

Village of Loch Arbour Charter Study Commission

Minutes - Regular Meeting

January 17, 2011

The regular meeting of the Village of Loch Arbour Charter Commission was held in the Village Municipal Building on January 17, 2011. It was called to order at 7:10p by Chairman Fernicola.

Following the salute to the flag, Chairman Fernicola called the roll. Members of the Commission present were; Mr. Cummings, Mr. Fernicola and Mr. Loushine. Absent were Mr. Reng and Mrs. Virks-Lee.

The notice requirements of C.231, P.L. 1975, have been satisfied by transmitting the notice of the Organizational Meeting to the Village's two official newspapers on November 15, 2010, posting the notice on the Village Office bulletin board on the same date, and filing a copy of the notice in the Village Clerk's office.

Resolution #1: Approve Minutes of January 3, 2011 Regular Meeting

- Upon Motion with second, Meeting Minutes were unanimously **Approved**.

Discussion Items

1. **Meeting with Departments of Education & Community Affairs:** Commissioner Fernicola met in Trenton with the Department of Education and the Department of Community Affairs. The purpose of the meetings was to inquire as to how the departments would view the effect a merger with a contiguous municipality on the status of the surviving school system. Both meetings were arranged by State Senator Kean. Here are the takeaways.
 - o **Education Department:** The meeting was held on Monday, January 10th with the following attendees: DOE/Greg Edwards (COS) + Eric Taylor; Senator Kean + 1 Staff Member; VLA/Commissioner Fernicola. Meeting was very informative. The DOE was aware of the VLA September 28, 2010. correspondence requesting information in order to begin the process of leaving the OTSD as well as NJSA 18A:8-1 impediment and the issue of legislation eliminating 'non-ops'. Mr. Fernicola's sense was the DOE (and the Governor) would like to assist VLA but they hadn't come up with a solution of to deal with the impediments such as 18A:8-1 which they considered as antiquated but the fact is, it is still a statute. DOE wants to solve the problem and avoid any lengthy litigation that could be associated with a potential solution. The DOE had not considered the possibility of a municipal merger and would look into the effect on the surviving school district. The DOE was asked to provide a written opinion as to their position in this regard. Overall, the feedback was positive.

- Community Affairs Department: The meeting was held on Wednesday, January 12th with the following attendees: DCA/Deputy Commissioner De Croce + Special Assistant, Director LGS/Tom Neff, DAG Representative; Senator Kean + 1 Staff Member; VLA/Commissioner Fernicola. Mr. Fernicola set the background for the meeting as the need for VLA to address the school tax portion of the property tax. Due to a repealer contained in SFRA, the Village experienced a 450% school tax increase. One way to address the issue would be for VLA to consider a merger with a contiguous municipality. Mr. Neff indicated he understood the problem. The reason for the meeting was to obtain a written opinion from DCA as to the status of the surviving school district. A key to resolving the school tax issue was to understand the status of the surviving school district. Deputy Commissioner De Croce stated they needed some time to look into the matter and would schedule a conference call in about two weeks to discuss the matter further. Mr. Fernicola indicated he desired a written opinion.
2. **Review of NJSA Title 18A Pertaining to Joint School Districts:** Commissioner Cummings prepared a summary sheet (copy attached) detailing the key areas within Title 18A dealing with joint school districts. The generic term 'joint' is used to define any school district having two or more constituent municipalities as members. A 'joint' district could be governed as a regional, consolidated or merged district. The purpose was a review for to provide a common understanding of the applicable portions of the Title 18A statute and their effect on VLA.
3. **Review of Optional Municipal Charter Law (OMCL) (Faulkner Act):** A review of the OMCL was undertaken. There was a consensus that OMCL dealt only with the 'form' of government and would not have any effect on the 'type' of municipality under which VLA was chartered. Also, there was general consensus that of the four optional forms of governance available under the OMCL, only the Small Municipal option form could be practically applied to VLA government.

The Small Municipal form can consist of 3, 5 or 7 Council members, or a Mayor and 2, 4 or 6 Council members. The Council is elected for 3 year concurrent or staggered terms. A voter elected Mayor would serve a 4 year term. A Mayor elected by the Council would serve either 1 or 3 years dependent on concurrent or staggered Council elections. The election may be partisan or non-partisan.

