

SPECIAL MEETING OF THE MAYOR AND COUNCIL  
HELD VIA VIDEO CONFERENCE  
MUNICIPAL COURT /COUNCIL CHAMBERS  
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY  
THURSDAY JUNE 4, 2020 5:30 PM

MEETING CALLED TO ORDER: By Mayor Schwager at 5:31 pm.

ROLL CALL: Mayor Schwager called the meeting to order and the Clerk called the roll. Present: Mayor Schwager, Councilmembers Biale, Knapp, Levy, Pignatelli, Talamini, Van Eck. Absent: None. Also Present: Lisa M. Duncan, Borough Clerk; Richard Kunze, Borough Administrator; Brian Chewcaskie, Borough Attorney.

SALUTE TO THE FLAG:

MOMENT OF SILENCE:

MEETING ANNOUNCEMENT: Mayor Schwager announced this meeting is being held in accordance with the Open Public Meetings Law duly announced and advertised and held with the guidelines set up for this COVID-19 crisis.

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OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Talamini, this portion of the meeting be opened for public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Knapp, Talamini, Van Eck.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Talamini, this portion of the meeting be closed to public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Knapp, Talamini, Van Eck.

Councilman Pignatelli entered the meeting at 5:33 pm.

Mayor Schwager advised that the purpose of today's meeting is to discuss and adopt Resolution 20-154 which authorizes temporary regulations for outdoor dining. Discussion ensued over terms in the resolution. Councilman Knapp questioned why no temporary flooring or mats may be utilized as stated in 8g. Mr. Chewcaskie stated the idea is to make it safe so there is no tripping hazard. There are uneven surfaces in parking lots so this clause is for safety. Councilman Knapp asked if this could be up to the discretion of the zoning officer. He asked if someone is required to go out to inspect. Mr. Chewcaskie responded that a plan is going to be submitted to the zoning officer for review and inspection. Councilman Knapp advised that Portobello has already put up astro turf in their parking lot. He doesn't see that as a problem and doesn't want to make them pull up something that they already. Mayor Schwager commented that in the past, Portobello has done work without getting permission. Councilman Van Eck agreed with Councilman Knapp and thinks that temporary flooring is ok and it should not be

banned outright. Councilman Biale stated he would rather fall on turf than pavement. Councilman Pignatelli stated someone with high heels could trip on the astro turf. Councilman Talamini stated it could be a tripping hazard if it wasn't secured on the ends. He agreed with Councilman Knapp that the zoning officer should be able to determine if it is safe. Councilman Van Eck suggested the language on temporary flooring be removed. Mr. Kunze advised that ultimately it is on the business to bear that liability and we will make the business give us a copy of the insurance certificate. Mr. Chewcaskie liked the idea of taking the language out of the resolution and not making it part of the approval process. Councilman Knapp agreed.

Councilman Levy entered the meeting at 5:42 pm.

Councilman Van Eck spoke about clause 8(d) and doesn't understand why candles wouldn't be permitted. Does it prohibit batter candles and heaters. Mr. Chewcaskie responded that all open flames are prohibited. Councilman Knapp explained anything that avoids flames as a fire hazard. He thinks heaters may be permitted in open air. Fire Prevention is included in the application process so they can determine. Councilman Van Eck asked again if item (d) would restrict heaters. Mr. Chewcaskie stated it would restrict heaters within the outdoor seating area. Councilman Biale questioned if this goes into October. Mr. Chewcaskie stated the resolution is effective for 120 days which brings it to the beginning of October. Councilman Talamini commented that there can be cool nights even in August. Councilman Levy stated that restaurants are allowed to have heaters anyway. Mr. Chewcaskie doesn't disagree but Councilman Knapp had made the suggestion regarding these temporary areas. Councilman Knapp responded if the heaters are not under any covering, they are safe. If they are underneath material, he wouldn't permit the heaters.

