

**CALENDAR**

**for**

**REGULAR MEETING OF THE COUNCIL**

**of the**

**CITY OF LONG BEACH**

**held**

**OCTOBER 16, 2018**

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**PUBLIC HEARING:** Resolution Granting Waiver of Off-Street Parking Requirements Re: Premises 167A East Park Avenue, (street floor), Long Beach, New York.

Re: Hair Salon

1. Resolution Granting Waiver of Off-Street Parking Requirements Re: Premises 167A East Park Avenue, (street floor), Long Beach, New York.  
Re: Hair Salon
2. Resolution Revising and Adopting the City of Long Beach Employee Policy Manual.
3. Resolution Authorizing the City Manager to Enter into an Agreement For Temporary Access and Use of Private Property.

October 16, 2018

Item No. 1  
Resolution No.

The following Resolution was moved by  
and seconded by :

Resolution Granting Waiver of Off-Street Parking Requirements Re:  
Premises 167A East Park Avenue, (street floor), Long Beach, New York.

WHEREAS, there has been presented to this Council an application pursuant to Section 9-112(18)(c) of Appendix A (Zoning Law) of the Long Beach Code of Ordinances, for waiver of off-street parking requirements for the premises located at 167A East Park Avenue (street floor), Long Beach, New York (Section 59, Block 110, Lot 28) between Long Beach and Riverside Boulevards, having frontage of less than 20 feet, on behalf of the owner Vinsab Properties, Inc., 8 John Street, Massapequa, New York 11758 to be used as a Hair Salon; and

WHEREAS, a Public Hearing was held on this date;

NOW, THEREFORE, after due deliberation, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the application of the owner Vinsab Properties, Inc., 8 John Street, Massapequa, New York 11758 for exemption with respect to the requirements for off-street parking at premises 167A East Park Avenue (street floor), having frontage of less than 20 feet, be and the same hereby is granted, only and during the time that such premises shall be used as a Hair Salon.

October 16, 2018

Item No. 2  
Resolution No.

The following Resolution was moved by  
and seconded by :

Resolution Revising and Adopting the City of Long Beach  
Employee Policy Manual.

WHEREAS, pursuant to Resolution No. 28/07, dated February 20, 2007, Resolution No. 14/10, dated February 16, 2010 and Resolution No. 64/16, duly adopted on June 21, 2016, the City Council duly revised and adopted the City of Long Beach Employee Policy Manual; and

WHEREAS, on April 12, 2018, the New York State Legislature amended the Labor Law by adding Section 201-G, Prevention of Sexual Harassment; and

WHEREAS, pursuant to Labor Law 201-G(1), the State Department was charged with the responsibility of creating and publishing a model sexual harassment prevention guidance document and policy for state employers; and

WHEREAS, on October 1, 2018, the State Department of Labor finalized said guidance and model policy; and

WHEREAS, pursuant to New York State Labor Law §201-G(1)(b), every employer is required to amend and update its Sexual Harassment Prevention Policy; and

WHEREAS, every employer in New York State must meet the standards provided by such model policy; and

WHEREAS, the City is now obligated pursuant to said Law, to amend its current and existing Sexual Harassment policy, which is found in the City's Employment Policy Manual under the Equal Employment Opportunity Policy section; and

WHEREAS, the foregoing amendments shall supercede any and all previous City policies pertaining to this topic;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the City of Long Beach Employee Policy Manual is hereby revised and adopted.

October 16, 2018

Item No. 3  
Resolution No.

The following Resolution was moved by  
and seconded by :

Resolution Authorizing the City Manager to Enter into an  
Agreement For Temporary Access and Use of Private Property

WHEREAS, Section 70(4) of the Charter of the City of Long Beach provides that the City Council is responsible for the “management and control of the conveyance of all property, real and personal, belonging to [the City]”; and

WHEREAS, City Council Resolution 42/13 authorized the City Manager to enter into a Project Partnership Agreement (“PPA”) with the State of New York (“State”), represented by the New York State Department of Environmental Conservation (“DEC”), to proceed with design and construction of the “Atlantic Coast of Long Island, Jones Inlet to Rockaway Inlet, Long Beach Island, New York Hurricane and Storm Damage Project” (hereinafter “Project”); and

WHEREAS, this Project features the construction of dunes needed to help protect properties on the barrier island from storm damage, and to otherwise mitigate the effects of coastal erosion; and

WHEREAS, Resolution No. 42/13 committed the City to “obtain all real estate and easements to ensure adequate public access to the constructed Project within City limits”; and