- The Mayor whether elected by direct vote or by the Council, presides over the Council with voice and vote but no veto. Exercises executive power of the municipality, appoints Council committees, and selects municipal clerk, attorney, tax assessor, tax collector and treasurer with Council confirmation.
- The Council exercises legislative power of the municipality. Also approves the Mayor's selections for municipal clerk, attorney, tax assessor, tax collector and treasurer.

- The Administration of the municipality is exercised by the Mayor under executive powers. The Council may create an administrator by ordinance.

A discussion ensued as to whether a change in the form of government could also provide a change in the school tax situation. The general sense was that it would not as a form of government change would not effect change the type of municipality Loch Arbour is chartered under which is as Village. If NJSA 18A:8-1 is viewed as an impediment to leaving OTSD, then changing the form of government without changing the type of municipality (Village) does not enable Loch Arbour to embark plan to change school districts. Mr. Cummings indicated he believed the only way to change the type of government would be to dissolve the present municipal corporation under which Loch Arbour is legally incorporated as a Village and to re-incorporate as a type municipality other than a Village. He is not aware how this could be accomplished. Just changing the municipal name from 'Village' to a 'Township' for example does not change the type of municipality as set forth in the papers of the municipal corporation.

If a consensus of the CSC exists that a form of government change would not address the school tax issue, then the CSC should move forward as quickly as possible to conclude its work. Such action would enable VLA to proceed on other courses of action to address the school tax issue rather than to await a change in the form of government which would not provide the needed school tax relief.

4. **Village of Loch Arbour Letter Dated January 6, 2011**: This letter was a reply to the CSC's letter requesting public release of the confidential material provided to the CSC by the Village. This was research material prepared by VLA's special councils related to forms of government. The CSC desired to reference/use this material but needed it be made publicly available. The Village declined to make this information available to the public as indicated in the January 6th letter. After a short discussion, the consensus of the CSC was to request the Village to make public a redacted copy of the material thus eliminating the need for it to be handled as Confidential.

Public Comment:

- Dennis D'Angelo: How long would the consolidation process take?
- Robert Fericola: The Commission needs to move fast on concluding its work so that the people of the Village can decide as what to do. The CSC needs to wrap it up as the general feeling seems to be that a change in the form of government will have no effect on school taxes.
- Frank Romeldeli: Any recommendation by the Commission needs to be put to vote as soon as possible.

- Bob Weiner: Makes a couple of points:
- Understand timing is an issue but don't rush a decision; conduct due diligence as this is to important a decision to be rushed.
- If a suggestion to merge is made, need answers to all the open questions prior to moving forward. For example, whether VLA can or cannot form a 'non-op' school district is important.
- What is 'Plan B' if a merger or a change in the form of government fails to correct the school tax issue? We need to have a plan.
- Joanne Romeldeli: Ask the DOE if a change in the form of government would eliminate the 8-1 impediment.
- Robert Fernicola: Perhaps we should be doing two things concurrently; changing the form of government and pursuing a merger with a contiguous municipality. In response Mr. Cummings commented regarding the effort to undertake both things as if a merger was approved, then a form of government change would be useless and secondly, changing the form of government while pursuing a merger would be like changing horses in mid-stream, i.e., loss of focus on the merger. Mr. Fernicola further commented about the Trustee vote in a merger process. Under the sparsely settled provisions, the vote needed to approve a merger would require a minimum of 4 out of 5 Trustees voting in the affirmative. He wondered if this would be a problem and if there was a way to address this issue.
- Frank Romeldeli: The loss of a separate identity for VLA should not be a show stopper in addressing a merger if it fixes school taxes. The area occupied by Loch Arbour can still be referred to as Loch Arbour in the same way as the Oakhurst and Wanamassa areas of Ocean Township have maintained their identities.
- Chairman Fernicola: After the comments from the various members of the public, Chairman Fernicola stated that he would attempt to present a proposed report of the Charter Study Commission at the next meeting scheduled for February 7, 2011.

Meeting Adjourned: By consensus, the meeting concluded at 930p.

