

VILLAGE OF LOCH ARBOUR

MINUTES –REGULAR MEETING

MAY 3, 2023

THE 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, ON WEDNESDAY, MAY 3, 2023 AT 6:30 P.M.

Salute to the Flag. Present were Commissioner Cheswick, Mayor Fernicola. Commissioner D’ Angelo was absent.

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 10, 2023 posting the notice on the office bulletin board of the same date and filing a copy of this notice in the Clerk’s office.

BILLS

UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, that the payment of bills totaling \$250,597.17. for the month of May, 2023 be and the same is hereby approved as presented.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D’ Angelo

UPON MOTION of Mayor Fernicola, seconded by Commissioner D’Angelo, carried, that the payment to the Loch Arbour Board of Education in the amount of \$41,662.00 for the month of May, 2023 be and the same is hereby approved as presented.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D’ Angelo

MINUTES

UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, that the minutes of the following meeting are hereby approved:

- Minutes of the Regular Meeting and Executive Session held on April 5, 2023

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D’ Angelo

REPORTS

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that the following Reports for the period ending April 30, 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, Mayor Fernicola

Nays: None

Absent: Commissioner D’ Angelo

CORRESPONDENCE

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, 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;
- Municipal Stormwater – Annual Report and Certification submitted by Avakian’s office;
- Monmouth County Mosquito Control Division – Pesticide Control Program regulations.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D’ Angelo

OLD BUSINESS –

The Mayor read said Ordinance by Title, advising of its publication in *The Coaster* on March 9, 2023 and April 13, 2023.

**VILLAGE OF LOCH ARBOUR
ORDINANCE NO. 2023-487**

An Ordinance Entitled “An Ordinance Establishing a “Protection of Trees” 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:

ESTABLISHING AN ENFORCEMENT OFFICER

ARTICLE 1

Section 1. Purpose. The purpose of this Ordinance is to enhance the Village’s aesthetic environment and quality of life; aid in the stability of the soil by the prevention of erosion and sedimentation; reduce storm water runoff and the resulting costs of same; help the air quality in the Village with the production of oxygen and the removal of carbon dioxide; provide a buffer and screen against noise; provide shade; aid in the control of drainage; provide a haven for wildlife; protect and increase property values and conserve and enhance the Village’s unique qualities.

Section 2. Definitions.

Village property shall mean any and all land designed by the Village Tax Map as land owned solely and exclusively by the Village of Loch Arbour, including but not limited to Village parks and Village property or rights-of-way located between the sidewalks and curbs.

Circumference at breast height shall mean the circumference of the main stem of a tree measured at a point on the stem four and one-half (4 ½) feet above ground.

Tree shall mean any woody perennial plant having a single stem diameter minimum of two (2) inches measured at a point six (6) inches above the ground.

Section 3. Prohibited Acts. No person shall do or cause to be done any of the following acts on Village-owned property, right-of-way, street, road, highway, park or parkway without the recommendation and approval of ENFORCING OFFICER.

- a. Cut, trim break, remove, climb with spikes, disturb the roots or otherwise intentionally injure, misuse or spray with harmful chemicals any tree two (2) inches or more in diameter measured six (6) inches above the ground or remove any device installed to support or protect such trees.
- b. Plant any tree.
- c. Fasten any rope, wire, electrical equipment, sign or other device to a tree or install any guard about such a tree.
- d. Pile, heap or store any building materials, soil, debris or other matter or make mortar or cement within a distance of three (3) feet of a tree.
- e. Cause any oil, gas or other injurious chemical to come in contact with the trunk or roots of any tree.

Section 4. Exemptions. Reasonable pruning of trees by utility companies necessary to provide for line clearance for utility wires shall be exempt from the provisions of this chapter.

Section 5. Rights of other Authorities and Contractors. No statute giving an individual or State or Municipal Board, body or official, power or authority to lay any sidewalk along, or to open, construct curb or pave any street or do any like act shall be held or construed or permit or authorize any interference with or injury to a highway shade tree with the consent of the ENFORCING OFFICER; provided that, in all cases the ENFORCING OFFICER, shall reasonably cooperate with such individual board, body or official for the general public good.

