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BOROUGH OF BELMAR
BOARD OF ADJUSTMENT MEETING

JANUARY 28, 2010

AGENDA:

- **7:00 PM – Workshop**
- **7:30 PM – Regular Meeting:**
 - Reading of Notice of Meeting
 - Pledge of Allegiance to the Flag
 - Roll Call
 - Oath of Office – Jay McDermott
 - Nomination of Chairperson & Vice Chairperson
 - Approval of minutes of the December 17, 2009 regular meeting
 - Approval of minutes of the December 17, 2009 executive session
 - Resolution appointing Kevin Kennedy, Esq. as Board Attorney
 - Resolution appointing April Claudio as Board Secretary
 - Resolution re-establishing Rules and Regulations of the Zoning Board
 - Resolution approving the application of Kevin O'Donnell, 604 Fifth Avenue (as amended)
 - Resolution approving the application of UB Holding LLC/The Barclay, 112 Fifth Avenue
 - Applications: None

RESOLUTION APPOINTING BOARD SECRETARY

WHEREAS, the Belmar Zoning Board of Adjustment is a duly organized Zoning Board of Adjustment operating and existing in accordance with the Laws of the State of New Jersey and the Ordinances of the Borough of Belmar; and

WHEREAS, as such, the Zoning Board of Adjustment should appoint a Board Secretary for Calendar Year 2010; and

WHEREAS, the Zoning Board of Adjustment Secretary should perform the standard services as are customarily provided by a Board Secretary - including, but not limited to:

- Appearance at Board Meetings;
- Preparation of Board Meeting Minutes;
- Coordination of Applications;
- Scheduling of Applications;
- Distribution of Application Materials;
- Maintenance of Board Files;
- Other matters customarily performed by a Board Secretary; and

WHEREAS, the said services are to be performed in accordance with the standard operating procedures of the Borough of Belmar and the Belmar Zoning Board of Adjustment; and

WHEREAS, April Claudio has served as the Board Secretary for the majority of Calendar Year 2009; and

WHEREAS, the said April Claudio has expressed an interest in serving in the said capacity for Calendar Year 2010; and

WHEREAS, the Board is of the opinion that such an appointment would be in the best interest of the Zoning Board of Adjustment; and

NOW, THEREFORE, BE IT RESOLVED, by the Members of the Belmar Zoning Board of Adjustment as follows:

1. That the Zoning Board of Adjustment hereby appoints April Claudio to serve as Board Secretary for Calendar Year 2010.

2. That unless otherwise terminated, the within appointment shall be retroactively effective from January 1, 2010 to December 31, 2010, or until her Successor is qualified and appointed.

The foregoing Resolution was offered by and seconded by and adopted by a roll call vote:

In Favor:

Opposed:

Abstained:

Ineligible:

Absent:

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Borough of Belmar Zoning Board of Adjustment on

April Claudio, Board Secretary

**RESOLUTION APPOINTING KEVIN E. KENNEDY, ESQ.
TO SERVE AS COUNSEL TO THE
BELMAR ZONING BOARD OF ADJUSTMENT**

(2010)

WHEREAS, the Belmar Zoning Board of Adjustment is a duly organized Zoning Board (hereinafter referred to as “Zoning Board”) having principal offices at 601 Main Street, Belmar, NJ; and

WHEREAS, there is a need for the Zoning Board to retain the services of a Board Attorney in order to represent its legal interests; and

WHEREAS, Kevin E. Kennedy, Esq., (hereinafter referred to as “Attorney”) has expressed an interest in representing the Zoning Board in the said regard; and

WHEREAS, the legal services to be provided are deemed to be “professional services” pursuant to the Local Public Contracts Law (N.J.S.A. 40:A11-1, et seq.); and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a Contract for “professional services” without public advertising for bids and bidding therefore, provided that the Resolution authorizing the Contract and the Contract itself are available for public inspection in the Office of the Municipal Clerk and that notice of the awarding of the Contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, the Zoning Board having considered the matter, now wishes to authorize the awarding of a professional service contract to Kevin E. Kennedy, Esq., for the purpose of rendering necessary legal advice.

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Belmar as follows:

1. That the Belmar Zoning Board of Adjustment is hereby authorized to award a Contract to Kevin E. Kennedy, Esq. so as to represent its interests, as General Counsel, in connection with all Zoning Board matters.
2. That the compensation associated with the said representation shall be memorialized in a Contract for Legal Services, which is incorporated herein at length.
3. That the Board Chair, Vice-Chair, Secretary, and other appropriate representatives, are hereby authorized to sign the said Professional Service Contract, which shall be approved as to form by the Borough Attorney.
4. That the within Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5, et seq. of the Local Public Contracts Law of New Jersey, because the services rendered will be performed by persons authorized by law to practice a recognized profession.
5. That, in accordance with N.J. law, notice of the within appointment shall be published in the Borough’s official newspaper.

