

**CALENDAR**  
**for**  
**REGULAR MEETING OF THE COUNCIL**  
**of the**  
**CITY OF LONG BEACH**  
**held**  
**DECEMBER 3, 2019**

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1. Resolution Authorizing the Retention of Outside Counsel on Behalf of the City of Long Beach.
2. Resolution Directing the Acting City Manager to Terminate the Services of the Law Firm of Lewis Baach Kaufmann and Middlemiss, PLLC, Authorize the Acting City Manager to Retain the Law Firm of Ingerman Smith, LLP to Represent the City in Various Investigations Regarding Separation Payments and Drawdowns of Accrued Time, and Direct the Acting City Manager to Waive Attorney-Client Privilege Pursuant to the Nassau County District Attorney's Office Request.
3. Resolution Authorizing the Acting City Manager to Purchase Vehicles for the City Under an Onandaga County Contract.
4. Resolution Authorizing the Acting City Manager to Enter into an Agreement for the Operation of the Boardwalk Concession at National Boulevard.
5. Resolution Authorizing Publication for Hearing of an Ordinance to Amend the Code of Ordinances of the City of Long Beach Re: Appendix A – Zoning.

December 3, 2019

Item No. 1  
Resolution No.

The following Resolution was moved by  
and seconded by :

Resolution Authorizing the Retention of Outside Counsel on  
Behalf of the City of Long Beach.

WHEREAS, the Office of the New York State Comptroller (“OSC”) conducted two audits, resulting in the issuance of two draft Reports of Examination entitled “Payments for Unused Leave Accruals 2019M-68” and “Financial Condition 2019 M-133”; and

WHEREAS, the City Council of the City of Long Beach seeks to retain the law firm of Ingerman Smith LLP, 150 Motor Parkway, Suite 400, Hauppauge, New York 11788, on behalf of the City of Long Beach, to complete a thorough analysis of issues raised by the OSC in their draft audit, to commence proceedings to seek recoupment of alleged overpayments with the formal authorization of the City Council, and to determine if there exists any individual liability with respect to past or current employees of the City who have authorized said payments or failed to meet their duty to protect the treasury of the City of Long Beach; and

WHEREAS, the law firm of Ingerman Smith LLP has offered to bill the City of Long Beach on an hourly basis in the amount of \$265.00 per hour for partners and \$225.00 per hour for associates’ time;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the Acting City Manager be and is hereby authorized to retain the law firm of Ingerman Smith LLP, 150 Motor Parkway, Suite 400, Hauppauge, New York 11788, for the scope of work and purposes described herein, at a cost of \$265.00 per hour for partners and \$225.00 per hour for associates’ time. Funds are available in Account No. A1420.54453 (Corporation Counsel-Consultants).

December 3, 2019

Item No. 2  
Resolution No.

The following Resolution was moved by  
and seconded by :

Resolution Directing the Acting City Manager to Terminate the Services of the Law Firm of Lewis Baach Kaufmann and Middlemiss, PLLC, Authorize the Acting City Manager to Retain the Law Firm of Ingerman Smith, LLP to Represent the City in Various Investigations Regarding Separation Payments and Drawdowns of Accrued Time, and Direct the Acting City Manager to Waive Attorney-Client Privilege Pursuant to the Nassau County District Attorney's Office Request.

WHEREAS, various law enforcement agencies are investigating the propriety and legality of separation payments and drawdowns of accrued time that occurred in the City of Long Beach; and

WHEREAS, the Office of the Nassau County District Attorney ("NCDA") sent correspondence to the City Council of the City of Long Beach dated November 26, 2019, requesting that the City Council waive the attorney client privilege to assist with their investigation; and

WHEREAS, the City Council of the City of Long Beach is desirous of directing the Acting City Manager of the City of Long Beach to terminate the Law Firm of Lewis Baach Kaufmann and Middlemiss, PLLC, which has been representing the City of Long Beach before various law enforcement agencies investigating separation payments and drawdowns of accrued time since May 2018, because the City Council believes the City of Long Beach is not cooperating with the investigation; and

WHEREAS, the City Council of the City of Long Beach seeks to authorize the Acting City Manager of the City of Long Beach to retain the Law Firm of Ingerman Smith LLP, 150 Motor Parkway, Suite 400, Hauppauge, New York 11788, on behalf of the City of Long Beach, to represent the City of Long Beach before various law enforcement agencies that are investigating separation payments and drawdowns of accrued time; and