ARTICLE II

Section 1. Tree Preservation and Removal. The purpose of this Ordinance is to prevent indiscriminate, uncontrolled, and excessive destruction, Removal, and Clear Cutting of trees upon lots and tracts of land within the Village of Loch Arbour in order to maintain the aesthetic character of the Village of Loch Arbour, prevent erosion, and control actions that will substantially change drainage patterns, and restrict actions that will cause a hazard to persons or property.

Section 2. Definitions

Clear Cutting – the removal of all standing trees on a site or portion of a site.

Emergency – any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property.

Heritage Tree – shall mean any tree with a circumference of 19 inches or more.

Public Right-of-Way – any street or road shown upon a map or plan filed in the Monmouth County Clerk's office or on the Official Map of the Village of Loch Arbour.

Removal – the actual removal of trees, or direct or indirect actions resulting in the effective removal of trees through damage or poison, or similar actions directly or indirectly resulting in the death of trees subject to the provisions of this Ordinance. Moving a tree to a different location on the same property does not constitute removal. Removal shall not include pruning for maintenance purposes.

Site – any lot, tract, parcel or parcels of land within the Village.

Tree Removal Permit – a certificate issued by the Village to remove trees as defined in this section.

Undisturbed Area – an area in which trees, shrubs, and understory will not be disturbed by filling, cutting or by any other means.

Section 3. Tree Removal Prohibited. No person shall remove, or cause to be removed, any Heritage Tree upon any lands within the Village of Loch Arbour except as follows:

1. Trees that are to be removed as the direct result of a Development Application that has been approved by the Village of Loch Arbour Planning Board.
2. Any trees cut or removed in accordance with a "management plan" developed by the New Jersey Department of Environmental protection, Bureau of Forestry, filed with the Clerk of the Village of Loch Arbour.
3. Trees directed to be removed by municipal, county, state or federal authority.
4. Trees that are to be removed as a result of the issuance of a Tree Removal Permit.

No person shall remove any tree growing or over a Public Right of Way or public land with the express written consent of the municipal authority.

Section 4. Tree Removal Permit – A Tree Removal Permit shall be required for the Removal of any Heritage Tree, as follows:

1. Heritage Trees that are dead severely damaged, or in an advanced state of decline by natural causes or accident other point that the natural habit of the Heritage Tree cannot be restored as determined by a NJ Licensed Tree Expert or competent Public Authority; Heritage Trees that are severely diseased and require Removal as certified by a NJ Licensed Tree Expert or competent Public Authority; or Heritage Trees that pose an imminent public safety hazard as determined by a NJ Licensed Tree Expert or competent Public Authority.
2. Heritage Trees required to be removed subject to a construction permit as issued by the construction official for construction of new residences, additions to residences, or the construction of swimming pools or other accessory buildings or structures that are not the subject of Planning Board application approvals. Such trees shall clearly be shown on the construction plans and identified by size and the Removal of same shall, in the opinion of the construction official or his designee, clearly be necessary for the construction of the subject building or structure.
3. Heritage Trees may only be removed for compelling reasons based on the totality of the circumstances. The ENFORCING OFFICER or his/her designee shall use best efforts to reach a determination that fairly takes into account the objectives of this ordinance and the concerns of the applicant. In evaluating a Tree Removal Permit application. The ENFORCING OFFICER or his/her designee may consider, without limitation, the following factors.
 1. The health of the tree;
 2. Impact of tree Removal on ecological systems;
 3. Impact of tree Removal on wildlife;
 4. Topography of the area and drainage impact;
 5. Impact of tree Removal on noise; light or air quality;

6. Density of tree area;
7. Overall effect of tree Removal on the physical and aesthetic value of the property;
8. Whether the continued presence of the tree or trees is likely to cause danger to a person or property.

