

**VILLAGE OF LOCH ARBOUR
MINUTES
THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE VILLAGE OF
LOCH ARBOUR, MONMOUTH COUNTY, NEW JERSEY, WAS CONDUCTED BY**

<https://zoom.us/j/9871856747>

Meeting ID: 987 185 6747

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ON APRIL 6, 2022, CALLED TO ORDER AT 6:30 P.M. BY MAYOR FERNICOLA

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

Also present was William Healey, Esq, Village Attorney and Marilyn Simons, Village Clerk.

The Village 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 Regular Meeting to the Village's two official newspapers on January 14, 2022 posting the notice on the office bulletin board on the same date and filing a copy of the notice in the Clerk's office.

UPON MOTION of, Commissioner Cheswick, seconded by Mayor Fernicola, 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 Attorney client privileged information regarding litigation and potential litigation. The Mayor and Commissioners reserve the right to take official Action 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

The Meeting resumed after Executive Session at 7:20 p.m.

PAYMENT OF BILLS

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D'Angelo, carried, the payment of bills totaling \$17,994.05 for the month of, April, 2022 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 the payment to the Loch Arbour Board of Education in the amount of \$41,662.00 for the month of March, 2022 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 Commissioner Cheswick, seconded by Commissioner D' Angelo, carried, that the minutes of the following meetings be approved as presented:

- Minutes of the Regular Meeting held on March 2, 2022.

Recorded Vote:

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

Nays: None

Absent: None

REPORTS/CORRESPONDENCE

UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, the following reports for the period ending March 31, 2022, 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/Delinquent Taxes Report for 2022
- Deal Police Department, Monthly Incident Report
- Monmouth Regional Health Commission No. 1, agenda and various reports/correspondence;
- 2021 Annual Tax Collector's Report
- County of Monmouth, Mosquito Control Division, packet of materials regarding NJDEP Pesticide Control Program
- Board of County Commissioners, Monmouth County, Notice of online Public Information Meeting regarding Local Concept Development Study for Corlies Avenue, Bridge O-12 scheduled for Tuesday, March 29, 2022.

Recorded Vote:

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

Nays: None

Absent: None

OLD BUSINESS –

A. Ordinance 2022-473 –

ORDINANCE NO. 2022-473 AN ORDINANCE TO EXCEED THE CALENDAR YEAR 2022 MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)

BE IT ORDAINED by the Board of Commissioners of the Village of Loch Arbour as follows:

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1, et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 1% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Board of Commissioners of the Village of Loch Arbour in the County of Monmouth finds it advisable and necessary to increase its CY 2022 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of its citizens; and,

WHEREAS, the Board of Commissioners hereby determines that a 1% increase in the budget for the said year, amounting to \$7,511.47 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Board of Commissioners hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Village of Loch Arbour, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2022 budget year, the final appropriations of the Village of Loch Arbour shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5%, amounting to \$26,290.14 and that the CY 2022 municipal budget for the Village of Loch Arbour be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED that a certified copy of this ordinance, upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, the meeting be opened for comments on Ordinance only.

There being no public comments, and **UPON MOTION** of Mayor Fernicola, seconded by Commissioner Cheswick, carried, the public hearing be closed.

Recorded Vote:

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

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, Ordinance 2021-473 be and the same is hereby adopted on final reading directing the Clerk to post and publish as required by law.

Recorded Vote:

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

NEW BUSINESS -

A. Resolution 2022-46: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried the following Resolution be adopted:

BE IT RESOLVED, that the following statements of revenues and appropriations shall constitute the Municipal Budget for the year 2022:

General Appropriations for:

Appropriations within "CAPS"	
Municipal Purposes	\$ 761,967.58

Appropriations excluded from "CAPS":	
Municipal Purposes	\$ 426,793.88

Reserve for Uncollected Taxes	\$ 78,156.49
Total General Appropriations	\$ 1,266,917.95
Less: Anticipated Revenues other than current property tax	\$ 636,517.95
Difference: Amount to be raised by Taxes for Support of Municipal Budget as follows:	
Local tax for Municipal Purposes including Reserve for Uncollected Taxes	\$ 630,400.00

BE IT ALSO RESOLVED, that said Budget be published in the Coaster in the issue of **April 15, 2022**; and

BE IT FURTHER RESOLVED, that the Governing Body of the Village of Loch Arbour does hereby approve the following as the Budget for the year 2022.

