

Salute to the Flag. Present were Commissioner Cheswick, Commissioner D' Angelo, Mayor Fernicola.

Also present was Marilyn Simons, Village Clerk.

Resolution 2023-36:  
UPON MOTION, of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried  
that the following resolution be adopted:

WHEREAS, the amount of such emergency appropriation shall be included under the correct heading in the budget as adopted, and;

**WHEREAS, adequate provision for such funding was made in the temporary budget.**

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour (not less than 2/3 affirmatively concurring) that the items of appropriation appearing on the list be included in the temporary budget for the Village for the year 2023 budget as finally adopted.

**Recorded Vote:**

## BILLS

**Recorded Vote:**

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 \$41,662.00 for the month of February, 2023 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 meeting are hereby approved:

- Minutes of the Reorganization and Regular Meeting held on January 9, 2023

**Recorded Vote:**

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

Nays: None

**Absent: None**

## REPORTS

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D'Angelo, carried, that the following Reports for the period ending January 31, 2023 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 2023
- Borough of Deal Police Dept. Monthly Incident Report

**Recorded Vote:**

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

Nays: None

Absent: None

## CORRESPONDENCE

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D'Angelo, carried, that the following Correspondence, on file in the Village Clerk's office, be and the same is hereby ordered received and filed:

- **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

Ordinance 2023-482 – The Mayor read said Ordinance by Title, advising of its publication in *The Coaster* on January 12, 2023.

**ORDINANCE #2023-482**

**AN ORDINANCE TO AMEND ORDINANCE 2020-463 ENTITLED “AN ORDINANCE  
ESTABLISHING AND REGULATING PARKING FOR SPECIAL EVENTS FOR ON STREET  
PARKING AND IN THE VILLAGE’S PARKING LOT; AND FOR THE RENTAL OF THE VILLAGE’S  
PARKING LOT DURING SPECIAL EVENTS, IN THE VILLAGE OF LOCH ARBOUR  
COUNTY OF MONMOUTH**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE VILLAGE OF LOCH ARBOUR,  
COUNTY OF MONMOUTH, AS FOLLOWS:

**Section 1:** Section 3 of Ordinance 2020-463, Rental of the Village's Parking Lot is amended and supplemented to read as follows:

The Village's Parking Lot may be rented from 6:00 p.m. to 12:00 a.m. midnight, at the rate of \$1,000.00 per day.

**Section 2.** All Ordinances or parts of Ordinances inconsistent herewith are repealed, but only to the extent of such inconsistency.

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subparagraph, clause or provision so adjudged and remainder of this Ordinance shall be deemed valid and effective.

This Ordinance shall take effect immediately upon its final passage and publication as required by law.

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the meeting be opened for comments on Ordinance 2023-482 only.

Remo Maisto, Elberon Avenue, asked for clarification of Ordinance. Mayor discussed.

There being no further comment, 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 Cheswick, carried Ordinance 2023-482 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

Ordinance 2023-483 – The Mayor read said Ordinance by Title, advising of its publication in *The Coaster* on January 12, 2023.

**ORDINANCE NO. 2023-483**

**AN ORDINANCE TO AMEND ORDINANCES NOS. 207, 220, 243, 309, 345, 366, 376, 382, 2017-425, 2020-453, 2020-459 and 2021-467 OF THE VILLAGE OF LOCH ARBOUR ENTITLED**

**“AN ORDINANCE TO CREATE A MUNICIPAL BEACH IN THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH, TO REGULATE AND PROVIDE FUNDS TO IMPROVE AND MAINTAIN THE MUNICIPAL BEACH AND FACILITIES, AND TO INCREASE THE FEES AND CHARGES IN THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH”**

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

**ARTICLE II – REGISTRATION AND ADMISSION TO BEACH** is amended and supplemented to read as follows:

Section 3.g. Beginning April 1, 2023, the fee for a 7-day seasonal parking permit, when available, shall be:

(a) Village of Loch resident fee: **\$250.00**

(b) Non-Resident Fee: **\$425.00**

**ARTICLE VII – REPEAL, SEVERABILITY** is amended as follows:

**Section 1.** All ordinances or parts of ordinances inconsistent herewith are repealed, but only to the extent of such inconsistency.

