

VILLAGE OF LOCH ARBOUR

MINUTES – RESCHEDULED REGULAR MEETING

JUNE 12, 2023

THE RESCHEDULED REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE VILLAGE OF LOCH ARBOUR, MONMOUTH COUNTY, NEW JERSEY, WAS HELD IN THE VILLAGE OF LOCH ARBOUR MUNICIPAL BUILDING, 550 MAIN STREET, ON WEDNESDAY, JUNE 12, 2023 AT 6:30 P.M.

Salute to the Flag. 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 rescheduled regular meeting to the Village's two official newspapers on June 1, 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 D' Angelo, seconded by Commissioner Cheswick, carried, that the payment of bills totaling \$100,496.33. for the month of June, 2023 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 Cheswick, 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 June, 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 D' Angelo, carried, that the minutes of the following meeting are hereby TABLED:

- Minutes of the Regular Meeting and Executive Session held on May 3, 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 May 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 –

The Mayor read said Ordinance by Title, advising of its publication in *The Coaster* on May 18, 2023.

A. Ordinance 2023-488

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 Mayor Fernicola, seconded by Commissioner Cheswick, carried that the meeting be opened for comments on Ordinance 2023-488 only.

Jack Hedaya, Euclid Avenue, asked if Elberon Avenue is in Loch Arbour and Allenhurst. The Clerk confirmed that Loch Arbour and Allenhurst both received grants, so the project will be done together.

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

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 2023-488 be 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. Ordinance 2023-489 – introduction

VILLAGE OF LOCH ARBOUR

ORDINANCE NO. 2023-489

**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.

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 said Ordinance 2023-489 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date of the public hearing for July 5, 2023.

Recorded Vote:

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

Nays: None

Absent: None

B. Resolution 2023-64: RESOLUTION AUTHORIZING THE MAYOR AND MUNICIPAL CLERK TO EXECUTE THE FY2024-FY2026 REVISED AMENDMENT AGREEMENT WITH MONMOUTH COUNTY FOR COOPERATIVE PARTICIPATION IN THE COMMUNITY DEVELOPMENT PROGRAM PURSUANT TO THE INTERLOCAL SERVICES ACT

WHEREAS, certain Federal funds are potentially available to Monmouth County under Title I of the Housing and Community Development Act of 1974, as amended, commonly known as the Community Development Block Grant Program; and

WHEREAS, it is necessary to establish a legal basis for the County and its residents to benefit from this program; and

WHEREAS, a Revised Amendment Cooperation Agreement has been adopted under which the Loch Arbour Village and the County of Monmouth in cooperation with other municipalities will establish an Interlocal Services Program pursuant to N.J.S.A. 40:8B-1; and

WHEREAS, it is in the best interest of the Loch Arbour Village to enter into such the revised amendment cooperation agreement.

NOW, THEREFORE, BE IT RESOLVED by the Loch Arbour Mayor and Commissioners of the Loch Arbour Village, that the Revised Amendment Agreement between the County of Monmouth and Certain Municipalities located herein for the establishment of a Cooperative Means of Conducting certain Community Development Activities, a copy of which is attached, thereto, be and same is hereby approved.

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk be and same are hereby authorized to execute said agreement in accordance with the provisions of law; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its enactment.

Recorded Vote:

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

Nays: None

Absent: None

C. ABC License Renewals

1. Loch Arbour Liqours, Inc. (1324-44-002-002)

The Clerk reported the following information

- Renewal application has completed and filed;
- Appropriate fees submitted;
- Tax Clearance Certificate received;
- Report received from the Borough of Deal Police Department indicating no problems with renewal.

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried the meeting be opened to the public on said license renewal only.

There being no comments from the public. UPON MOTION OF Mayor Fernicola, seconded by Commissioner D' Angelo, carried the public be closed.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2023-65: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that the following resolution be adopted:

WHEREAS, an application was made for a Plenary Retail Distribution License renewal (#1324-44-002-002) by Loch Arbour Liquors, Inc., t/a Loch Arbour Liquors, for the premises located at 541 Main Street (north store), Loch Arbour, accompanied by a check in the amount of \$1,150.00 for the required municipal license fee. A check in the amount of \$200.00 for the required State fee, was paid directly to the State of New Jersey; and,

WHEREAS, the governing body makes the following findings with respect to the Plenary Retail Distribution License to be issued by it:

1. The submitted application form is correct in all respects.
2. The applicant is qualified to be licensed according to all statutory, regulatory, and local governmental ABC laws and regulations.
3. The applicant has disclosed and the issuing authority has reviewed the source of all funds used in the purchase of the license, and the licensed business and/or additional financing obtained in the previous license term for use in the licensed business.