BE IT FINALLY RESOLVED that a Hearing on the Budget and Tax Resolution will be held at Village Municipal Building on May 4, 2022 at 6:30 p.m. at which time and place objections to said Budget and Tax Resolution for the year 2022 may be presented by taxpayers or other interested persons.

Recorded Vote:

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

B. Resolution 2022-47: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following Resolution be adopted:

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. Seq., ("Act") provides that any local governmental unit may enter into a contract with any other local governmental unit to provide or receive any service that each local unit is empowered to provide or receive within its own jurisdiction; and

WHEREAS, mutual aid and assistance agreements between municipalities, counties, law enforcement agencies, police, emergency medical service, fire departments, fire companies, or EMS organizations and fire departments situated in fire districts operated by a Board of Fire Commissioners, are permitted pursuant to N.J.S.A. 40A: 14-26 and 40A: 14-156.1; and

WHEREAS, the President in Homeland Security Directive (HSPD-5), directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System ("NIMS"), which would provide a consistent nationwide approach to Federal, State, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, "The New Jersey Civilian Defense and Disaster Control Act" App.A9-33 et. seq., provides for the health, safety and welfare of the people of the State of New Jersey during any emergency by centralizing control of all civilian activities having to do with such emergency giving the Governor control over the resources of each and every political subdivision to cope with any condition that shall arise out of such emergency; and

WHEREAS, The Director of the Division of Fire Safety in the Department of Community Affairs promulgated rules in accordance with the "Fire Service Resource Emergency Deployment Act," N.J.A.C. 52:14E-11 et. seq., commonly referred to as the "Fire Service Resource Emergency Deployment Regulations" N.J.A.C. 5:75A et. seq.; and

WHEREAS, the Board of Commissioners of the Village of Loch Arbour deem it to be in the best interests of the Village of Loch Arbour to enter into Mutual Aid and Assistance Agreements with governmental entities throughout Monmouth County and all of their departments, authorities, boards,

commissions and other functions under the auspices of each participating governmental entity including but not limited to, law enforcement, public works, emergency medical services, emergency management, human services, hazardous materials response units technical or special operations teams, Community Emergency Response Team ("CERT") members, Medical Reserve Corps ("MRC") members or other volunteers and other jurisdictions defined "local governments" in the Homeland Security Act of 2002; and

WHEREAS, N.J.S.A. 40A: 14-26 AND 156.1 et seq. has authorized interjurisdictional mutual aid; and

WHEREAS, the Board of Commissioners of the Village of Loch Arbour and the Participating Units recognize the benefit of entering into an Agreement for mutual aid and assistance with each other to protect against loss, damage or destruction by fire, civil unrest, hazardous material, major criminal or emergency events, natural and man-made disaster or catastrophe and to address those situations when additional aid and assistance is needed to protect the best interests of the persons and property of each individual jurisdiction.

NOW, THEREFORE, BE IT RESOLVED that the Intra-County Mutual Aid and Assistance Agreements between the Village of Loch Arbour and Participating Units be and are hereby accepted.

BE IT FURTHER RESOLVED that the Mayor, Paul V. Fernicola, and the Village Clerk, Marilyn Simons, are authorized to execute the Intra-County Mutual Aid and Assistance Agreements once they have been authorized and executed by each Participating Unit.

BE IT FURTHER RESOLVED that the Village Clerk forward a certified true copy of this resolution to the Monmouth County Sheriff; Office of Emergency Management Coordinator; Borough of Allenhurst and the Borough of Deal

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2022-48: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following resolution is adopted.