**Section 2.** If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subparagraph, clause or provision so adjudged and remainder of this Ordinance shall be deemed valid and effective.

**Section 3. Effective Date:** This Ordinance shall take effect immediately upon its final passage and publication as required by law.

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D'Angelo, carried that the meeting be opened for comments on Ordinance 2023-483 only.

Remo Maisto, Elberon Avenue, asked for clarification of Ordinance. Mayor discussed.

There being no further comment, 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 2023-483 be and the same is hereby adopted on final reading directing the Clerk to post and public as required by law.

Recorded Vote:

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

Nays: None

Absent: None

Ordinance 2023-484 – The Mayor read said Ordinance by Title, advising of its publication in *The Coaster* on January 12, 2023.

ORDINANCE #2023-484

AN ORDINANCE ENTITLED "AN ORDINANCE ESTABLISHING AND REGULATING LEAD BASED PAINT HAZARD AND RENTAL PROPERTIES IN THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH

Building and Housing

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH, AS FOLLOWS:

Section 1. Lead-based Paint Hazards and Rental Properties is to read as follows:

13-5.1 Definitions

- a. "Dust Wipe Sampling" means a sample collected by wiping a representative surface and tested in accordance with a method approved by the United States Department of Housing and Urban Development.
- b. "Tenant Turnover" means the time at which all existing occupants vacates a dwelling unit and all new tenants move into the dwelling unit.
- c. "Visual Assessment" means a visual examination for deteriorated paint or visible surface, dust, debris or residue.
- d. "Municipality" means Village of Loch Arbour.
- e. "Permanent Local Agency" means the Village of Loch Arbour Code Enforcement Department (hereinafter referred to as "Loch Arbour Code Enforcement")

13-5.2 Administration

The Loch Arbour Code Enforcement shall serve as the Department to conduct inspections and enforce laws and Ordinances and Regulations under this Ordinance. Loch Arbour Code Enforcement shall conduct a visual inspection of all required dwellings.

If Loch Arbour Code Enforcement is unable to carry out inspections due to the lack of expertise or certification and enforcing Laws, Ordinances and Regulations concerning buildings and structures within the Village of Loch Arbour, for purposes of this Ordinance, Loch Arbour Code Enforcement shall, through the Village of Loch Arbour, hire a lead evaluation contractor; certified to provide lead-paint inspection services by the Department of Community Affairs, to inspect.

An inspection by Loch Arbour Code Enforcement upon tenant turnover shall not be required if the dwelling owner or landlord directly hires a lead evaluation contractor who is certified to provide lead-based paint inspection services by the Department of Community Affairs to satisfy the requirements of 13-5.3 and 13-5.4.

13-5.3 Required Initial Inspection

The owner, landlord and/or agent of every single-family, two-family, and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards within two years of the effective date of the law, July 2, 2022, or upon tenant turnover, whichever is earlier.

13-5.4 Required Recurring Inspection

After the initial inspection required by Section 13-5.3, the owner, landlord and/or agent of such dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification.

13-5.5 Standards

Inspections for lead-based paint in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1, et seq., and N.J.S.A. 55:13A-1 et seq., as may be amended from time to time.

13-5.6 Exceptions

A dwelling unit in a single-family, two-family, or multiple rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint

hazards, or for the fees for such inspection or evaluation, if the unit:

- a. has been certified to be free of lead-based paint; or
- b. was constructed during or after 1978; or
- c. is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the "Hotel and Multiple Dwelling Law", N.J.S.A. 55:13A-1, et seq. or
- d. is a single-family or two-family seasonal rental dwelling which is rented for less than six months' duration each year by tenants that do not have consecutive lease renewals; or
- e. has a valid lead-safe certification issued in accordance with N.J.S.A. 52:27D-437.16(d)(2).

