

MINUTES OF THE REGULAR SESSION  
STONE HARBOR PLANNING BOARD

**April 23, 2012**

**7:00 p.m.**

**CALL TO ORDER:**

The meeting was called to order by Mr. Hand, who stated that all requirements of the “Open Public Meetings Act of 1975” had been met.

**ROLL CALL:**

Planning Members Present

Thomas Hand  
Perry Conte  
Mayor Suzanne Walters  
Wayne Conrad  
Robert D. Bickford, Jr.  
Jill Gougher

Board Solicitor

Andrew Catanese

Board Secretary

Patricia H. Wagner

Zoning Officer

Joanne Mascia

Members Absent

Joselyn O. Rich

Alternates Present

Robert Ashman  
Julian Miraglia

**Oath of Office and Oath of Allegiance**

Jill Gougher recited the Planning Board Oath of Office and the Oath of Allegiance.

**Approve Minutes**

**Motion by Mr. Miraglia and seconded by Mr. Conrad to approve the minutes of the March 26, 2012 regular session.**

Affirmative votes: Mr. Hand, Mr. Conte, Mayor Walters, Mr. Conrad, Mr. Bickford, Mr. Ashman and Mr. Miraglia.

**Motion by Mayor Walters and seconded by Mr. Bickford to approve the amended minutes of the April 16, 2012 work session.**

Affirmative votes: Mr. Hand, Mayor Walters, Mr. Conrad, Mr. Bickford, Mrs. Gougher, Mr. Ashman and Mr. Miraglia.

**Professional Planner Contract**

**Motion by Mrs. Gougher and seconded by Mr. Ashman to approve Resolution 2012-004 to enter into a professional services contract with the firm of Heyer Gruel and Associates for Professional Planning Services for the year 2012.**

Affirmative votes: Mr. Hand, Mr. Conte, Mayor Walters, Mrs. Gougher, Mr. Conrad, Mr. Bickford, Mr. Ashman.

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**RESOLUTION NO. 2012-004**

**WHEREAS**, the Planning Board of the Borough of Stone Harbor, Cape May County, New Jersey, is a contracting unit as defined by the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq; and

**WHEREAS**, there exists a need for professional planning services for the Planning Board's business from time to time, which services are professional services as defined in N.J.S.A. 40A:11-2; and

**WHEREAS**, funds are available for this purpose; and

**WHEREAS**, the Local Public Contract Law requires that a Resolution authorizing the award of a contract for "Professional Services" without competitive bids shall be publicly advertised.

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

1. The Chairperson and Secretary of the Planning Board are hereby authorized and directed to enter into an agreement with Heyer, Gruel & Associates for the performance of professional planning services, for the calendar year 2012 as set forth on the attached EXHIBIT A.

2. This contract will be awarded without competitive bidding as a "professional service" under the provisions of the Local Public Contracts Law because it is a contract for services performed by a person authorized by law to practice a recognized profession and that it was not possible to obtain competitive bids.

3. A copy of this Resolution shall be published in the Borough's official newspaper, as required by law, within ten (10) days of its passage.

4. A copy of the Resolution and any contract pursuant hereto are on file and available for public inspection in the Office of the Clerk of the Borough of Stone Harbor.

**Amend Definition of Outdoor Dining Ordinance**

At the work session held on April 16, 2012 Vincent Lamanna, representing Andrew Dorley of Tutto Gelato, requested the Planning Board review the Borough's outdoor dining ordinance. As a result of that meeting Mr. Catanese advised the Board to suggest amending the ordinance to exclude certain limited outdoor facilities from the definition of outdoor dining.

Mr. Catanese reviewed his draft ordinance for Board members. His recommendations included limiting the number of tables and or chairs in any outdoor areas so that any restaurant, deli or other food service establishment cannot place an unlimited number of tables & chairs upon its private property adjacent to its building. He also noted that by exempting the use of small outdoor tables the zoning ordinance will permit them in all zones & areas where the associated use is permitted (satellite business zones). If the Board does approve the recommendation as presented tonight, Mr. Catanese wants the Board to be aware that by permitting these outdoor eating areas without Board approval, all businesses that initiate the use will be grandfathered in the event the ordinance is subsequently revised, leaving the Borough unable to eliminate the outdoor eating area. In addition, the Borough only requires that a business be registered, not licensed, so the Borough would not be able to charge a license fee for the outdoor area.