Attachment 1-17-11 My Min

Joint School Districts in New Jersey

New Jersey Statute Title 18A: Education

NJS 18A:8 – Consolidated School Districts Including Non-Ops
&
NJS 18A:13 – Regional School Districts

Joint Districts

- Similarities
 - o Operations
- Differences (Significant to VLA)
 - o Apportionment of Tax Levy
 - Consolidated: Equalized Valuation
 - Regional: Equalized Value/Per-Pupil/Combination
 - Joint(Non-Ops): Equalized Value/Per-Pupil/Combination
 - o Board of Education Membership
 - Consolidated: Unapportioned; Apportioned by Vote
 - Regional: Apportioned; 1 Member Minimum
 - Joint(Non-Ops): Apportioned; 1 Member Minimum

Joint Districts

- Regional
 - o 61
- Consolidated
 - o 8
- Joint (Merged Non-Ops)
 - o 13
- Joint (Pending Merger (Non-Ops))
 - o 13
- Total
 - o 82
 - o 95 (Includes Pending)

VLA Significant References

- 18A:8-4 thru 8-14; Establishing a Separate School District
- 18A:13-5 & 13-34; Vote For & Creation of Regional District
- 18A:8-44 & 8-50; Eliminate Non-Ops & Operate IAW Chap 13

18A:8-37. Apportionment; collection and payment of appropriations

The amounts authorized to be raised for annual or special appropriations, or for interest, or for the redemption of bonds shall be certified by the board of education of the consolidated school district to the county board of taxation, which shall apportion such amounts among the taxing districts, comprising the former constituent school districts from which the consolidated district was constituted in the proportion that the apportionment valuation, as defined in section 54:4-49 of the Revised Statutes, of each taxing district bears to the total apportionment valuations within the consolidated school district and the amount thus apportioned to each taxing district shall be assessed, levied and collected in the same manner and at the same time as other taxes are assessed, levied and collected therein and shall be paid upon requisitions, as in other type II districts.

Where the constituent school districts are located in more than one county, county board of taxation shall, for the purposes of this section, mean the county board of taxation of the county in which the constituent school districts having the largest aggregate apportionment valuations are located, as established by the last published county abstracts of ratables, and the county board or county boards of taxation in which the other constituent school districts are located shall certify to the county board of taxation charged with the duty of apportioning moneys hereunder the apportionment valuations of the constituent school districts within their respective jurisdictions.

18A:13-23 Apportionment of appropriations.

18A:13-23. The annual or special appropriations for regional districts, including the amounts to be raised for interest upon, and the redemption of, bonds payable by the district, shall be apportioned among the municipalities included within the regional district, as may be approved by the voters of each municipality at the annual school election or a special school election, upon the basis of:

- a. the portion of each municipality's equalized valuation allocated to the regional district, calculated as described in the definition of equalized valuation in section 3 of P.L.2007, c.260 (C.18A:7F-45);
- b. the proportional number of pupils enrolled from each municipality on the 15th day of October of the prebudget year in the same manner as would apply if each municipality comprised separate constituent school districts; or
- c. any combination of apportionment based upon equalized valuations pursuant to subsection a. of this section or pupil enrollments pursuant to subsection b. of this section.

Amended 1975, c.212, s.29; 1990, c.52, s.37; 1993, c.67, s.1; 1996, c.138, s.50; 2007, c.260, s.50.

18A:8-45 Apportioning of annual or special appropriations.

3. The annual or special appropriations for a new district established pursuant to section 2 of this act, excluding the amounts to be raised for interest upon and the redemption of bonds payable by the district, shall be apportioned among the constituent districts of the new district in the first year of the merger in such manner as the commissioner determines to be the least fiscally disruptive. Thereafter the apportionment methodology shall be determined pursuant to chapter 13 of Title 18A of the New Jersey Statutes; however, if necessary, the commissioner may allow a five-year phase-in of the apportionment methodology.

The amount to be raised for interest upon and the redemption of bonds payable by the district for bonds issued prior to and after the effective date of this act, shall be apportioned among the constituent districts of the new district in such manner as the commissioner determines to be the least fiscally disruptive. The commissioner may allow a five-year phase-in of the apportionment methodology, if necessary.

L.2009, c.78, s.3.