#### 13-5.7 Identified Lead-based Paint Hazards

If lead-based paint hazards are identified, then the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control mechanisms in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Village's Code Enforcement Officer or designee, as may be applicable, or the owner's private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

#### 13-5.8 Non Lead-base Paint Hazards

If no lead-based paint hazards are identified, then the Village's Code Enforcement Officer or designee or the owner's private lead inspector shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years and shall be filed with the Village's Code Enforcement Officer. The Village Code Enforcement Officer shall maintain up-to-date information on inspection schedules, inspection results, tenant turnover and a record of all lead-free certifications issued pursuant to N.J.A.C. 5:17.

#### 13-5.9 Property Owner Responsibilities

- a. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Village of Loch Arbour at the time of the cyclical inspection.
- b. Provide evidence of a valid lead-safe certification to new tenants of the property at the time of tenant turnover and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease.
- c. Maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants if the inspection was conducted during a period of tenancy.

#### 13-5.10 Fees

- a. Notwithstanding any other fees due pursuant to this Chapter, a fee in the amount of \$200.00 shall be paid for each lead-based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose. Alternatively, a dwelling owner or landlord may directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of Section 13-5.3 and 13-5.4 in which case no additional Lead-Based Paint inspection fee shall be paid.
  - b. Upon the Village's need to hire a lead evaluation contractor, any inspection fee shall be the responsibility of the dwelling owner or landlord.
  - c. In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

#### 13-5.11 Violations and Penalties

**Violations and Penalties.** In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of Article shall be as follows:

- a. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.
- b. If the property owner has not cured the violation after 30 days, the property owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts have been initiated.

Section 5. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Section 6. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 7. This Ordinance shall take effect upon passage and publication according to law.

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the meeting be opened for comments on Ordinance 2023-484 only.

Remo Maisto, Elberon Avenue, asked for clarification of Ordinance. Mayor discussed.

There being no further comment, 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 2023-484 be and the same is hereby adopted on final reading directing the Clerk to post and public as required by law.

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Fernicola

Nays: Commissioner Cheswick

Absent: None

Ordinance 2023-485 – The Mayor read said Ordinance by Title, advising of its publication in *The Coaster* on January 12, 2023.

**ORDINANCE #2023-485**

**AN ORDINANCE TO AMEND ORDINANCE 67, 313 and 330, ENTITLED “AN ORDINANCE PROVIDING FOR THE REGULATION AND CONTROL OF VEHICULAR TRAFFIC AND PARKING UPON THE STREETS, HIGHWAY AND ROADS IN THE VILLAGE OF LOCH ARBOUR COUNTY OF MONMOUTH AND PROVIDING PENALTIES FOR THE VIOLATION.**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH, AS FOLLOWS:

**Section 1.** Article 3, Section 302 of Ordinance 67 – Parking Prohibitions, Limits and Methods is amended as follows:

When appropriately signed, no person shall park a vehicle for a period of more than 20 minutes continuously between the hours of 8:00 am and 8:00 pm on the following street located in the Village of Loch Arbour:

- (a) Along the west side of Main Street beginning with its intersection with Edgemont Drive and thence running in a northerly direction to the Borough of Allenhurst Boundary Line.

**Section 2.** Violations and Penalties

- (a) Unless another penalty is expressly provided by the statutes of the State of New Jersey, any person violating or causing to be violated any of the provisions of this Ordinance shall be subject to a fine of not less than two hundred fifty (\$250.00) dollars and not more than One Thousand Two Hundred Fifty (\$1,250.00) Dollars.

Section 3. All Ordinances or parts of Ordinances inconsistent herewith are repealed, but only to the extent of such inconsistency.

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subparagraph, clause or provision so adjudged and remainder of this Ordinance shall be deemed valid and effective.

This Ordinance shall take effect immediately upon its final passage and publication as required by law.

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the meeting be opened for comments on Ordinance 2023-485 only.