WHEREAS, the Law Firm of Ingerman Smith LLP has offered to bill the City of Long Beach on an hourly basis in the amount of \$265.00 per hour for partners and \$225 per hour for associates' time; and

WHEREAS, the City Council of the City of Long Beach is desirous of waiving the attorney-client privilege, per the request from the NCDA in its November 26, 2019, correspondence and directs the Acting City Manager to take any action necessary to waive the attorney-client privilege and comply with all other requests from the NCDA, regardless of whether said requests are legally protected by any type of privilege and/or statutory and/or common law confidentiality provisions, and regardless of any potential collateral consequences in the City's other legal matters, which the City Council has been advised of; and

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the Acting City Manager of the City of Long Beach is: (1) directed to terminate the Law Firm of Lewis Baach Kaufmann Middlemiss, PLLC; (2) authorized to retain the Law Firm of Ingerman Smith LLP, 150 Motor Parkway, Suite 400, Hauppauge, New York 11788 for the scope of work and purposes described herein, on behalf of the City of Long Beach; and (3) directed to take any action necessary to waive the attorney-client privilege and comply with all other requests from the Nassau County District Attorneys' Office, regardless of any potential collateral consequences in the City's other legal matters.

December 3, 2019

Item No. 3  
Resolution No.

The following Resolution was moved by  
and seconded by :

Resolution Authorizing the Acting City Manager to Purchase  
Vehicles for the City Under an Onandaga County Contract.

WHEREAS, Onondaga County entered into Contract #8996 pursuant to which municipalities of the State are given the opportunity to purchase vehicles from designated dealers at favorable specified prices; and

WHEREAS, the City's Sanitation Department currently has six sanitation trucks that have outlived their useful lives, as they are over thirteen years old, and now desires to replace those trucks; and

WHEREAS, the City's Street Maintenance Department is in need of a new plow truck, replacing one that is nineteen years old; and

WHEREAS, Syosset Truck Sales, Inc. (a Navistar Inc. dealer), 1561 Stewart Avenue, Westbury, New York 11590 is an awarded vendor under Onondaga County Contract #8996 affording the City favorable rates on the sanitation trucks and the plow truck; and

WHEREAS, the City desires to purchase six (6) new International chassis and New Way 25 yard garbage trucks (Model HV607), with 5 year/100,000 mile warranty coverage on the engine and transmissions, at a cost of \$180,000 per vehicle; and

WHEREAS, the City desires to purchase one (1) new International chassis with plow (Model HV507), stainless steel dump body, central hydraulic system, spreader controls and Whelen strobe safety lighting package, with a 1 year warranty on all equipment, at a cost of \$166,315; and

WHEREAS, it is in the City's best financial interest to obtain financing for said purchases through Capital One Public Funding, 1307 Walt Whitman Road, Melville, NY 11747 as said financing will have a seven year lease period at a fixed interest rate of 2.47% if funding occurs on or before January 9, 2020, for an annual payment of \$194,063.04, or a fixed interest rate of 2.62% if funding occurs on or before February 21, 2020, for an annual payment of \$195,064.20, with an option to purchase the seven vehicles at the end of the lease term for the sum of one (\$1.00) dollar each;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the Acting City Manager be and he hereby is authorized to purchase six (6) new International chassis and New Way 25 yard garbage trucks (Model HV607), with 5 year/100,000 mile warranty coverage on the engine and transmissions, at a cost of \$180,000 per vehicle for the City's Sanitation Department and one (1) new International chassis with plow (Model HV507) with a

one year warranty on all equipment, at a cost of \$166,315 for the City's Highway Department from Syosset Truck Sales, Inc. (a Navistar Inc. dealer), 1561 Stewart Avenue, Westbury, New York 11590 under Onondaga County Contract #8996; and be it further

RESOLVED, that the Acting City Manager be and he hereby is authorized to obtain financing from Capital One Public Funding, 1307 Walt Whitman Road, Melville, NY 11747 for a seven year lease period at a fixed interest rate of 2.47% if funding occurs on or before January 9, 2020, for an annual payment of \$194,063.04, or a fixed interest rate of 2.62% if funding occurs on or before February 21, 2020, for an annual payment of \$195,064.20, with an option to purchase the seven vehicles at the end of the lease term for the sum of one (\$1.00) dollar each. Funds for the garbage trucks are available in Account No. A8160.54509 (Sanitation Department – Equipment Leases) and funds for the plow truck are available in Account No. H1020.52103 (2020 Capital Projects-Heavy Equipment).