Section 5. Tree Removal Permit Requirements: Application Form: An application form can be obtained from the Village Clerk and shall include the following information:

1. Name and address (street and lot and block) of the owner of the premises and status of legal entity (individual, partnership, corporation).
2. Description of the premises where Removal is to take place, including lot and block numbers, and street address as assigned if different than the address of the owner;
3. Purpose of Heritage Tree Removal;
4. In addition to the application form, a survey or diagram showing the approximate location and size of Heritage Trees exist on the lot and identifying those trees to be removed.
5. If a Heritage Tree is removed under the requirements of Section 4, a mitigation plan must be submitted which will provide for the replacement of all removed heritage trees by planting a tree of 3" to 3 ½" caliper with a similar mature height or a fee to the Village of Loch Arbour in the amount of \$500.00 per tree removed.
6. For any Heritage Trees to be removed under the requirements of Section 4, a replacement plan must be submitted showing the planting of trees for any Heritage Tree Removal. The replacement trees must be a minimum caliper of 3" to 3 ½" with a similar mature height or a fee to the Village of Loch Arbour in the amount of \$500.00 per tree removed.
6. These plans must be submitted and approved by the ENFORCING OFFICER or his/her designee prior to the issuance of any permits.

Section 6. Fees – Upon the filing of an application with the ENFORCING OFFICER for a Tree Removal Permit under the terms of this section, the applicant shall pay an application fee of \$25.00. An application may include more than one Heritage Tree within a single application fee.

Section 7. Permit Approval

1. Time limits for action.
 - a. The ENFORCING OFFICER or his/her designee shall act on an application for Tree Removal permit within thirty (30) days of the receipt of a complete application. Failure to act within thirty (30) days shall be deemed to be an approval of the application and thereafter, a Tree Removal Permit shall be issued.
2. Duration of Permits
 - a. If granted for a lot or parcel of land for which no building permit is required 3 months from the date of issuance.
 - b. If granted for a lot or parcel of land for which a building permit is required but for which no variances, subdivision, or site plan approval is required or has been approved by the Planning Board until expiration of building permit granted with such Tree Removal permit.

Section 8. Completion. The holder of a Tree Removal Permit shall notify the ENFORCING OFFICER when the tree Removal has been completed and when replacement trees, as required, have been planted.

Section 9. Appeals. Whenever any application for a Tree Removal Permit shall be denied by the ENFORCING OFFICER or his/her designee, the applicant may appeal the denial to the Village Clerk by a filing a written notice of appeal with the Village Clerk within ten days after receiving notice of denial. Upon receipt of the notice of appeal, the Village Clerk shall appoint a hearing panel consisting of three members: the Village Engineer or his/her designee, and any other two designees of the Village Clerk. This panel shall proceed to hear the appeal upon notice to the applicant within thirty (30) days of the filing of such notice of appeal. This panel shall have the discretion, after interviewing the applicant and the

ENFORCING OFFICER or his/her designee, to reverse, affirm, or modify the aforesaid decision.

Section 10. Protection of Existing Trees. In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and Village Engineer, shall be placed around trees that are not to be removed. The protective barriers shall be placed at the dripline or canopy line of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits, or construction materials shall be placed within any area so protected by barriers. Any landscaping activities subsequent to the Removal of the barriers. Any landscaping activities subsequent to the Removal of the barriers shall be accomplished with light machinery or hand labor.

Section 11. Emergency Action. In the event of an Emergency, any person otherwise subject to this section, having responsibility, jurisdiction and/or authority to cure, remedy or mitigate dangerous, hazardous, inconvenient, unhealthy or obnoxious conditions resulting from the Emergency, may, without first applying for and obtaining a permit under this section, take any lawful action which is otherwise a regulated activity. However, such person or the agent or designee of such person, shall apply for a Tree Removal Permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-Emergency work including restoration, until a permit is obtained.