Adopted this _____ day of _____, 2010.

April Claudio, Board Secretary

**RESOLUTION RE-AFFIRMING THE RULES AND REGULATIONS OF THE
BELMAR ZONING BOARD OF ADJUSTMENT
(2010)**

WHEREAS, the Borough of Belmar Zoning Board previously adopted Rules and Regulations for the operation of the Entity; and

WHEREAS, for record-keeping purposes, the Rules and Regulation should likely be re-affirmed for Calendar Year 2010; and

WHEREAS, the Members of the Zoning Board believe that such a re-affirmation of the Rules and Regulations will be in the best interests of the Board;

NOW, THEREFORE, BE IT RESOLVED, by the Members of the Belmar Zoning Board of Adjustment as follows:

1. That the Rules and Regulations of the Belmar Zoning Board are hereby re-affirmed for Calendar Year 2010.
2. That the within Resolution shall take effect immediately.

The foregoing Resolution was offered by and seconded by Ms. and adopted by a roll call vote:

In Favor:

Opposed:

Abstained:

Ineligible:

Absent:

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Borough of Belmar Zoning Board of Adjustment on.

April Claudio
Zoning Board of Adjustment Secretary

**ZONING BOARD OF ADJUSTMENT
JANUARY 28, 2010**

A regular meeting of the Board of Adjustment of the Borough of Belmar was held on the above date at approximately 7:30 p.m., in the Municipal Complex.

Present: Messrs. Lynch, Lisko, McGill, Fowler, Davies, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Absent: Mr. Young

Also Present: Board Attorney Kevin Kennedy, Esq. and Secretary April Claudio

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on December 22, 2009 and by posting a copy of said notice at the Municipal Complex on the same date.

Nominations of Chair Person

Mr. Fowler made a motion to nominate Jay McDermott as Chair, which was seconded by Ms. Keown-Blackburn. Being there were no other nominations Mr. McDermott was appointed Chair by the following vote:

In the Affirmative: Messrs. Fowler, Davies, Lynch, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Nominations of Vice Chair Person

Mr. Fowler made a motion to nominate Richard Lynch as Vice Chair, which was seconded by Ms. Keown-Blackburn. Being there were no other nominations Mr. Lynch was appointed Vice Chair by the following vote:

In the Affirmative: Messrs. Fowler, Davies, Lynch, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Mr. Davies made a motion to waive the reading and approve the minutes of the December 17, 2009 regular meeting, which was seconded by Mr. Fowler and approved by the following vote:

In the Affirmative: Messrs. Fowler, Davies, Lynch, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Abstain:

Ineligible:

Mr. Fowler made a motion to waive the reading and approve the minutes of the December 17, 2009 closed session meeting, which was seconded by Mr. Davies and approved by the following vote:

In the Affirmative: Messrs. Lynch, Fowler, Davies, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Abstain: Mr. McDermott

Ineligible:

Ms. Keown-Blackburn made a motion to waive the reading and approve the resolution appointing Kevin Kennedy, Esq. as Board Attorney, which was seconded by Mr. Fowler and approved by the following vote:

In the Affirmative: Messrs. Fowler, Davies, Lynch, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Abstain:

**ZONING BOARD OF ADJUSTMENT
JANUARY 28, 2010**

Ineligible:

Ms. Keown-Blackburn made a motion to waive the reading and approve the resolution appointing April Claudio as Board Secretary, which was seconded by Ms. Weir and approved by the following vote:

In the Affirmative: Messrs. Fowler, Davies, Lynch, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Abstain:

Ineligible:

Chairman McDermott announced that the resolution reaffirming the Rules and Regulations of the Board would be postponed until the next meeting as it may need to be amended based on the new Citizen Services Act, which establishes vacancy rules.

Mr. Kennedy announced that he received correspondence from William Shipers, Esq. regarding the O'Donnell, 604 Fifth Avenue, resolution. Mr. Shipers has requested that the sentence in the resolution referring to the new house being built in the same footprint as the old house be removed from the resolution. Mr. Kennedy stated he also spoke to the Zoning Official Pat McMahan about this and he agreed it should be removed. Mr. Davies made a motion to adopt the amended resolution, which was seconded by Ms. Keown-Blackburn and approved by the following vote:

In the Affirmative: Messrs. Fowler, Davies, Lynch, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Abstain:

Ineligible:

Mr. Fowler made a motion to waive the reading and approve the resolution granting approvals to UB Holding LLC – The Barclay, 112 Fifth Avenue, which was seconded by Ms. Weir and approved by the following vote:

In the Affirmative: Messrs. Fowler, Davies, Lynch, McDermott, and Ms. Weir and Ms. Keown-Blackburn

Opposed:

Abstain:

Ineligible:

Mr. Fowler made a motion to adjourn the meeting, which was seconded by Ms. Weir and approved unanimously.