WHEREAS, it is necessary to hire an Office Assistant for the Village of Loch Arbour, to prepare for the upcoming beach season, and;

WHEREAS, the Board of Commissioners is desirous of hiring, as recommended by the Village Clerk, Dale Villarini as the Office Assistant.

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

1. Dale Villarini, shall be compensated to be an Office Assistant, as of March 9, 2022 at a rate of \$17.00 an hour payable in accordance with customary procedures of the Village of Loch Arbour.
2. A certified copy of this Resolution shall be sent to:
 - A. Dale Villarini
 - B. CFO for the Village of Loch Arbour.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2022-49: 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 to purchase a new parking meter due to the age of the meter and the cost of maintaining the existing machine; and

WHEREAS, quotation was requested and received from Devo Parking Meters, 1252 Haddonfield Berlin Road, Voorhees, New Jersey in an estimated cost of \$10,050.; and

WHEREAS, funds are available for this purpose in the 2022 Appropriations when finally adopted and the Chief Financial Officer has so certified; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that the proposal of Devo Parking Meters to purchase parking meters at the total cost estimate of \$10,050, be and the same is hereby accepted; and

BE IT FURTHER RESOLVED to authorize Village Clerk to execute agreement regarding same; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be supplied to Devo Parking Meters.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2022-50: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried that the following Resolution be adopted:

WHEREAS, on March 9, 2020, Governor Murphy declared a Public Health Emergency relating to the COVID-19 pandemic, and

WHEREAS, the Governor's temporary emergency powers at the outset served the purpose of handling the COVID-19 pandemic at the time when the virus was new to the residents of New Jersey, and

WHEREAS, Governor Murphy renewed this Public Health Emergency every 30 days thereafter until June of 2021, and

WHEREAS, on June 4, 2021, Governor Murphy signed Legislation and an Executive Order ending the Public Health Emergency, and

WHEREAS, at that time, the New Jersey Legislature granted Governor Murphy the authority to continue certain emergency powers with respect to 14 Executive Orders only until January 11, 2022, and

WHEREAS, the Legislature allowed Governor Murphy to request an extension of these powers for up to 90 days after January 11, 2022, and

WHEREAS, Governor Murphy made a request to the New Jersey Legislature for the 90-day extension of these emergency power, and

WHEREAS, the New Jersey Legislature refused to extend these emergency powers; and

WHEREAS, Governor Murphy ignored the Legislature's refusal to extend his remaining emergency powers and announced on January 12, 2022, that he was reinstating a statewide Public Health Emergency, thereby allowing himself the ability to continue statewide mandates without the proper checks and balances afforded to New Jersey residents by virtue of the New Jersey Constitution, and

WHEREAS, since January 12, 2022, the New Jersey Legislature has failed to overrule or contest this declaration of emergency power, despite New Jersey's high vaccination rate, and

WHEREAS, after almost two years since Governor Murphy's Public Health Emergency Declaration, local governments, businesses and the public at large have adjusted to the pandemic and have learned how to take appropriate actions to protect themselves and constituents against COVID-19, and

WHEREAS, Governor Murphy promised on January 12, 2022, in declaring a new State of Emergency, that he would not impose any new universal mandates, and

WHEREAS, just days later, Governor Murphy imposed a universal vaccine mandate for health care workers and correctional officers, in contradiction to his promise, and

WHEREAS, Governor Murphy imposed no mandate on inmates in the same facilities, and

WHEREAS, Governor Murphy also imposed the requirement for discipline of employees up to and including termination for failing to comply with his mandates, regardless of personal preference, and

WHEREAS, health decisions are best managed locally, and county and local governments should have the ability to select options which are best suited for the local conditions faced by each jurisdiction, after considering all of the relevant factors,

WHEREAS, the residents of the Village of Loch Arbour and Monmouth County deserve a system of checks and balances as guaranteed by both the United States and New Jersey Constitutions, and

WHEREAS, to date, Governor Murphy has issued over 200 Executive Orders relating to the pandemic, and

WHEREAS, the Mayor and Commissioners of the Village of Loch Arbour agrees with the Board of County Commissioners of the County of Monmouth that it is well past time to return to the regular order of government in the State of New Jersey.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Commissioners of the Village of Loch Arbour be and hereby opposes Governor Murphy's declaration of a new Public Health Emergency and his recent imposition of a vaccine mandate for health care workers and correctional officers.