Section 12. Penalties. When regulated trees are removed without a Tree Removal Permit, the affected areas shall be replanted as required by the Enforcing Officer or his/her designee. Any person guilty of violating any of the provisions of this section shall be subject to a fine not exceeding \$1,250.00 per removed tree. Each Heritage Tree removed or destroyed in violation of this section shall be considered a separate violation.

Section 13. This Ordinance shall take effect immediately upon 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 2023-487 only.

The Mayor summarized correspondence received by Village residents (email):

Mary Pat Fischer, Euclid Avenue, is in favor of Ordinance.

David Dweck, Euclid Avenue, is in favor of Ordinance. Mr. Dweck suggested a program if a tree is removed from a resident property, a fee is paid to replant two trees elsewhere in the Village.

Frida Braha, Edgemont Drive, is opposed to the Ordinance. She stated it is a government overreach and views this as a futile attempt to improve drainage and air quality.

Sam Shamie, Euclid Avenue, questioned who is responsible to maintain the trees on the right of way and maintain the sidewalks in the Village. The Mayor and Mr. Shamie discussed.

Mr. Shamie referenced section 2 of the Ordinance. He objects to the size of the tree that cannot be cut down on a residence property, that is proposed in the Ordinance. He questioned if the application is denied to taking down a tree on his property of that size, what recourse does the homeowner have.

Catherine Cunniff, Euclid Avenue, is concerned about trees in her neighbor's properties that attract lantern flies.

Mayor Fernicola read the criteria from the Ordinance, of tree removal on Village Property and Private Property. Mayor Fernicola announced the Enforcement Officer will be the Village Clerk.

David Dweck, Euclid Avenue, suggested the town hire a tree expert. Mr. Dweck discussed the Ordinance language and he believes the language is not consistent in the Ordinance regarding "trees" and "heritage trees". Mr. Dweck spoke about developing a program to start planting trees in the Village. Mr. Dweck would like the language of the Ordinance clarified before the Ordinance is adopted.

Erin Dolan, Edgemont Drive, is in favor of the Ordinance. Ms. Dolan discussed establishing a Community Forrest Management Plan in the Village.

Jack Hedaya, Euclid Avenue, is concerned about the process to remove a tree from his property. He is not looking to remove any trees, but is concerned because he has 23 heritage trees on his property.

Sarah Hedaya, Euclid Avenue, believes the Ordinance is too restrictive for the property owners that have trees on their property. She loves all the trees on her property and has no plans to take them down, but would like more clarification of the language in the Ordinance.

Danielle Hedaya, Euclid Avenue, is concerned about this Ordinance being adopted. She referenced Article 4 in the Ordinance. She stated there are many properties in the Village with no trees on their properties and it is concerning the property owners that have trees will be restricted on development projects on their own properties. She would like to be assured that this will not happen. Ms. Hedaya is concerned about some of the wording in the Ordinance. Mayor Fernicola discussed the criteria for taking down a heritage tree. Ms. Hedaya suggested to plant more trees on the street line.

Jack Hedaya, Euclid Avenue, stated a broker told him that because the total amount of trees on his property, his property is unsellable if this Ordinance is adopted.

David Dweck, Euclid Avenue, referenced Article 2 of the Ordinance and suggested that the reference to “trees” and “heritage trees” be clarified in the Ordinance. The Mayor discussed with Mr. Dweck.

Melanie Nowlin, Edgemont Drive, is in favor of adopting Ordinance. She stated the definition for Loch Arbour is “Sheltered Area by Trees”. Ms. Nowlin spoke about the flooding in the Village in prior years.

Sam Shamie, Euclid Avenue, suggested to add to the Ordinance, if a homeowner wants to take down a tree – at the homeowner’s expense, two trees are planted on public property. Mayor Fernicola referenced the Ordinance - Article 2, Section 4, paragraph 3.

Melanie Nowlin, Edgemont Drive, spoke about replacing a new tree with a heritage tree. She discussed the root system in the older tree.

Cathy Cunniff, Euclid Avenue, is in favor of adopting this Ordinance.