The following Resolution was moved by  
and seconded by :

Resolution Authorizing the Acting City Manager to Enter into an Agreement for the Operation of the Boardwalk Concession at National Boulevard.

WHEREAS, pursuant to Resolution 33/16, duly adopted on April 19, 2016, Gentle Brew Coffee Roasters, 151 East Park Avenue, Long Beach, New York 11561, entered into an agreement with the City of Long Beach to be the vendor in the National Boulevard boardwalk concession, which agreement expires on November 30, 2019; and

WHEREAS, after due advertisement therefore, ten proposals were received in the Office of the City Purchasing Agent on Thursday, April 11, 2019 for a new vendor to occupy that location, beginning December 1, 2019 through December 31, 2025, with no option for renewal; and

WHEREAS, the Acting City Manager appointed a selection committee consisting of the City Purchasing Agent, the City Clerk, the Tax Assessor and the Director of Beach Park to review said proposals and they have evaluated and scored each proposal under the following categories: 1. Diversity of Food; 2. Quality of Food; 3. Local Preference; and 4. Price Response; and

WHEREAS, below is a list of the proposals received, including proposed product-types and proposed rent payments:

<u>Proposer:</u>	<u>Product Type:</u>	<u>Annual Rent:</u>
New York Acai 906 W. Beech St. Long Beach, New York	Acai bowls, avocado toast, fruit smoothies, fresh pressed juices, coffee, chopped salads, Poke bowls	\$18,000
Surfs Up Pizza 740 W. Broadway Long Beach, New York	Pizza (all varieties, including cauliflower crust) & soft serve ice cream	\$30,000
Seven Brothers Gourmet 2914 Long Beach Road Oceanside, New York 11572	Italian specialty sandwiches, beach bites, sweets & treats, non-alcoholic beverages	\$45,000
Jimmy Lin 116 East Park Ave. Long Beach, New York	Samurai shack, Hibachi cooking and frozen desserts	\$30,000
A&S Fine Foods 3382 Long Beach Road Oceanside, New York 11572	Imported Italian specialty foods, sandwiches, etc.	\$46,000

<u>Proposer:</u>	<u>Product Type:</u>	<u>Annual Rent:</u>
Neal Patel 3 Reynolds Drive Long Beach, New York	Water, Gatorade, drinks, candy, cookies, sunglasses, sunscreen, beach towels, medicine (OTC), lottery tickets	\$15,000
Marvel Frozen Dairy, Inc. 258 Lido Blvd. Lido Beach, New York	Desserts & snacks, including soft serve ice cream, yogurt & Smoothies	\$2,500 (12/19) \$40,000 (2020) \$42,000(2021) \$44,000(2022) \$46,000(2023) \$50,000(2024) \$52,000(2025)
Party Magic USA d/b/a Sunset Beach Refreshments 35 Vinton Street Long Beach, New York	A Nathan’s franchise & Dip-N-Dots franchise & Coca Cola products	\$52,000
Neopolitan Express	Withdrawn	
Blacksmiths BP LLC 870 W. Beech Street Long Beach, New York ; and	Regular menu offerings, danishes & eclectic sandwiches, breads & desserts	\$30,000

WHEREAS, after tallying the scores for each proposer, the proposer with the highest total score was Marvel Frozen Dairy, Inc., 258 Lido Boulevard, Lido Beach, New York 11561;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the Acting City Manager be and he hereby is authorized to enter into an agreement with Marvel Frozen Dairy, Inc., 258 Lido Boulevard, Lido Beach, New York 11561 for the leasing of the boardwalk concession located at National Boulevard, beginning December 4, 2019 through December 31, 2025, with no option for renewal, at the annual rents as provided above; and be it further

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



December 3, 2019

Item No. 5  
Resolution No.

The following Resolution was moved by  
and seconded by :

Resolution Authorizing Publication for Hearing of an  
Ordinance to Amend the Code of Ordinances of the City  
of Long Beach Re: Appendix A – Zoning.

WHEREAS, in order to expand economic development opportunities and increase affordable housing within the North Park Neighborhood, it is the desire of the City Council to add a Section to Appendix A-Zoning, entitled “North Park Affordable Housing Overlay District”; and

WHEREAS, there has been presented to this Council the following proposed Ordinance:

“ ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE  
CITY OF LONG BEACH RE: APPENDIX A- ZONING.”