Councilman Van Eck questioned why valet parking is prohibited. Councilman Knapp responded to prevent transmission of the virus. Councilman Pignatelli explained that any skin contact could transmit the virus. He commented people could cough in their hand and touch the steering wheel and then the valet touches it. Councilman Van Eck asked about the valet using mask and gloves and expressed concern for a restaurant like Café L'Amore. Mayor Schwager advised they are not going to participate in outdoor dining. Mr. Chewcaskie advised if parking is an issue and valet parking can alleviate that, the resolution can be amended. Councilman Knapp agrees that valet parking should not be permitted for safety reasons.

Motion:

On motion of Councilman Levy, seconded by Councilman Biale, valet parking not be permitted in the temporary regulations.

ROLL CALL; Yeas, Councilmembers Biale, Knapp, Levy, Pignatelli, Talamini.  
Nay, Councilman Van Eck.

Councilman Knapp advised that the Police Chief had asked for valet parking to be prohibited. Councilman Van Eck questioned why music is being banned. Mayor Schwager responded because of the neighbors specifically by Trovato's. Councilman Levy commented that a noise level has to be specified. Mayor Schwager responded that there would need to be a professional that would measure the noise level. Councilman Knapp does not have an issue with music within reason. Mr. Kunze explained that the Borough does have a noise ordinance. It does require decibel readings under certain circumstances. He does not know if it would affect any other restaurant besides Trovatos. Councilman Van Eck suggested prohibiting live music and leaving in recorded music. He asked why the closing time is 10 pm. The restaurants are struggling and may need to go later than 10 pm. Councilman Knapp suggested there could be a time adjustment on Friday and Saturday nights. Mayor Schwager suggested just making it 11 pm.

Mayor Schwager advised that we have to expedite this quickly. Mr. Kunze responded that the Executive Order states outdoor dining can start on June 15<sup>th</sup>. He explained that he will send an email tonight to every restaurant with the Executive Order, Resolution, Board of Health guidelines and application. By tomorrow, the restaurants can call staff. Staff will expedite applications as quickly as they can.

**RESOLUTION 20-154 TEMPORARY OUTDOOR DINING REGULATIONS**

On motion of Councilman Knapp, seconded by Councilman Levy, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, restaurants are an integral part of the local economies and social fabrics of municipalities; and

WHEREAS, policies regarding restaurants established by the State of New Jersey through law, regulation and executive order rightfully prioritize public health; and

WHEREAS, the proper adherence of measures to mitigate the spread of the Covid-19 virus has greatly affected the business model of restaurants; and

WHEREAS, the Borough wishes to help its local businesses through this difficult time; and

WHEREAS, many restaurants are owned and operated by local families that depend upon continued economic activity; and

WHEREAS, the Borough has promoted the take-out and home delivery services of restaurants as residents have quarantined at home; and

WHEREAS, restaurant owners are seeking guidance as to how they may safely resume dine-in service upon an eventual broadening of business activity allowable under state authority; and

WHEREAS, the Borough supports and follows the recommendations of health care professionals to continue proactive measures such as social distancing to curtail the spread of the Covid-19 virus; and

WHEREAS, the Borough supports temporary, practical measures that enable restaurants to augment their dine-in capabilities as a means to boost customer activity.

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council of the Borough of Oakland in the County of Bergen in the State of New Jersey hereby agree as follows:

1. Outdoor seating will be temporarily permitted as an accessory use to a restaurant, fast-food restaurant and drive-in restaurant as those terms are defined in § 59 in the Borough Zoning Ordinance. The temporary period shall be up to 120 days unless a longer or shorter time is established by an Executive Order issued by the Governor.
2. Outdoor restaurant seating will not require the filing of a Site Plan Application.
3. A Temporary Outdoor Restaurant Seating Permit must be obtained prior to the creation of any outdoor seating. A drawing of the proposed outdoor restaurant seating area must accompany the Temporary Outdoor Restaurant Seating Application. This drawing shall show the number, location and size of all proposed tables and chairs and distances to other tables and chairs and distances from any other structures such as a host podium and serving stations. All distance separations shall comply with all applicable Executive

Orders issued by the Governor of the State of New Jersey, as well as any other requirements, conditions and/or limitations in any applicable Executive Orders. Where available, the sketch shall be superimposed upon an existing site plan drawing or survey.