NOW, THEREFORE, BE IT RESOLVED, as follows:

That a Plenary Retail Distribution License, State assigned license number 1324-44-002-002, for the period July 1, 2023 through June 30, 2023, both dates inclusive, be issued to Loch Arbour Liquors, Inc., t/a Loch Arbour Liquors, for the premises located at 541 Main Street (north store), Loch Arbour, New Jersey; and,

BE IT FURTHER RESOLVED that the Village Clerk be and she is hereby authorized and directed to execute and deliver said license certificate to the applicant; and,

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to Loch Arbour Liquors, Inc. t/a Loch Arbour Liquors, and to the Alcoholic Beverage Control of the State of New Jersey.

Recorded Vote:

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

Nays: None

Absent: None

2. Resolution 2023-66: 601 Main Hospitality, LLC (1324-33-001-017)

The Clerk reported the following information

- Renewal application has completed and filed;
- Appropriate fees submitted;
- Tax Clearance Certificate received;
- Report received from the Borough of Deal Police Department indicating no problems with renewal.

The Village of Loch Arbour noticed the Deal Lake Bar & Co the intension to impose, as a condition of renewal, the prohibition of amplified sound to the outdoors by the means of outside speakers, or otherwise after 10:00 p.m.

Michael Halfacre, Esq., appeared on behalf of the Deal Lake Bar & Co. and Tim McMahon, President of the parent company of the Licensee were present.

Mr. Halfacre, Esq., explained his client was upset and surprised, because he has not had any complaints, nor heard of any complaints, and was not aware of any complaints regarding this matter, until he received the Village's letter of May 15, 2023.

Mayor Fernicola discussed the night he heard the loud amplification of the sound. Mayor stated the doors were open and the amplification was coming from inside and being projected outside to the patio. Mayor Fernicola also discussed the parking along Edgemont Drive.

Mr. McMahon stated he was surprised of the intension to impose a new condition of the renewal of the liquor license. He proposed a trial to make sure that the instance the Mayor said occurred does not happen again. He recalled the night and said there were two events going on this night – so the bar was very crowded.

Mr. Halfacre, Esq., respectfully requests that the Village reconsider this new condition of renewal, as the establishment did not know of any such complaints.

Denise Geary, Oakhurst, New Jersey, stated that she was present the night of the complaint and there were 2 school fundraisers and the facility was very crowded.

Cathy Cunniff, Euclid Avenue, questioned if inside/outside amplification. The Mayor stated it was outside amplification. Ms. Cunniff stated a restriction on their license is harsh – in the alternative can the Village use noise ordinance to alleviate any noise issues from the establishment.

Jack Hedaya, Euclid Avenue, stated he lives relatively close to the establishment and he does not believe there is a noise problem.

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

Recorded Vote:

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

Nays: None

Absent: None

The Mayor and Commissioners discussed the intention to implement an additional condition.

UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried that the amendment to a condition of the renewal **not be implemented** at this time, for the prohibition of amplified sound to the outdoors by the means of outside speakers, or otherwise after 10:00 p.m. at the Deal Lake Bar & Co.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2023-66: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D'Angelo, carried, that the following resolution be adopted:

WHEREAS, an application was made for a Plenary Retail Consumption License renewal (#1324-33-001-017) from 601 Main Hospitality, LLC t/a Deal Lake Bar + Co. for the premises located at 601 Main Street, Loch Arbour, accompanied by a check in the amount of \$2,000.00 for the required

municipal license fee. A check in the amount of \$200.00 for the required State fee; was paid directly to the State of New Jersey and,

WHEREAS, the governing body makes the following findings with respect to the Plenary Retail Consumption License to be issued by it:

1. The submitted application form is correct in all respects.
2. The applicant is qualified to be licensed according to all statutory, regulatory, and local governmental ABC laws and regulations.
3. The applicant has disclosed and the issuing authority has reviewed the source of all funds used in the purchase of the license, and the licensed business and/or additional financing obtained in the previous license term for use in the licensed business.

