducting a Fairness Hearing on June 3, 2021 finding it fair, reasonable and adequately protecting the interests of very low, low and moderate-income households in the region; and

WHEREAS, the Fair Share Housing Center (“FSHC”) has been recognized by the Supreme Court in Mt. Laurel IV as an interested party that may participate as a matter of right in all cases filed by municipalities seeking a declaration as to their affordable housing obligation, including the Borough of Sea Girt; and

WHEREAS, the Borough adopted Resolution No. 51-2023 approving a Settlement Agreement with FSHC resolving the Mt. Laurel Litigation which required in part that the Borough execute Deeds of Open Space Easements restricting the properties identified as Block 84, Lot 1, Block 91, Lot 1, Block 78, Lot 1 and Block 84 Lot 20 on the tax map of the Borough of Sea Girt (the “Open Space and Recreation Properties”) for the exclusive purposes of public park, recreation and open space purposes; and

WHEREAS, the Court conducted a Fairness Hearing on July 25, 2023 and approved the Settlement Agreement with Fair Share Housing Center and a condition of the approval included the requirement to execute and record the Open Space and Recreation Easements; and

WHEREAS, The Borough became vested in said properties for the purpose of, and always intended to restrict the Open Space and Recreation Properties, for public park, recreation and open space purposes; and

WHEREAS the Borough Council believes it is in the best interest of the Borough to comply with the Court’s requirements of the Settlement Agreement and to preserve the properties for public park, recreation, and open space purposes.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby approves and authorizes the mayor to execute the Deed of Open Space Easements for public park, recreation and open space purposes for the following properties identified on the Borough’s tax map as follows: Block 84, Lot 20, Block 78, Lot 1, Block 91, Lot 1 and Block 84, Lot 1.

BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Sea Girt or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

UPON MOTION of Council President Anthony, seconded by Councilman Clemmensen, carried, that the said Ordinance No. 09-2023 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing on September 13, 2023.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

- **R-123-2023: Authorizing Payment of Engineer’s Certificate No. 1 to Fernandes Construction, Inc. Monroe, NJ for The Project Known as Improvements to Fifth Avenue**

UPON MOTION of Councilman Perry, seconded by Councilman Clemmensen, carried, that the following Resolution be and the same is hereby adopted:

WHEREAS, the Borough of Sea Girt awarded a contract in the amount of \$270,548.31 to Fernandes Construction, Inc. Monroe, NJ for the Project known as Improvements to Fifth Avenue on April 26, 2023; and,

WHEREAS, the Borough Engineer has submitted his Certificate No. 1 in the total amount of \$258,252.49 less retainage of \$5,165.05 for a net amount requested of \$253,087.44 that has been reviewed by the Borough Engineer and found to be correct; and,

WHEREAS, the Chief Financial Officer has certified that funds are available in the Capital Account of the Borough of Sea Girt No. C-04-55-565-503 for the payment to Fernandes Construction, Inc. in the amount of \$253,087.44

BE IT FURTHER RESOLVED that Engineer’s Certificate No. 1 in the total amount of \$258,252.49 less 2% retainage of \$5,165.05 for a net amount requested of \$253,087.44 be and the same is hereby approved.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

• **R-124-2023: Deed of Dedication and Perpetual Public Access Easement**

UPON MOTION of Councilman Perry, seconded by Councilman Clemmensen, carried, that the following Resolution be and the same is hereby adopted:

THIS DEED OF DEDICATION AND PERPETUAL PUBLIC ACCESS EASEMENT is made this 9th day of August, 2023 BY AND

BETWEEN

THE Borough of Sea Girt, a municipal corporation whose address is 321 Baltimore Boulevard, Sea Girt NJ 08750, referred to herein as “Borough” or “Grantor”.

AND

THE STATE OF NEW JERSEY, hereinafter referred to as the “State” or “Grantees”.

WITNESSETH

WHEREAS, Grantor is the owner or easement holder of certain tracts of land, located in the Borough of Sea Girt, County of Monmouth, State of New Jersey, identified as public street ends or public access ways located at See Attached Table 1 (list of access points and ID’s A-1 through A-16 as further delineated on “Map 2”), as identified in Appendix 2 Table 1 (approximate Street End, Beach access points and/or Tract of Land Descriptions) and shown on the attached Borough of Sea Girt Municipal Public Access Plan (dated May, 2003) consistent with the official tax map of the Borough of Sea Girt, hereinafter the “Property(s)” and Grantor holds the requisite interest to grant this Deed of Easement; and

WHEREAS, the Grantees recognize that tidal waterways and their coastlines at the Borough of Sea Girt in the State of New Jersey are valuable economic resources to the Municipality and the State of New Jersey; and

WHEREAS, access to tidal waterways at Sea Girt, New Jersey is a right provided to the public under the Public Trust Doctrine; and

WHEREAS, in order for the public to access tidal waterways, perpendicular access to these areas must be secured for public use; and

WHEREAS, in order to ensure public access, Grantee needs a Perpetual Public Access Easement on portions of said Property(s) herein described; and

WHEREAS, this Deed of Dedication and Perpetual Public Access Easement shall be subject to and consistent with any existing public access agreement [or easement] entered into by the Municipality with the United States Army Corp of Engineers and

WHEREAS, this Deed of Easement will also serve to implement the Public Trust Doctrine and ensure permanent public access, use and enjoyment of tidal waterways and their shores.