Remo Maisto, Elberon Avenue, stated no trees should be planted on Elberon Avenue to restrict his view of the Ocean.

There being no further comments, UPON MOTION, of Mayor Fernicola, seconded by Commissioner Cheswick, carried the meeting be closed to the public.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D’ Angelo

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried Ordinance 2023-487 be adopted on final reading directing the Clerk to post and publish as required by law.

Recorded Vote:

Ayes: Mayor Fernicola

Nays: Commissioner Cheswick

Absent: Commissioner D’ Angelo

ORDINANCE 2023-487 WAS NOT ADOPTED.

2023 Municipal Budget – public hearing/adoption

- Affidavit of Publication of 2023 Municipal Budget Summary in *The Coaster* on April 13, 2023, received and on file.

Resolution 2023-54: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the following resolution be adopted:

WHEREAS, the Village of Loch Arbour 2023 Municipal Budget was introduced and approved on the 5th day of April, 2023; and,

WHEREAS, pursuant to N.J.S.A. 40A:4-8, et seq., the Clerk of the Village of Loch Arbour does hereby certify the Synopsis of the Budget was published in *The Coaster* on April 13, 2023 and the Affidavits of Publication is on file in the Village Clerk’s office; and,

WHEREAS, pursuant to N.J.S.A 40A:4-8, et seq., the Clerk of the Village of Loch Arbour does hereby certify the 2023 Budget has been available for public review on the Village website at www.locharbournj.us or by contacting the Municipal Clerk at clerk@locharbour.us; and

WHEREAS, a public hearing thereon was held on the 3rd day of May, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that the budget hereinbefore set forth shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of \$1,282,606.01 for municipal purposes.

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D’ Angelo

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

Thomas Seaman, CFO, summarized the 2023 Budget.

David Dweck, Euclid Avenue, suggested adding a line item for the tree ordinance expenditures.

Melanie Nowlin, Edgemont Drive, suggested adding a line item to buy a speed sign for Edgemont Drive.

Remo Maisto, Elberon Avenue, asked about the tax rate. CFO discussed.

Margot Fernicola, Euclid Avenue, commented on the Loch Arbour School Tax.

There being no further comments from the public present. UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried the meeting be closed to the public.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

Resolution 2023-55: UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, that the following Resolution be adopted:

WHEREAS, the Village of Loch Arbour 2023 Municipal Budget was introduced and approved on the day of April, 2022; and,

WHEREAS, pursuant to N.J.S.A. 40A:4-1, et seq., the Synopsis of the Budget was published in *The Coaster* on the 13th day of April, 2023 and the Affidavit of Publication is on file in the Village Clerk's office; and,

WHEREAS, a public hearing thereon was held on the 3rd day of May, 2023.

WHEREAS, permission to adopt the 2023 Municipal Budget was received from the Division of Local Government Services.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour, County of Monmouth, that the budget hereinbefore set forth, is hereby adopted and shall constitute an appropriation for the purposes states of sums therein set forth as appropriations, and authorization of the amount of \$1,282,606.01 for municipal purposes.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

NEW BUSINESS

A. Ordinance 2023-488 – introduction

CAPITAL ORDINANCE NO. 2023-488

CAPITAL ORDINANCE PROVIDING FOR IMPROVEMENTS TO ELBERON AVENUE, AND APPROPRIATING \$140,000 THEREFOR, AUTHORIZED IN AND BY THE VILLAGE OF LOCH ARBOUR, IN THE COUNTY OF MONMOUTH, NEW JERSEY.

WHEREAS, the Village Board of Commissioners of the Village of Loch Arbour, in the County of Monmouth, New Jersey (the "Village") has determined to provide for improvements to Elberon Avenue, and

WHEREAS, the Village has available \$140,000 in the Village's Capital Fund.