NOW, THEREFORE, BE IT RESOLVED, as follows:

That a Plenary Retail Consumption License, State assigned license number 1324-33-001-017, for the period July 1, 2023 through June 30, 2024, both dates inclusive, be issued to 601 Main Hospitality, LLC t/a Deal Lake Bar + Co., for the premises located at 601 Main Street, Loch Arbour, New Jersey with the following special conditions to address the documented problems of prior inappropriate behavior by rowdy patrons leaving the premises in the early morning hours, and prior inappropriate behavior by certain staff members:

1. Within six months of the date of adoption of this resolution, all current bar staff and employees shall attend the Techniques of Alcohol Management (TAMS) training provided by the New Jersey Licensed Beverage Association. New staff members and employees shall attend the TAMS training within six months of initial hire date.
2. Within thirty (30) days of the initial hire date, new staff members and employees shall register with and be photographed by the Borough of Deal Police Department.
3. On an annual basis, all other employees and staff members shall register with and be photographed by the Borough of Deal Police Department.
4. The establishment shall ban problem customers from the premises for a period of one year.
5. Occupancy of the patio area, including bar stools, dining tables and standees, shall not exceed 90 people at any time.
6. Live entertainment shall end at 1:00 AM.
7. Employees of the licensed premise shall make inspections on Friday, Saturday, Sunday, and Monday mornings before 11:00 AM along Main Street and Euclid Avenue to Page Avenue for the purpose of removing debris left by departing patrons.

BE IT FURTHER RESOLVED that the Licensee hereby stipulates that he accepts these conditions without appeal to the Director of the Division of Alcohol Beverage Control.

BE IT FURTHER RESOLVED that the Village Clerk be and she is hereby authorized and directed to execute and deliver said license certificate to the applicant; and,

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to 601 Main Hospitality, LLC., t/a Deal Lake Bar + Co. and to the Alcoholic Beverage Control of the State of New Jersey.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2023-67: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, 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
Justin Zimmerer	Gateperson	12.93
Spencer Nunez	Gateperson	12.93
Abigail Hazelrigg	Gateperson	12.93
Nestor Castillo	Gateperson	12.93
Lucas Francis	Gateperson	12.93
Strummer Hansen	Gateperson	12.93
Greiva Velasquez-Torres	Gateperson	12.93
Colin Zimmerer	Gateperson	12.93
Luella Fetter	Gateperson	12.93
Aiden Madigan	Gateperson	12.93
Eric McGlennon	Gateperson	12.93
Michael McGlennon	Gateperson	12.93
Hailey Morrow	Gateperson	12.93
Nicholas Savare	Gateperson	12.93
Gabriel Zeledon	Gateperson	12.93
Zachary Berg	Gateperson	12.93

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, Commissioner D' Angelo, Mayor Fernicola

Nays: None

Absent: None

Resolution 2023-68: UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried, that the following resolution be adopted:

WHEREAS, Catherine Cunniff, 108 Euclid Avenue, Loch Arbour, New Jersey, has requested permission to hold a Private Party with an open fire, size not to exceed 3' x 3', at the Village Beach beginning at 6:00 PM on Saturday, June 10, 2023 and,

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that permission is hereby granted to Catherine Cunniff to hold a Private Party, with an open fire, size not to exceed 3' x 3', at the Village Beach beginning at 6:00 PM on Saturday, June 10, 2023, subject to the following:

1. Execution of the required Indemnification and Hold Harmless Agreement to be submitted to the Village Clerk on or before June 9, 2023;
2. All participants to leave the beach and the removal of all debris and other trash shall be removed from the beach at the end of the night;
3. All necessary permits to be obtained from the State of New Jersey, Fire Safety Division, for the open fire. Please provide Village of Loch Arbour proof of Permit issued.
4. Open fire not to exceed 3' x 3' to be monitored by adult chaperones at all times. A shovel & bucket of water to attend to fire must also be near the fire at all times.

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

1. Chief Ronen Neuman, Deal Police Department.

Recorded Vote:

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

Nays: None

Absent: None

F. Resolution 2023-69: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the following resolution be adopted:

WHEREAS, Jeffrey Williams, Surfrider Foundation, is a nonprofit organization and the main goal is to keep the beauty of the Shore by educating the public by conservation, climate change education and beach and ocean protection;

WHEREAS, Jeffrey Williams, Surfrider Foundation, has requested to set up a table and canopy at the Village Beach for 4 hours for one day: on July 15 or July 16 or Rain Date: August 5 or August 6;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that permission is granted to Jeffrey Williams, Surfrider Foundation, to set up a table and canopy at the Village Beach for 4 hours for one day: on July 15 or July 16 or Rain Date: August 5 or August 6; to educate the public regarding conservation, climate change education and beach and ocean protection. This event will be under the direction of Ray Kelly, Beach Manager.