Melanie Nowlin, Edgemont Drive, asked for clarification of Ordinance. Mayor discussed.

There being no further comment, 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 Commissioner Cheswick, seconded by Commissioner D' Angelo, carried Ordinance 2023-485 be and the same is hereby adopted on final reading directing the Clerk to post and public as required by law.

Recorded Vote:

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

Nays: None

Absent: None

#### NEW BUSINESS

Resolution 2023-37: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that the following resolution be and the same is hereby adopted:  
WHEREAS, the Board of Commissioners authorized and awarded a contract to Fernandes Construction, Inc., on August 9, 2022 for the Project known as Improvements to Euclid Avenue, Phase V & VI; and,

WHEREAS, and changes from the contract plans and specifications have been made: drainage improvements, concrete roadway, pavement milling, hot mix asphalt to enhance the road project; and,

WHEREAS, there is a decrease per the contract in the amount of -\$55,873.56 and an increase to the contract price in the amount of +\$42,901.80. for a net change in contract in the amount of -\$12,971.76; 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. 1 as referenced above totaling decrease in the amount of -\$12,971.76. to the initial contract amount which is now \$297,162.68, between Fernandes Construction, Inc. and the Village of Loch Arbour for the Project known as Improvements to Euclid Avenue, Phase V & VI is hereby approved as Change Order and Supplemental Agreement No. 1.

Recorded Vote:

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

Nays: None

Absent: None

**Resolution 2023-38:** UPON MOTION, of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the following Resolution be adopted:

WHEREAS, the Village Engineer has recommended to Village Officials a Coastal General Permit 2 Application must be filed with the Department of Environmental Protection to perform standard beach grooming of its oceanfront beach, including overall beach and sand management, raking of sand trash clean up and removal, pre-storm preparations and storm damage repairs as required.

BE IT RESOLVED, that the Board of Commissioners authorize the Municipal Clerk to execute the Application on behalf of the Village of Loch Arbour, and her signatures constitutes the acceptance of the submission of the Application to the Department of Environmental Protection.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2023-39: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that the following resolution be adopted:

BE IT RESOLVED by the Commissioner of the Village of Loch Arbour that, in accordance with Village Ordinance No. 337 and Ordinance 2019-456, the following 2023 salaries for officers and employees of the Village are hereby authorized, through December 31, 2023, inclusive:







a. The County shall utilize pesticides, application equipment and aircraft that are approved for aerial applications by the applicable Federal (USEPA) and State (NJDEP) agencies, and

b. such operation will be performed in compliance with applicable Federal and State regulations, and

c. the County will notify the Police Department of each municipality over which aerial pesticide operations are planned prior to commencement of such operations.

Recorded Vote:

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

Nays: None

Absent: None

#### **UPDATES/DISCUSSION**

A. Next Commissioners Meeting is scheduled for March 1, 2023 at 6:30 p.m.

B. Budget Workshop Meeting scheduled for Tuesday, February 21, 2023 at 6: 30 p.m.

C. Mayor Fernicola announced he will be reviewing the specifics regarding the potential Tree Ordinance, so this matter can be discussed at the next Commissioners Meeting.

#### **PUBLIC HEARING:**

UPON MOTION, Commissioner Cheswick, seconded by Commissioner D'Angelo, carried, the meeting be opened to the public for comments.

Melanie Nowlin, Edgemont Drive, stated she would like the Commissioners to consider purchasing an electronic speed sign to put up on Edgemont Drive to try and deter the speeding.

Remo Maisto, Elberon Avenue, stated there is speeding on Euclid Avenue and Elberon Avenue.

Margot Fernicola, Euclid Avenue, stated if the organizations that ask permission for the races in town, be reminded to clean up the garbage in the streets after the event is over.

UPON MOTION, Mayor Fernicola, seconded by Commissioner Cheswick, carried, the meeting be closed to the public.

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, that the meeting be adjourned at 7:00 p.m.

Marilyn Simons, RMC  
Village Clerk