(See Ordinance Attached)

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the City Clerk shall cause to be published in the official newspaper of the City of Long Beach the title, and a summary or the full text of said Ordinance; and be it further

RESOLVED, that said Ordinance shall be on the calendar for public hearing at a meeting of the City Council to be held at City Hall, 1 West Chester Street, Long Beach, New York, on January 7, 2020 at 7:00 p.m. on that day.

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE  
CITY OF LONG BEACH RE: APPENDIX A- ZONING.

BE IT ENACTED, by the City Council of the City of Long Beach, New York, as follows:

Sec. 1. Section 9-104 of Appendix A of the Code of Ordinances of the City of Long Beach, New York, as heretofore amended, shall be and the same is hereby added to with the rest of the Section remaining in full force and effect, to read as follows:

“Sec. 9-104. Definitions.

(a) In addition to the definitions set forth in the state building construction code, the following terms shall, for the purposes of this appendix, have the meanings ascribed to them as follows:

...

***Housing, Affordable:*** For the purposed of the North Park Affordable Housing Overlay District requirements, affordable housing is to be defined as dwelling units constructed for families whose annual income is no more than the Nassau Suffolk NY Metro Area Median Income (AMI) for a family of four, as defined by and periodically updated by the United States Department of Housing and Urban Development (HUD), and the annual rental cost of which does not exceed 80% of the HUD Fair Market Rental Value for Nassau-Suffolk County in effect at the time of the execution of the lease agreement, or for sale units, the annual cost of the sum of principal, interest, taxes and insurance does not exceed 30% of said income.

...

***Rental, Affordable:*** In developments where the units are specifically approved for rental, the monthly rental price shall be no greater than 80% of the HUD Fair Market Rental Value for Nassau-Suffolk County in effect at the time of the execution of the lease agreement, provided all utilities are included in the rental price. If all utilities are not included, the monthly rental price shall be no greater than the HUD Fair Market Rental Value for Nassau-Suffolk County reduced by the monthly utility allowance in effect at the time the lease agreement is executed.”

...

Sec.2. Section 9-105.20 of Appendix A of the Code of Ordinances of the City of Long Beach, New York, as heretofore amended, shall be and the same is hereby added to Appendix A, with the rest of the Sections remaining in full force and effect, to read as follows:

“Sec. 9-105.20 North Park Affordable Housing Overlay District.

**A. Purpose.**

(1) The purpose of the North Park Affordable Housing Overlay District (“NPOD”) is to:

- a) **permit and encourage the redevelopment of vacant and/or deteriorated residential properties within the North Park Neighborhood in a manner that will improve the character of the nearby environs which include an established neighborhood important to the character of the City; remove vacant, obsolete, incompatible, underutilized and marginal structures which are poorly maintained and have a blighting influence on the surrounding area; and to promote additional affordable housing opportunities which do not currently exist in this area;**
- b) **encourage local investment and the orderly redevelopment of legally existing undersized lots by incentivizing the combining of adjacent substandard lots for the purpose of creating suitably sized residential lots;**
- c) **provide the dimensional zoning standards to create a mix of affordable and market rate one-family, two-family, and multifamily housing;**
- d) **support efficient residential development that provides adequate space, density, building height, access, and parking, and improves the developed character of the area and quality of life for residents;**
- e) **ensure that future residential developments provide sufficient access to light and air and a safe and healthy living environment.**

**B. Applicability.**

- (1) **The NPOD shall comprise those areas within the City’s existing Residence C, Residence D, and Business A Zoning Districts within the boundaries of the NPOD as shown on the amended City of Long Beach Zoning Map. The NPOD is further defined as that area within the North Park section of the City of Long Beach that is located:**

- a) **South of East Pine Street;**
- b) **East of Park Place (Rev. J.J. Evans Boulevard);**
- c) **West of Long Beach Boulevard;**
- d) **North of East Market Street and East Chester Street, inclusive of the existing residential lots fronting the south side of East Market Street and East Chester Street.**

- (2) **The provisions contained herein are additive or supersede any requirements of the underlying zoning district as applicable.**