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

1. Jeffrey Williams, Surfrider Foundation
2. Ray Kelly, Beach Manager

Recorded Vote:

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

Nays: None

Absent: None

UPDATES/DISCUSSION

- A. Next Commissioners Meeting is scheduled for July 5, 2023 at 6:30 p.m. to be held at the Kiely Pavilion, Ocean Place, New Jersey.

PUBLIC HEARING:

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

Denise Geary, Oakhurst, New Jersey, spoke about the condition of the beach on the northside. She stated there are mounds of sand. She feels like it has been neglected for years, and would like the Village to do something about this situation.

Ms. Geary, asked if the Mayor and Commissioners would consider changing the location of the lockers as she believes they look terrible. She spoke about the Agreement between the DEP and

The Village of Loch Arbour regarding maintaining the beach. She provided a copy of the Agreement with the Mayor and Commissioners. Mayor discussed and stated he will confer with the Village Engineer.

Remo Maisto, Elberon Avenue, asked if the Village is considering sifting the sand to get better quality of sand. Mayor discussed the sand replenishment history.

Margot Fernicola, Euclid Avenue, asked if the lights can be turned on at dusk at the Village Beach Pavilion. This has always been done in years past as a security measure.

Mrs. Fernicola reminded all Village residents to put the recyclables in a container with a lid, so the recyclables don't blow all over and end up in the Ocean and Deal Lake. Please secure all garbage/recyclables.

Robert Wiener, Page Avenue, discussed the overcrowding of the chairs/tables on the northside of the deck on the pavilion. Mr. Wiener also discussed the menu and nighttime activities at the Village Snack Bar.

Mayor Fernicola discussed with Mr. Wiener the overcrowding of the chairs/tables on the north side of the deck. He discussed the Amendment to the Lease Agreement. Mayor Fernicola also discussed the menu. He explained there will be two separate areas - a grab and go section and a grille area. He confirmed that everyone that enters the Village Beach, to eat at the snack bar or otherwise, must have a seasonal beach badge or purchase a daily beach badge.

The Mayor advised the Village is trying to work out amicably, the issue with the nighttime opening of the snack bar. The Mayor explained there is a difference of the interpretation of the Lease.

Tracey Berkowitz, Ocean, New Jersey, asked if you must purchase something from the snack bar to have use of the tables. Mayor Fernicola confirmed the snack bar is open to the public and as typical from past years, the seating is open to all patrons of the beach.

Stacey Wiener, Page Avenue, informed the Mayor and Commissioners she was told by the employee of the snack bar it is wait service only.

Cathy Cuniff, Euclid Avenue, informed the Mayor and Commissioners the employees of the snack bar referenced the area as a "restaurant". Ms. Cuniff also discussed with the Mayor and Commissioners the set up of the grab and go section and the kitchen.

She discussed with the Mayor who is responsible for cleaning of the bathrooms.

Fred Stankiewicz, Interlaken, New Jersey, said he was told the tables and chairs are only for paying customers and the general public would not be allowed to use them.

Cathy Cuniff, Euclid Avenue, informed the Mayor and Commissioners of her concern of the employees of the Village Beach, which are primarily teenagers, to have to try to enforce everyone to buy a daily beach badge to eat at the snack bar.

Margot Fernicola, Euclid Avenue, stated she is very sad from what she is hearing from the public at this meeting, patrons are not feeling welcomed in the Pavilion and at the Village Beach. She stated everyone is welcomed in the Village of Loch Arbour.

Remo Maisto, Elberon Avenue, asked if beach badges are required to use bathroom and snack bar. The Mayor confirmed, yes a beach badge is required.

Jack Hedaya, Euclid Avenue, spoke about the menu.

Tracey Berkowitz, Ocean, New Jersey, asked if more garbage/recycling cans can be placed around the deck area, as done in prior years.

Margot Fernicola, Euclid Avenue, confirmed in years past there has been many garbage cans on the deck.

Denise Geary, Oakhurst, New Jersey, confirmed staff take garbage cans off the beach nightly and usually lines them up on the north side deck.

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.
No official action will be taken after the Executive Session.
3. It is anticipated at this time that the above stated subject matter will be made public within 120 days.
4. This resolution shall be effective immediately.

Recorded Vote:

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

Nays: None

Absent: None

There being no further business, and UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, that the meeting be adjourned at 8:40 p.m.

Marilyn Simons, RMC
Village Clerk