4. The applicant shall also include an insurance certificate that indicates that the outdoor seating area has been approved by the applicant's insurance carrier.
5. No filing fee is required for a Temporary Outdoor Restaurant Seating Permit.
6. The Borough will expedite the review of all Applications seeking to create outdoor restaurant seating.
7. No performance bond, maintenance bond or engineering inspection fees will be required in connection with an approved outdoor restaurant seating plan.
8. The following standards are hereby created in connection with outdoor restaurant seating:
  - a. Outdoor restaurant seating areas can be located upon public sidewalks where adequate provision is made for the pedestrian public, on relatively level grass areas, and in parking lots where an adequate number of parking stalls remain in the opinion of the Borough Zoning Officer. Preference should be given to creating outdoor restaurant seating on sidewalks and upon grass areas.
  - b. Where outdoor seating is proposed to be created in a parking lot, bollards or other protection structures shall be erected along the perimeters of the outdoor restaurant seating area in order to enhance public safety.
  - c. Temporary LED lighting will be required if the outdoor restaurant seating area is proposed to be utilized after dusk.
  - d. No candles or open fires permitted.
  - e. An awning or umbrellas may be utilized within an outdoor restaurant area, but tents shall not be permitted.
  - f. Serving stations and a host podium may be located within an outdoor restaurant seating area provided a plexiglass or other similar partition is used.
  - g. No change in grading will be permitted in order to create an outdoor restaurant seating area, and no temporary flooring or mats may be utilized.
  - h. The proposed hours of operation of the outdoor restaurant seating area will be included in the Temporary Outdoor Restaurant Seating Application.
  - i. No outdoor restaurant seating area may be located within an approved delivery area/loading zone.

- j. No valet parking is permitted.
  - k. Restaurants with existing outdoor seating areas may seek to expand the existing area.
  - l. The consumption of alcoholic beverages will continue to be regulated by the New Jersey Alcoholic Beverage Control Commission; therefore, all applicants are responsible for verifying that their liquor license permits the serving of alcohol outdoors. Any Temporary Permit to expand the service of alcoholic beverages shall be administratively approved by the Borough Clerk and Police Chief..
  - m. In multi-tenanted properties, an approved outdoor restaurant seating area must be approved by the restaurants landlord and discontinued or reduced in size if other retail, personal service and/or commercial establishments are permitted to reopen and there is not then an adequate number of parking stalls available in the discretion of the Borough Zoning Officer.
  - n. No live or recorded music shall be permitted.
  - o. An approved outdoor restaurant seating area must be discontinued or reduced in size if proper social distancing is not maintained or the restaurant establishment does not comply with applicable sanitary and cleaning standards, use of masks and partitions or other Executive Order requirements issued by the Governor.
  - p. All outdoor seating areas must be closed by 10 p.m.
  - q. The Borough Zoning Officer shall have the discretion to create additional standards for a particular property and to fashion such conditions as may be necessary to further the purposes of the Borough Zoning Ordinance in §\_59\_ as well as the goals and objectives of the Borough's Master Plan.
  - r. Additional provisions concerning such issues as the maximum number of people at a table; required minimum distances between tables; and standards for addressing patrons waiting to be seated will be formulated after the promulgation of the Governor's Executive Order permitting restaurants to reopen.
9. This Resolution shall take effect on the date that restaurants for dine-in service are permitted to reopen by executive order of the Governor.

BE IT FURTHER RESOLVED that certified copies of this resolution shall be provided to: (i) the eateries located within the Borough of Oakland; (ii) the Zoning Officer of the Borough of Oakland; (iii) Brian M. Chewcaskie, Borough Attorney.

ROLL CALL: All yeas, Councilmembers Biale, Knapp, Levy, Pignatelli, Talamini, Van Eck.

MEETING ADJOURNED:

On motion of Councilman Levy, seconded by Councilman Van Eck, the meeting be adjourned at 6:04 pm.

ROLL CALL: All yeas, Councilmembers Biale, Knapp, Levy, Pignatelli, Talamini, Van Eck.

*Lisa M. Duncan*

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Lisa M. Duncan, Borough Clerk  
June 24, 2020

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Date Approved

*Linda H. Schwager*

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Mayor Linda H. Schwager