NOW, THEREFORE, BE IT ORDAINED by the VILLAGE BOARD OF COMMISSIONERS OF THE VILLAGE OF LOCH ARBOUR, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. The improvements described in Section 2 of this ordinance are hereby authorized as general capital improvements to be undertaken in and by the Village of Loch Arbour, in the County of Monmouth, New Jersey (the "Village"). For the improvements or purposes described in Section 2, there is hereby appropriated \$140,000, said sum being inclusive of \$10,400.00 from the Village's Capital Improvement Fund and including \$129,600.000 grant funds expected to be received from the New Jersey Department of Transportation.

Section 2. The improvements hereby authorized to be undertaken consist of improvements to Elberon Avenue, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with contracts, plans, specifications or requisitions therefor on file with or through the Acting Village Clerk, as finally approved by the governing body of the Village.

Section 3. The 2023 capital budget of the Village will conform to the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Acting Village Clerk and is available there for public inspection.

Section 4. An aggregate amount not exceeding \$21,000 for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included as part of the cost of said improvements and is included in the estimated cost indicated herein for said improvements.

Section 5. The Village Attorney and other Village officials and representatives are hereby authorized to do all things necessary to accomplish the purposes of the appropriation made herein.

Section 6. This ordinance shall take effect as provided by law.

UPON MOTION, of Commissioner Cheswick, seconded by Mayor Fernicola, carried that said Ordinance 2023-488 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 June 7, 2023.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

Resolution 2023-56: UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, that the following resolution be adopted:

WHEREAS, certain Bond Anticipation Notes have been issued pursuant to Village Ordinances 286, 302, 340, 2013-389 and 2017-430; and

WHEREAS, the issuance of the said Bond Anticipation Notes in the face amount of \$439,800; and

WHEREAS, the Board of Commissioners of the Village of Loch Arbour are in receipt of the executed Certificate of Determination and Award; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Village of Loch Arbour be and the same memorializes the action that the Chief Financial Officer, in consultation with Bond Counsel has taken with respect to the issuance of the said Bond Anticipation Notes, Series 2023A, dated April 28, 2023 in the face amount of \$340,800. for the period of one year to May 18, 2024 at the interest rate of 4.05% to County of Monmouth, New Jersey, pursuant to the Local Bond Law, N.J.S.A. 40A:2-28.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

Resolution 2023-57: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the following Resolution be adopted:

BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that, for the protection of the general public and for the purpose of controlling the public municipal beach of the Village of Loch Arbour, known and designated as "Village Beach Club, Loch Arbour" said beach shall be closed on the following dates to all persons who have not paid certain fees in accordance with Beach ordinances of the Village of Loch Arbour:

May 27, 28, 29 and June 3, 4, 10, 11 and everyday thereafter commencing June 17 and ending September 4, 2023, inclusive, between the hours of 9:00 AM and 6:00 PM.

BE IT FURTHER RESOLVED that no person or persons shall be permitted on said beach during the periods hereinabove set forth except after registering and upon payment of certain fees as provided in the Beach Ordinances of the Village of Loch Arbour.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

Resolution 2023-58: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the following Resolution be adopted:

BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that, pursuant to Article 1, Section 2 of Village Ordinance No. 207, the bathing areas for the 2023 season of the Village Beach Club, Loch Arbour, to wit: May 27, 28, 29 and June 3, 4, 10, 11 and thereafter commencing June 17 and ending September 4, 2023, inclusive, between the hours of 9:00 AM and 6:00 PM.

"The main bathing area of the beachfront shall be between the area beginning approximately ten feet north of the old wooden groin located at the end of Euclid Ave, and ending approximately ten feet south of the small jetty at the end of Elberon Ave. These areas will be marked with a line drop and buoys marking the perimeter of the designated bathing area. The South Beach bathing area shall be located approximately ten feet south of the old wooden groin located at the end of Euclid Ave and extend to approximately ten feet north of the new Loch Arbour/Kassin Beach border. The northern perimeter of this bathing area shall be marked with a rope drop and buoys. The southern perimeter will be marked with either a rope drop and buoys or flag. Bathing and/or the use of floatable recreational devices shall be permitted in these areas only at the discretion of the beach manager, based upon weather, ocean and crowd conditions."