**C. Permitted principal uses.**

- (1) **All principal uses permitted in the underlying zoning district, subject to applicable restrictions, including bulk requirements, as prescribed therein, except as may be superseded by this section.**
- (2) **Detached two-family dwelling unit, so long as one of every two dwelling units shall be marketed as “affordable” in accordance with the provisions set forth in in Subsection E, subject to the following conditions:**

- a) **In areas zoned Residence D or Business A:**
    - i. **The Minimum lot size shall be thirty (30) by one hundred (100).**
    - ii. **No residence shall be erected or altered to make provision for more than two families for each three thousand (3,000) square feet except for legally existing substandard lots in accordance with subsection C(3) below.**
  - b) **In areas zoned Residence C:**
    - i. **The minimum lot size shall be forty (40) by one hundred (100).**
    - ii. **No residence shall be erected or altered to make provision for more than two families for each four thousand (4,000) square feet except for legally existing, single and separate, lots with a minimum width of 30 feet and minimum lot size between 3,000 square feet to 4,000 square feet. Legally existing substandard lots less than 3,000 square feet in lot size may be redeveloped in accordance with subsection C(3) below.**
- (1) **Attached two-family dwelling units on legally existing substandard lots, so long as one of every two dwelling units shall be marketed as “affordable” in accordance with the provisions set forth in in Subsection E, subject to the following conditions:**
- a) **In areas zoned Residence D or Business A:**
    - i. **For substandard lots legally existing as single and separate as of the date of the adoption of this Overlay Zone, two, two-family attached units may be permitted if two or more legally existing substandard lots are combined to to provide a minimum lot width of forty eight (48) and a minimum lot area of 4,000 square feet.**
    - ii. **One additional two-family attached unit may be permitted for combining any additional legally existing substandard lot that has a minimum lot width of 20 feet and a minimum lot area of 2,000 square feet up to a total of five (5) contiguous lots or five (5) two-family attached dwelling units. No row of one-family or two-family attached buildings shall exceed 120 feet in length.**
    - iii. **A minimum five-foot wide side yard setback shall be provided from the building(s) to the property line on each side yard.**
    - iv. **Building area shall not exceed fifty (50) percent of the lot area.**
    - v. **All other dimensional standards shall be consistent with the underlying zoning district.**
  - b) **In areas zoned Residence C:**
    - i. **For legally existing single and separate lots less than 3,000 square feet of lot area as of the date of this amendment, the provisions of Subsection C.3(a) shall apply.**

**D. Parking.**

A minimum of one parking space per dwelling unit shall be provided on-site, exclusive of any interior garage space. Covered spaces are preferred. All side yards shall extend unobstructed and unencumbered above grade level from the front yard to the rear yard. There shall be no parking of motor vehicles in side yards.

**E. Affordability.**

- (1) At least 50% of the dwelling units shall be offered as Affordable Housing or Affordable Rental units for a period of no less than 15 years from the date of issuance of a Certificate of Occupancy for the home.
- (2) Affordable units shall be of a similar size and quality of construction as the market rate unit(s).
- (3) To comply with this requirement, the owner shall submit documentation for the tenant that indicates median family income that is no more than the Nassau Suffolk NY Metro Area Median Income for the current year.
- (4) Failure to offer the unit as affordable will result in voiding the Certificate of Occupancy for the two-family home.
- (5) Annual rent increases shall be limited to the percentage increase in the median HUD fiscal year income limits for the Nassau-Suffolk NY HUD Metro Fair Market Rent Area.
- (6) To ensure continued affordability of all affordable dwelling units in the NPOD, a restrictive covenant shall be filed with Nassau County with a copy and proof of recording (liber and page number) provided to the City of Long Beach Building Department prior to issuance of a Certificate of Occupancy. The C&R shall be valid for a period of fifteen years indicate the affordability restrictions for the purpose of rental or sale/resale of affordable units and indicate that property may only be rented or sold to income qualified households or individuals in accordance with the NPOD provisions.
- (7) The oversight of rentals and sale and resale of restricted units shall be managed through the City of Long Beach or a qualified not-for-profit institution whose mission includes the management of affordable housing deemed acceptable to the City Council of the City of Long Beach. Applicants applying for the Overlay District will be assessed a fee to cover the cost incurred for income verification and oversight of rentals and sale/resale of the restricted units.

**F. Severability.** Should any provision of this section be rendered invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof, other than the part rendered invalid.”

Sec. 3. This Ordinance shall take effect immediately.