

VILLAGE OF LOCH ARBOUR
MINUTES – rescheduled REGULAR MEETING
SEPTEMBER 7, 2017

THE rescheduled REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE VILLAGE OF LOCH ARBOUR, MONMOUTH COUNTY, NEW JERSEY, WAS HELD IN THE VILLAGE OF LOCH ARBOUR MUNICIPAL BUILDING, 550 MAIN STREET, LOCH ARBOUR, NEW JERSEY ON SEPTEMBER 7, 2017, CALLED TO ORDER AT 6:00 P.M. BY MAYOR PAUL FERNICOLA.

Following the salute to the Flag the Clerk called roll, present were Commissioner Cheswick, Commissioner D' Angelo and Mayor Fernicola.

Also present was Marilyn Simons, Village Clerk

The Clerk read the Open Public Meetings Announcement: The notice requirements of C.231, P.L. 1975, have been satisfied by transmitting the notice of this rescheduled Regular Meeting to the Village's two official newspapers on August 17, 2017 posting the notice on the office bulletin board on the same date and filing a copy of the notice in the Clerk's office.

PAYMENT OF BILLS

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried, that the payment of bills totaling \$10,431.40 for the month of September, 2017 be and the same is hereby approved as presented.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo Mayor Fernicola
Nays: None Absent: None

UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried that the payment to the Loch Arbour Board of Education in the amount of \$57,710.17 for the month of September, 2017 be and the same is hereby approved as presented.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola
Nays: None Absent: None

MINUTES

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that the minutes of the following meetings be approved:

- The minutes of the rescheduled Regular Meeting held June 20, 2017;
- The minutes of the rescheduled Regular Meeting held July 12, 2017;
- The minutes of the rescheduled Regular Meeting held August 9, 2017.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola
Nays: None Absent: None

REPORTS/CORRESPONDENCE

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the following reports for the period ending August 31, 2017 on file in the Village Clerk's office, be and the same are hereby ordered received and filed:

- Expenditure Report
- Revenue Received Report
- Tax Collections Report
- Deal Police Department, Monthly Incident Report

- Monmouth Regional Health Commissioner No. 1, agenda and various reports/correspondence.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo Mayor Fernicola
Nays: None Absent: None

OLD BUSINESS - None

NEW BUSINESS

The Village Attorney, William Healey, Esq., will join the meeting momentarily. The three proposed Ordinances will be addressed as soon as Mr. Healey arrives.

A. Resolution 2017-71: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following Resolution be adopted:

WHEREAS, the Village of Loch Arbour is in need of a lifeguard, due to the fact lifeguards have left for college before the summer season has ended;

WHEREAS, the Village Clerk, in consultation with Beach Manager John Bosmans, has recommended the following personnel for seasonal employment at the Village Beach Club on a part-time basis (as needed) for the summer season of 2017; and,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour, as follows:

1. The following person is appointed for employment at the Village Beach Club, Loch Arbour, on a part-time basis (as needed) effective August 26, 2017 for the remaining of the summer season of 2017:

NAME	TITLE	SALARY PER HOUR	HOURS PER WEEK
Timothy Henry	Guard	10.07	Part time – as needed

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be supplied to the Chief Financial Officer for his action.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola

Nays: None

Absent: None

B. Resolution 2017-72: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried that the following resolution be adopted:

WHEREAS, the Board of Commissioners authorized and awarded a contract to Precise Construction, on January 6, 2016 for the Project known as Improvements to Euclid Avenue, Phases II & III; and,

WHEREAS, an order to change contract quantities is needed; and,

WHEREAS, there is a decrease in the contract price; and,

WHEREAS, the Board of Commissioners has considered the foregoing.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour that Change Order and Supplemental Agreement No. 2 as referenced above totaling DECREASE to the initial contract amount in the amount of -\$106.40, which decreases the contract price to \$262,143.60.00, between Precise Construction, Inc. and the Village of Loch Arbour for the Project known as Improvements to Euclid Avenue, Phase II & III is hereby approved as Change Order and Supplemental Agreement No. 2.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola

Nays: None

Absent: None

REPORTS/DISCUSSION

A. Tax Issue/Board of Education: Mayor Fernicola reported a letter was sent to all residents of the Village of Loch Arbour stating "Free is not Free" with regards to the children of Loch Arbour attending the Ocean Township Schools. Mayor Fernicola urged all parents to register their school age children in the West Long Branch Grammar School and Shore Regional High School. Mayor Fernicola also reported that the Ocean Township Board of Education filed a Motion for Reconsideration. This matter is scheduled for September 15, 2017.

B. Best Practices Worksheet for CY 2017 has been completed by the CFO and will be submitted to the State on September 8, 2017 as required; the Village scored 96% and will receive its full allocation of State Aid for 2017.

C. UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo carried the regular meeting of the Board of Commissioners scheduled for October 4, 2017, is being cancelled and being rescheduled for Thursday, October 5, 2017 at 6:00 p.m.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola

Nays: None

Absent: None

PUBLIC HEARING

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the meeting be opened to the public for comments.