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

Resolution 2023-59: UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried that the following Resolution be adopted:

WHEREAS, the Village Clerk, in consultation with Beach Manager, Raymond Kelly, has recommended the following personnel for seasonal employment at the Village Beach commencing May 27, 2023 for the summer season of 2023; and,

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that the following persons are appointed for employment at the Village Beach Club, Loch Arbour, commencing May 27, 2023 for the summer season of 2023:

NAME	TITLE	SALARY PER HOUR
Joshua Guida	Head Guard	21.50
Timothy Sparrock	Guard	21.00
John Geary	Guard	16.00
Kevin Novibilsky	Guard	14.50
Jack Messick	Guard	14.50
Ethan DeFonseka	Guard	14.50
Nicholas Kelly	Guard	14.00
Leonardo Failla	Guard	14.00
Michael May	Guard	14.00
John Paul Fernicola	Gateperson	13.50
Robert Geary	Gateperson	13.50
Emily Hazelrigg	Gateperson	13.50
Justin Zimmerer	Gateperson	12.70
Spencer Nunez	Gateperson	12.70
Abigail Hazelrigg	Gateperson	12.70
Nestor Castillo	Gateperson	12.70
Lucas Francis	Gateperson	12.70
Strummer Hansen	Gateperson	12.70
Greiva Velasquez-Torres	Gateperson	12.70
Colin Zimmerer	Gateperson	12.70
Luella Fetter	Gateperson	12.70
Aiden Madigan	Gateperson	12.70
Eric McGlennon	Gateperson	12.70
Michael McGlennon	Gateperson	12.70
Hailey Morrow	Gateperson	12.70
Nicholas Savare	Gateperson	12.70
Gabriel Zeledon	Gateperson	12.70

BE IT FURTHER RESOLVED that the weekly scheduled hours for each employee may be changed at the Beach Manager's discretion based upon the staffing needs of the Village Beach Club.

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

Resolution 2023-60: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that the following Resolution be adopted:

WHEREAS, the Village of Loch Arbour (Landlord) and James Kiely Pavilion, LLC (Tenant) entered into a Lease Agreement dated December 7, 2022 for the premises known as the James Kiely Pavilion Snack Bar;

WHEREAS, all parties mutually agree to modify the Lease Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that the Addendum to the Lease of James Kiely Pavilion and the same is hereby approved and will be executed by the Mayor and attested to by the Clerk.

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to James Kiely Pavilion, LLC, New Jersey.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

Resolution 2023-61: UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, that the following resolution be adopted:

WHEREAS, the Village Beach Parking Lot and Village Streets require to be cleaned of sand in preparation for the 2023 summer season; and

WHEREAS, the Village Clerk contacted three vendors who provide this service pursuant to the Local Purchasing laws (N.J.S.A. 40A:11—1, et seq.) and received the following quotes :

VENDOR	AMOUNT
Down To Earth Landscaping	\$10,500.
Burke Construction	No quote
Central Jersey Trucking	No quote

WHEREAS, funds are available for this project in the 2023 Municipal Budget and the Chief Financial Officer has so certified.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour that the quotation of Down to Earth Landscaping, Inc., in the amount of \$10,500.00 be and the same is hereby accepted.

BE IT FURTHER RESOLVED that the Village Clerk shall coordinate all work necessary with the successful vendor.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner Cheswick

Resolution 2023-62: UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, that the following resolution be adopted:

WHEREAS, the streets and roads of the Village require striping of parking stalls, numeric characters, handicapped stalls, crosshatching and curb painting in an effort to ensure the parking standards are met in the Village; and

WHEREAS, the Village Clerk contacted three vendors who provide this service pursuant to the Local Purchasing laws (N.J.S.A. 40A:11—1, et seq.) and received the following quotes:

VENDOR	AMOUNT
Straight Edge Striping, LLC	\$6,975.
Liber Lines & Sealcoating	\$8,295.
Traffic Lines, Inc.	No quote

WHEREAS, funds are available for this project in the Road Maintenance appropriation and the Chief Financial Officer has so certified,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour that the quotation of Straight Edge Striping, LLC in the amount of \$6,975.00 be and the same is hereby accepted.