WHEREAS, in 2013, the Town of Hempstead (“Town”) entered into an equivalent Agreement with the State; and

WHEREAS, Lido Beach Towers Condominium (“Lido Towers”), a condominium association located in Lido Beach, New York, is the owner of lands located along the shoreline that are needed to build the dunes and complete the Project; and

WHEREAS, on October 30, 2015, the City Manager entered into the foregoing PPA, which contains a mechanism and procedure that allows the City to obtain reimbursement from New York State and/or the United States Army Corps of Engineers (“ACOE”) for costs attendant to the acquisition (by eminent domain) of lands, identified by the State and/or ACOE, as necessary to complete the Project; and

WHEREAS, during the last several years, Lido Towers has negotiated with the Town of Hempstead, and DEC, in order to allow the ACOE access to property which is needed to complete the project; and

WHEREAS, in or about July 2018, the City was notified by the DEC and ACOE that a small (approximately 100’-wide) portion of the parcel owned by Lido Towers, which is needed to complete the Project, falls within City boundaries (hereinafter, “Subject Property”); and

WHEREAS, the DEC and ACOE have taken steps to enforce Resolution 42/13 and the PPA by advising the City that it is responsible to secure access to Lido Tower's property falling within City boundaries; and

WHEREAS, on September 4, 2018, by Resolution No. 1206-2018, the Town reached its own access agreement with Lido Towers, relating to that portion of Lido Towers' property falling within Town Boundaries; and

WHEREAS, this agreement, referred to as a "Temporary Access Agreement," enables the ACOE to enter Lido Towers' property (situated within the Town), and construct dunes, forthwith; and

WHEREAS, this Temporary Access Agreement was subsequently amended to allow said access up through February 21, 2019; and

WHEREAS, this Temporary Access Agreement also requires the Town to take good faith efforts to acquire a "permanent easement" on said property (a/k/a acquisition via eminent domain) following construction of the dunes; and

WHEREAS, the DEC and ACOE have since emphatically encouraged the City to enter into an identical agreement with Lido Towers in relation the Subject Property, thus enabling the ACOE to complete the Project; and

WHEREAS, the City has been advised by the DEC and ACOE that failure to secure the needed access can and will result in the ACOE's departure before the dunes are completed; and

WHEREAS, in addition to potential legal exposure stemming from Resolution 42/13 and the PPA, such a result could have a devastating impact on neighboring properties in Long Beach as storm waters can and will infiltrate through a breach in the comprehensive dune system now under construction; and

WHEREAS, after the Town executed the Temporary Access Agreement with Lido Towers on September 4, 2018, the City, at the behest of the DEC and ACOE, entered into negotiations with Lido Towers to secure access to the Subject Property; and

WHEREAS, during negotiations, Lido Towers insisted that the City, like the Town, take good faith efforts to acquire a "permanent easement" on said property (a/k/a acquisition via eminent domain) following construction of the dunes; and

WHEREAS, during negotiations, the City shared its concern that Lido Towers may, subsequent to acquisition of the Subject Property via eminent domain, file a lawsuit alleging that it was not paid fair and reasonable compensation for the land by the ACOE, and

WHEREAS, in such a scenario, the foregoing allegations will be made against the City, alone; and

WHEREAS, as a result, the City refused (during negotiations) to commit to any agreement wherein it could potentially incur liability for that portion of Lido Towers' property falling within Town boundaries, i.e., the "assembled" lot, insofar as this would dramatically increase the City's legal and financial exposure following acquisition; and

WHEREAS, Lido Towers subsequently agreed that, in any future proceeding, the Subject Property shall be valued separately from, and shall not be valued based on its assemblage with, any portion of Lido Towers' property situated within the Town; and

WHEREAS, in light of: (1) the Town's execution of a Temporary Access Agreement with Lido Towers; (2) the additional protections afforded to the City regarding valuation of the Subject Property (see above); (3) the City's previous legal/contractual commitments to secure access to lands needed to complete the project, including but not limited acquisition via eminent domain; and (4) the City moral obligation to protect the safety and property of its residents during future storms, the City of Long Beach desires to enter into an Agreement with Lido Towers;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the City Manager be and he is hereby authorized to enter into an Agreement for Temporary Access and Use of Private Property with Lido Beach Towers Condominium, in accordance with the terms and conditions outlined above, and be it further

RESOLVED, that said agreement shall contain such other terms and conditions as the City Manager shall deem proper.