Cathy Cunniff, Euclid Avenue, had a conversation with the Mayor regarding the 7 children that are attending the Ocean Township Schools this year.

Jo Ellen Basaman, Euclid Avenue, thanked the Mayor and Commissioners for all their hard work and dedication to get the taxes lowered for all homeowners in the Village.

Mayor Fernicola discussed how the 2017 Tax Bills were calculated.

Paul Williams, Euclid Avenue, requested when the streets are scheduled to be cleaned, the residents be notified.

Cathy Cunniff, Euclid Avenue, requested to establish a day each month to have the street sweeper clean the Village Streets.

There being no other comments, and UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the public hearing be closed.

6:20 p.m. Williams Healey, Esq., arrived at the meeting.

NEW BUSINESS:

A. Ordinance 2017-432 – Introduction The Mayor read the Ordinance by Title

ORDINANCE #2017-432 AMEND DUMSPTER ORDINANCE

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH, as follows:

SECTION 1. DEFINITIONS

"Dumpster" or *"roll-off container"* shall mean a bulk storage container for waste materials that can be hauled directly to the point of disposal or emptied into a large compactor-type truck for disposal. Included in this definition are the moving and/or self-storage containers commonly known as "PODS," as well as similar containers.

"Rubbish" shall mean combustible paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture and bedding dunnage or non-combustible metal, metal furniture, dirt, glass, and crockery.

"Waste materials" shall include all other categories of materials to be disposed of, excluding garbage or recyclable materials.

SECTION 2. PROVISIONS FOR USE

- a) No dumpster or roll-off container shall be placed upon any lot in the residential zone or within the public right of way of the abutting street without a permit therefor issued by the Local Code Enforcement and Zoning Official of the Village of Loch Arbour or his/her authorized representative.
- b) All such dumpsters or roll-off containers shall bear an identification number assigned by the State, and the name, address and telephone number of the person responsible therefor.
- c) All such dumpsters or roll-off containers that remain within the public right-of-way during the hours between sunset of one day and sunrise of the next day shall be equipped with suitable reflectors or other warning devices as may be required by the Local Code and Zoning Official or the Borough of Deal Police Department. Such reflectors shall be capable of reflecting motor vehicle headlights at a distance of five hundred (500') feet.
- d) Rubbish and waste materials must be completely contained within the dumpster or roll-off container. The accumulation of rubbish or waste materials will be not permitted outside the confines of dumpster or roll-off container, nor will it be permitted to accumulate so that the attached cover cannot be firmly closed. In the event that the dumpster or roll-off container does not have an attached cover, the rubbish or waste material must not accumulate higher than the top of the sides of the dumpster or roll-off container and must be covered by either a tarp or similar covering, except when rubbish and waste materials are being deposited in the dumpster or roll-off container.

SECTION 3. APPLICATION, PERMIT AND FEES

- a) Any person desiring to place a dumpster or roll off container on any lot in the residential zone or within the public right of way of the abutting street shall make written application therefor to the Local Code and Zoning Official specifying the exact proposed location of such dumpster or roll-off container, the size and capacity therefor and any other information as required by the Local Code Enforcement and Zoning Official on the form identified for said purpose.

- b) Unless otherwise specified, any permit issued pursuant to this Ordinance, that is to be located on a lot in the residential zone, shall only be valid for a maximum of ninety (90) days and may be renewed for one additional ninety (90) day period, at the discretion of the Local Code Enforcement and Zoning Official, upon completion of a new application and payment of a new permit fee.
- c) Unless otherwise specified, any permit issued pursuant to this Ordinance, that is to be located or within the public right of way of the abutting street, shall only be valid for a maximum of sixty (60) days and may be renewed for one additional sixty (60) day period, at the discretion of the Local Code Enforcement and Zoning Official, upon completion of a new application and payment of a new permit fee.
- d) A permit may be renewed for up to one additional ninety (90) day period at the discretion of the Commissioners for good cause upon written application a minimum of thirty (30) days prior to the expiration of the renewal permit and the payment of a new permit fee.
- e) A maximum of three (3) permits may be issued within the one-year period commencing with the date of issuance of the initial permit. A maximum of one dumpster or roll-off container is permitted on any one lot at any time.
- f) The application for a dumpster or roll-off container permit that is to be located on a lot in the residential zone shall be one hundred (\$100.00) dollars. Each renewal application for a dumpster or roll-off container permit to be located on a lot in the residential zone shall be accompanied by a fee of one hundred (\$100.00) dollars.
- g) The application for a dumpster or roll-off container permit that is to be located or within the public right of way of the abutting street shall be accompanied by a fee of two hundred (\$200.00) dollars. Each renewal application for a dumpster or roll-off container permit to be located or within the public right of way of the abutting street shall be accompanied by a fee of two hundred (\$200.00) dollars.
- h) The application for a dumpster or roll-off container permit to be located within a public right-of-way shall also be accompanied by an indemnity deposit of five hundred (\$500.00) dollars (by cashier's check) to reimburse the Village for the costs of any extraordinary cleanup or repairs that may be incurred by the Village as a result of the use permitted. The applicant shall be responsible for the cost of removing the dumpster and the repair of any damage to any street. The indemnity deposit shall not relieve the applicant from costs in excess of this sum if the deposit is not sufficient to cause the removal of any dumpster or the repair of any street.
- i) Said indemnity deposit shall be released upon the inspection and certification of the Local Code and Zoning Official as to the completed repairs to the public right of way.