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Board members discussed various methods to determine the number of tables to be allowed for outdoor dining. In addition to limiting the number of tables, several members are in favor of also using a density formula: “x” amount of tables per “x” square feet or, “x” amount of people in “x” amount of square feet.

Zoning Officer Joanne Mascia would like to have an applicant apply for a zoning permit and submit a professional survey to her office showing the proposed area and number of tables to be placed. She feels this would aid her in monitoring any violations. Mrs. Mascia noted the many problems that she has in enforcing current violators. Some business owners will just pay imposed fines and continue to operate their outdoor dining areas. Many of the violations occur in the evening hours and on weekends when she is unavailable for inspections. It was noted that violations are subject to the jurisdiction of municipal court. Mrs. Mascia wants the Board to consider how condominium common areas should be handled.

Mr. Catanese feels the Planning Board should decide at what level of intensity of use they want before an applicant has to appear before the Board for a conditional use variance for outdoor dining.

Mr. Hand opened the public portion of the meeting.

Vincent L. Lamanna, Jr. addressed the Board. He would like to see the Board restrict things that are burdensome to the general public. He wanted to know that if we started to count the number of people sitting at tables then do we also start to count those waiting in line to get into an establishment. Mr. Lamanna feels the Board needs to reach a conclusion; a density formula is a reasonable limitation and we should have some limitations in place. With respect to condominium common areas, Mr. Lamanna feels the owners will police themselves with keeping the area clean. He does not feel we can be everybody’s big brother. He also does not want to burden any of the owners with a permit fee. Mr. Lamanna does not feel the cost of a professional survey is needed for the Zoning Officer’s use. He feels this is an unreasonable business expense.

After discussing the pros and cons of the proposed ordinance amendment, Board members agreed to have Mr. Catanese amend his draft ordinance dated 04/23/2012 with the following additional limitations: the business owner must allow for one table for each 32 square feet of outdoor dining space and not to exceed four (4) tables per property. No survey will be required to be submitted to the Zoning Officer and no permit fees will be required.

**Motion by Mr. Ashman and seconded by Mr. Conrad to approve a recommendation to Borough Council to amend RGO 560-10 by inserting a definition for Outdoor Dining into the Zoning Ordinance.**

Affirmative votes: Mr. Hand, Mr. Conte, Mayor Walters, Mrs. Gougher, Mr. Conrad, Mr. Bickford, Mr. Ashman.

Mr. Catanese stated he would also review the permitting ordinances to make sure there are no inconsistencies that need cleaning up. If there are, he will bring them back to the Board’s attention. Mr. Catanese also reviewed Mrs. Mascia’s procedural mechanisms for enforcement and violations for the Board.

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**NEW BUSINESS**

A subcommittee consisting of Mr. Hand, Mr. Conte and Mr. Bickford was formed to review the entire outdoor dining ordinance and make suggestions for any revisions or updates. They will then consult with our professional planning firm, Heyer Gruel & Associates for their suggestions. Mr. Hand will contact Martin Teller of the Cape May County Planning Department to review the placement of items in the county right of way (outdoor dining). Mayor Walters also suggested contacting Freeholder Will Morley.

Mrs. Gougher will act as the coordinator for the planners, Heyer & Gruel & Associates. She will contact them to schedule the initial meeting with the Hotel/Motel Overlay subcommittee so they can discuss a plan of action and get an estimate of how many hours and costs it may be for this project.

The available budget funds for 2012 were discussed. Mrs. Gougher will find out the authorized amount but it was also noted that the funds have to cover Mr. Catanese's appearance at Board meetings and any additional work he performs and also any fees charged by the professional planners.

**OLD BUSINESS**

None

**OPEN PUBLIC SESSION**

Mr. Hand opened the meeting for public comment. No one spoke. Public session was closed.

**ADJOURNMENT**

Having no further business at hand Mr. Hand called for a motion to adjourn the meeting.

A motion to adjourn the meeting by Mr. Conrad and seconded by Mr. Miraglia. All members present voted in the affirmative.

APPROVED:

ATTESTED: \_\_\_\_\_  
Patricia H. Wagner, Secretary Stone Harbor Planning Board