BE IT FURTHER RESOLVED that the Village Clerk shall coordinate all work necessary with the successful vendor.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

Resolution 2023-63: UPON MOTION of the Board of Commissioners of the Village of Loch Arbour, the following Resolution is hereby adopted:

WHEREAS, pursuant to the New Jersey Abandoned Property and Rehabilitation Act, N.J.S.A. 55:19-78, *et seq.*, (the “Act”), the Village of Loch Arbour has the power to establish a Vacant/Abandoned Property List (the “List”) and has the specific municipal powers to enforce said List; and

WHEREAS, the Village of Loch Arbour has enacted Ordinance No. 2022-477, an Ordinance entitled “Buildings, Construction and Housing – Vacant/Abandoned Property List: Registration, in the Village of Loch Arbour, County of Monmouth” pursuant to its authority under the Act; and

WHEREAS, the Village of Loch Arbour contains structures which are vacant and/or abandoned in whole or large part; and

WHEREAS, the Village of Loch Arbour has determined that a certain property shall be placed on the List; and

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of Commissioners of the Village of Loch Arbour, Monmouth County, on this 3rd day of May, 2023, as follows:

1. The Clerk of the Village of Loch Arbour is hereby authorized and directed to place the following property on the List: 3 Ocean Place, Village of Loch Arbour.

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

UPDATES/DISCUSSION

- A. Next Commissioners Meeting is scheduled for June 7, 2023 at 6:30 p.m. to be held at the Kiely Pavilion, Ocean Place, New Jersey.
- B. Summer Beach Volleyball – discuss request from Mike O’Krepki. Mr. O’Krepki was not present at the meeting to discuss request.
- C. Local Government Ethics Law Financial Disclosure Statement – All local government officials are required to complete and file a Financial Disclosure Form with the Municipal Clerk annually on or before April 30th of each year. The State is requiring all forms be electronically filed. The information was sent to each official, so the form can be completed online and transmitted to the State.

PUBLIC HEARING:

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

Melanie Nowlin, Edgemont Drive, requested the Village purchase a speed sign for Edgemont Drive, due to the excessive speeding problem.

Sam Shamie, Euclid Avenue, requested the Village purchase a speed sign for Euclid Avenue, due to the excessive speeding problem.

Mr. Shamie requested the seasonal badge price be increased at the Village Beach.

Mayor Fernicola stated a speed study was done on Euclid Avenue, and it was reported there was not a significant amount of speeding. Mayor Fernicola is in favor of the purchase of the speed sign.

Margot Fernicola, requested the Village purchase a speed sign, due to excessive speeding all over the Village.

Mrs. Fernicola, requested the street sweeper be done in the whole town.

Sam Shamie, requested the pedestrian sign not be placed on the corner of Euclid Avenue and Evergreen Place. The Clerk explained the Deal Police determine where the pedestrian signs are placed, where they are most effectively utilized.

Cathy Cunniff, Euclid Avenue, requested the DPW alert the homeowners when they are going to street sweep, so that cars can be moved.

Ms. Cunniff requested information on the snack bar facility. Commissioner Cheswick discussed the Grab and Go Section and the new kitchen.

David Dweck, Euclid Avenue, requested what the interest rate on the BAN is. The Clerk reported it is approximately 4%.

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

Recorded Vote:

Ayes: Commissioner Cheswick, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

UPON MOTION of, Mayor Fernicola, seconded by Commissioner Cheswick, 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: Potential and Pending Litigation/Attorney client privileged information.
Action may 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, Mayor Fernicola

Nays: None

Absent: Commissioner D' Angelo

There being no further business, and UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, that the meeting be adjourned at 9:00 p.m.

Marilyn Simons, RMC
Village Clerk