SECTION 4. REFUSAL OR REVOCATION OF PERMIT; EMERGENCY REMOVAL

- a) The Local Code Enforcement and Zoning Official may, in his discretion, refuse to issue a permit if he/she deems same to constitute a danger to public safety or an unwarranted interference with the efficient movement of traffic.
- b) The Local Code Enforcement and Zoning Official may, in his/her discretion, revoke a permit if he/she deems same to constitute a danger to public safety or an unwarranted interference with the efficient movement of traffic.
- c) If the Local Code Enforcement and Zoning Official shall at any time determine that an emergency situation exists with regard to said dumpster or roll-off container, he/she may remove same without notice at the owner's expense.
- d) If a permit is revoked, the dumpster or roll-off container shall be immediately removed from the property or the public right of way.
- e) Upon the expiration of a permit, the applicant shall immediately cause the removal of the dumpster or roll-off container from the property or the public right of way.

SECTION 5. VIOLATIONS AND PENALTIES

Any person or persons, partnership or corporation who shall violate the terms of this Ordinance shall be subject to a penalty of not more than five hundred (\$500.00) dollars per day, and each day's continuance of the violation shall constitute a separate and distinct violation.

SECTION 6. SEVERABILITY

If any section, clause or provision of this Ordinance shall be adjudged invalid, said invalidity shall apply only to the section, clause or provision and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 7. EFFECTIVE DATE

This Ordinance shall become effective upon its final passage and publication.

UPON MOTION, of Mayor Fernicola, seconded by Commissioner Cheswick, carried that said Ordinance #2017-432 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing for the next scheduled Commissioners Meeting on October 5, 2017.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola
Nays: None Absent: None

B. Ordinance 2017-433 – Introduction

The Mayor read the Ordinance by Title:

AMEND ORDINANCE 296 – Property Maintenance Code FEES – AIR BnB

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that Ordinance 2017-433 is tabled until the next regular scheduled Board of Commissioner meeting.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola
Nays: None Absent: None

C. Ordinance 2017-434 – Introduction

OFF STREET PARKING ORDINANCE

Resolution 2017-73: UPON MOTION, of Mayor Fernicola, seconded by Commissioner D' Angelo, that the following resolution be adopted:

WHEREAS, the Village of Loch Arbour Planning Board adopted a Resolution on March 15, 2017 requesting that the Village of Loch Arbour Board of Commissioners consider the adoption of an off-street parking Ordinance;

WHEREAS, after review and research by the Village Attorney, William Healey, it was determined that this matter must be referred back to the Planning Board for further consideration and approvals.

NOW THEREFORE, BE IT RESOLVED, by the Village of Loch Arbour Board of Commissioners that the matter of consideration of an OFF-STREET PARKING ORDINANCE be referred back to the Village of Loch Arbour Planning Board for further consideration and approvals.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be supplied to:

1. Village of Loch Arbour Planning Board

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola
Nays: None Absent: None

PUBLIC HEARING

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that the meeting be opened to the public for comments.

Cathy Cunniff, Euclid Avenue, is opposed to the proposed Dumpster Ordinance which is increasing permit fees.

Paul Williams, Euclid Avenue, suggested the Mayor and Commissioners propose to Adopt Ordinance for a Construction Moratorium for the Summer Months in the Village of Loch Arbour.

Paul Williams, Euclid Avenue, inquired about an Ordinance to have a leash on a surfboard when surfing at the Village Beach. Mayor Fernicola stated no such Ordinance has been adopted in the Village and will not be considered at this time.

Mary Farrar, Euclid Avenue, is opposed to the proposed Dumpster Ordinance which is increasing the permit fees.

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the following **Resolution** be and the same is hereby adopted:

WHEREAS, Section 8 of the Open Public Meetings Act, N.J.S.A. 10:4-12 et seq., permits the exclusion of the public from a meeting in certain circumstances; and,

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour, Monmouth County, New Jersey, as follows:

1. The public shall be excluded from discussion of and actions upon the hereinafter-specified subject matter.
2. The general nature of the subject matter to be discussed is as follows: Discuss, contract negotiations and anticipated or threatened litigation and attorney client privileged information regarding school funding and taxation issues. Official action will not be taken after the Executive Session.
3. It is anticipated at this time that the above stated subject matter will be made public within 120 days.
4. This resolution shall be effective immediately.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola

Nays: None

Absent: None

There being no further business, and UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the meeting be finally adjourned at 7:10 p.m.

Marilyn Simons, RMC
Village of Loch Arbour