BE IT FURTHER RESOLVED that the Mayor and Commissioners strongly urges the Legislature to act forthwith to repeal the Public Health Emergency and to restore the constitutional balance of power guaranteed by the United States and New Jersey Constitution.

BE IT FURTHER RESOLVED that the Municipal Clerk of the Village shall forward a certified true copy of this resolution to the Governor of the State of New Jersey; Lieutenant Governor of the State of New Jersey; the New Jersey State Legislature; the members of the Monmouth County Legislative Delegation; New Jersey League of Municipalities; all County Boards of County Commissioners and the Mayor and Council of all towns within the County of Monmouth.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo

Nays: Mayor Fernicola

Absent: None

F. Resolution 2022-51: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following Resolution be adopted:

WHEREAS, a lawsuit was filed on July 22, 2021 by Power Station at Allenhurst, LLC ("*Plaintiff*"), which is the fee simple owner of Block 18, Lot 1 ("*East Side Property*"), and Block 21, Lots 5 and 6 (which includes former Lot 7) ("*West Side Property*"), located at 315 Hume Street and 500-523 Main Street, Allenhurst, New Jersey, respectively (hereinafter collectively referred to as the "*Property*"), for a "builder's remedy" regarding the Property;

WHEREAS, the Board of Commissioners, along with the Loch Arbour Planning Board Chairperson and Vice Chairperson, engaged in discussions to consider whether the Village of Loch Arbour should intervene in the lawsuit pending in the Superior Court of New Jersey, Law Division, Monmouth County, entitled: Power Station of Allenhurst, LLC vs. Borough of Allenhurst, Board of Commissioners of the Borough of Allenhurst; and Allenhurst Planning Board. Docket No. Mon-L- 002551-21 (hereinafter referred

to as the "Lawsuit"):

WHEREAS, said discussions have identified various matters of concern for the Village of Loch Arbour regarding the proposed development of the Property, and as a result, it has been determined that the interests of the Village of Loch Arbour would be best served by directing the attorneys for the Village of Loch Arbour to file the necessary application with the Court to enable the Village of Loch Arbour to intervene in the Lawsuit;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour, that the attorneys for the Village of Loch Arbour are hereby authorized to file any necessary application to effectuate the intervention of the Village of Loch Arbour in the Lawsuit, and to thereafter participate in the Lawsuit as necessary.

Recorded Vote:

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

Nays: None Absent: None

UPDATES/DISCUSSION

**A, Next Scheduled Monthly Meeting (Regular Meeting) –
Wednesday, May 4, 2022 at 6:30 pm.**

PUBLIC HEARING

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

Remo Maisto, Elberon Avenue, inquired where the 2022 proposed Budget be viewed. Mayor confirmed the 2022 proposed Budget will be posted on the Village of Loch Arbour website by the end of this week.

Melanie Nowlin, Edgemont Drive, urged the Mayor and Commissioners to consider adopting an Ordinance to ban gas leaf blowers from May – September.

Ms. Nowlin also urged the Mayor and Commissioner to consider adopting an Ordinance regarding hedge heights in the Village.

Remo Maisto, Elberon Avenue, commented on the potential ban on gas leaf blowers.

Joseph McGrath, Village Zoning Official, commented on the Federal Standards that are being proposed regarding gas leaf blowers.

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

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 7:50 p.m.

Marilyn Simons, RMC
Village Clerk