NOW, THEREFORE, the Grantor grants and conveys to Grantee an irrevocable, assignable, perpetual and permanent easement as set forth herein:

GRANT OF EASEMENT: A perpetual [and assignable] easement and right-of-way across that land of the Property(s) described as public street ends and other locations shown on the attached chart identified as Table-1 (attached with access ways A-1 through A-16 as further delineated on “Map 2”), and Sea Girt’s Municipal Public Access Plan (MPAP) (attached, dated _____) consistent with the official tax map of the Borough of Sea Girt, hereinafter the “Property(s),” and Grantor holds the requisite interest to grant this Deed of Easement listed above for use by the State of New Jersey, and the Borough of Sea Girt, their representatives, agents, contractor and assigns to:

- A. Construct, preserve, patrol, operate, maintain, repair, rehabilitate, and replace a public access area to allow the public access to tidal waterways;
- B. Post signs;

The easement reserves to the Grantor, the Grantor’s successors and assigns, the right and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby conveyed to the Grantees, subject however to existing easements for utilities and pipelines, existing public highways, existing paved public roads and existing public streets.

The easement is subject to all rights of the State of NJ and Army Corp of Engineers as granted pursuant to the Deed of Dedication and Perpetual Storm Damage Reduction Easement dated July 2, 2013 and recorded with the Monmouth County Clerk at Book 9036, Page 7179 on September 17, 2013.

Duration of Easement: The easement granted hereby shall be in perpetuity, and in the event that the Borough or State of New Jersey shall become merged with any other geopolitical entity or entities, the easement granted hereby shall run in favor of surviving entities. The covenants, terms, conditions and restrictions of this Deed of Easement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors, and assigns and shall continue as a servitude running in perpetuity with the land.

Municipality to Maintain Public Access: The Borough agrees, consistent with all Federal, State and local statutes and regulations, that at all times it shall use its best good-faith efforts to preserve, cause and ensure public access areas to be maintained, consistent with all applicable Federal, State or local laws or regulations, notwithstanding any action or inaction of the State of New Jersey.

Character of Property(s): Notwithstanding the foregoing, nothing herein is intended or shall be deemed to grant the Grantees or otherwise permit the Grantee to any other person to cross over or use any part of the Property(s) which is not within the Easement Area; nothing herein is intended or shall be deemed to alter the boundary lines or setback lines of the Property(s).

By the acceptance of this Deed of Easement, the Borough agrees, to the extent allowed by applicable law, that the Property(s) burdened by the easement herein described shall not be excluded from the calculations of minimum square footage requirements when construing applications under the Zoning Ordinance of the Borough.

Miscellaneous:

1. The enforcement of the terms of this Easement shall be at the discretion of the Grantees and any forbearance by Grantees to exercise their rights under this Easement in the event of any violation by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent violation or of any of Grantee’s rights under this Easement. No delay or omission by Grantees in the exercise of any right or

remedy upon any violation by Grantor shall impair such rights or remedies or be construed as a waiver of such rights or remedies.

2. The interpretation and performance of this Deed of Easement shall be governed by the laws of the State of New Jersey.
3. If any provision of this Deed of Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Easement or the application of such provisions to person or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
4. Any notice, demand, request, consent, approval, or communication under this Deed of Easement shall be sent by regular first-class mail, postage prepaid and by Certified Mail, return receipt requested, addressed to the mailing addresses set forth above or any other address of which the relocation party shall notify the other, in writing.
5. The captions in this Deed of Easement have been inserted solely for convenience of reference and not a part of this instrument and shall have no effect upon its construction or interpretation.
6. Structures no part of the project are not authorized.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

7. COUNCIL REPORTS

Councilman Clemmensen has made the Public Safety Committee aware of changes needed to our ordinance regarding dogs; changes being made are not in conflict with the state and county regulations and should be the right fit for our residents and dog owners.

Councilman Perry read a report on behalf of the Sea Girt 5K Committee; he further noted he is very pleased with the successful outcome of the event; Rally Cap Sports event whom is the beneficiary of our charitable donation from the 5K race is holding a beach volleyball event on Beacon Boulevard on Thursday, August 10th 7-8 pm.

Councilman Zakin reported for Councilwoman Richman: July was a busy month at the beach; jr. lifeguard and surf school are busy teaching safe surfing to the participants; the women’s team won the Ocean City Invitational and took three second place finishes in a recent tournament; the lifeguards recently won the Sea Girt Tournament against seven other beaches; lifeguards are currently competing in Virginia Beach for the National Lifeguard Championship; Cadet Program is in its 7th year helping 15 year old’s become future lifeguards; recently Sea girt hosted the US Lifesaving Association Mid Atlantic Jr. Lifeguard Regional Championship Tournament which a successful event. Staff will be lighter with kids returning to school, swim only near lifeguards. Badge sales are slightly down from last year.

Councilman Zakin encourages everyone to visit the Sea Girt Library webpage for all activities; please support the 10th Annual Wine and Cheese Celebration is on August 26th.

Mayor Fetzer thanked residents for their water conservation efforts, the borough is well under allocation for July. DPW negotiations meeting was held last week and they are moving toward approval of a new

agreement. The Fire Company participated in the Manasquan Fireman’s Fair, which went well. The Library and Borough Finance Committee met to discuss the strategic finance plan addendum.

8. ADMINISTRATIVE REPORT

Jim Gant offered his condolences to Karen Brisben and her family on the loss of her husband. The Borough is working on the MPAP to maintain components of the beach. Our new Recreation Director, Jen Bredin started July 31st we look forward to working with her. A Lantern Fly Grant was submitted for treatment on our open spaces if awarded. Beach Lua is on September 9th 6-8 pm.

Justin Macko reported IACP One Mind Campaign training in mental health first aid was completed by his officers; the message board has been updated as a reminder to lock your doors and to report anything suspicious to the police; 2nd Annual Patriot Night is September 15th; Chief Macko met with representatives from the NJDOT regarding some concerns with residents on the west side of town; DOT will be adding a cross walk at Rt. 71 and Baltimore Boulevard on the north and south side of street including changing signage and painting curb cuts at Beacon Boulevard and Rt. 71; a recent incident with a dog is still under investigation; the department is looking to updating the boroughs dog ordinance in the near future; reminder that all dogs should be leashed at all times.

9. PAYMENT OF BILLS

BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt, County of Monmouth that the bills to be paid as appearing on the attached bill lists dated July 25, 2023; August 1, 2023; and August 4, 2023 in the totals as follows:

Beach Operating	\$	39,625.12
Board of Rec Trust	\$	138,781.79
Current Fund	\$	897,242.93
Dog License Trust	\$	1.20
General Capital	\$	279,119.90
Trust Other	\$	1,498.00
Water Operating	\$	8,475.50

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

10. PUBLIC PARTICIPATION ON ANY SUBJECT (Comments limited to 5 minutes)

Bob Kregg, Boston Boulevard voiced his concern on borough property taxes.

Borough Attorney, Ray Bogan commented that the council has directed him to report on what is taking place on appeals and he is following up with the Tax Assessor on the process; council is closely monitoring in the most equitable manner.

Bob Ferguson, Philadelphia Boulevard asked council to keep residents informed on tax assessment updates.

There being no further comments, and by consensus, the public hearing was closed. Mayor Fetzer advised that Council has matters to discuss in Executive Session, and requested a motion to adjourn for purposes of litigation discussion. **UPON MOTION** of Councilman Perry, seconded by Council President Anthony, carried, that the following **Resolution No. 126-2023** be and the same is hereby adopted:

WHEREAS, Section 8 of the Open Public Meeting Act, N.J.S.A. 10:4-12 permits the exclusion of the public from a meeting in certain circumstances; and,

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matter(s) to be discussed is litigation.
3. It is anticipated at this time that the subject matters will be made public, if and when, confidentiality is no longer necessary.
4. Action may be taken upon return to public session.
5. This Resolution shall take effect immediately.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

UPON MOTION of Councilman Perry, seconded by Councilman Clemmensen, carried that the following **Resolution No. 127-2023** be and the same is hereby adopted:

BE IT RESOLVED the Borough of Sea Girt authorizes Borough Attorney, Ray Bogan, be and he is hereby given direction with regard to the litigation matters of Kenneth Hagel and Attorney Nicole Dory and will proceed accordingly as discussed in Executive Session.

Recorded Vote:

	AYES	NAYS	ABSENT	ABSTAIN
Council President Anthony	X			
Councilman Clemmensen	X			
Councilman Downey			X	
Councilman Perry	X			
Councilwoman Richman	X			
Councilman Zakin	X			

There being no further business, and **UPON MOTION** of Councilwoman Richman, seconded by Councilman Downey, carried, that the meeting be finally and immediately adjourned at 9:25 PM.

Dawn Harriman

Dawn Harriman, RMC