

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 August 28, 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.

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried, that the payment of bills totaling \$31,388.21. for the month of September, 2023 be and the same is hereby approved as presented.

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

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 \$25,000.00 for the month of September, 2023 be and the same is hereby approved as presented.

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 minutes of the following meeting are hereby approved:

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

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 following Reports for the period ending August 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

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 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;

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

OLD BUSINESS – None

**NEW BUSINESS**

**A. Ordinance 2023-490 – introduction**

**ORDINANCE 2023-490**

**AN ORDINANCE TO ESTABLISH A HANDICAPPED PARKING SPACE ON-STREET  
IN THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH**

**BE IT ORDAINED** by the Board of Commissioners of the Village of Loch Arbour, in the County of Monmouth and State of New Jersey, as follows:

Section 1. Pursuant to the authority granted to the Village of Loch Arbour by N.J.S.A 39:4-197.6, the following location is hereby designated as a restricted parking space for use by the handicapped person residing in the premises known as Block 9, Lot 1, 114 Euclid Avenue, Loch Arbour, New Jersey, to whom a windshield placard or wheelchair symbol license plates have been issued by the Division of Motor Vehicles for a vehicle owned by the handicapped person or another occupant of the residence who is a member of the immediate family of the handicapped person. No other persons shall be permitted to park in this space.

**PROPERTY ADDRESS:** Block 9, Lot 1, 114 Euclid Avenue, Loch Arbour, New Jersey.

Section 2. In addition to any other penalty provided by New Jersey Statute, any unoccupied vehicle parked or standing in violation of this Ordinance shall be deemed a nuisance and menace to the safe and proper regulation of traffic and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage, which may result from such removal before regaining possession of the vehicle.

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

Section 4. 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 said Ordinance 2023-490 be adopted on first reading, directing the Clerk to post and publish as required by law and setting the date for the public hearing as October 4, 2023.

Recorded Vote:

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

Nays: None

Absent: None

**Resolution 2023-76: UPON MOTION** of Mayor Fernicola, seconded by Commissioner D'Angelo, carried, that the following resolution be adopted:

WHEREAS, N.J.A.C. 5:34-7.15 authorizes local units such as the Village of Loch Arbour to enter into Commodity Resale Agreements for the purchase of certain commodities from other contracting units; and,

WHEREAS, the County of Monmouth, a local unit, has authorized the creation of the Monmouth County Commodity Resale System; and,

WHEREAS, it is in the best interests of the Village of Loch Arbour to enter into the proposed Municipal Assistance and Shared Services Agreement with the County of Monmouth.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that the Mayor and the Village Clerk be and they are hereby authorized to execute the attached Commodity Resale Agreement with the County of Monmouth.

BE IT FURTHER RESOLVED that the Village Clerk shall forward a certified copy of this Resolution along with the executed Commodity Resale Agreement to the Clerk of the Board of Chosen Freeholders, County of Monmouth, Hall of Records, Freehold, NJ.

Recorded Vote:

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

Nays: None

Absent: None

**Resolution 2023-77: UPON MOTION**, of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following Resolution be adopted:

WHEREAS, the property Verizon of New Jersey had the assessment change to 0 by the Tax Assessor; and

WHEREAS, Thomas X. Seaman, Tax Collector has verified the assessment change of Verizon of New Jersey (Block 999, Lot 1), PO Box 2749, Addison, TX 75001, and

WHEREAS, the Tax Collector hereby recommends refunding the overpayment of 2023 taxes in the amount of \$193.52, and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Village of Loch Arbour, that it does hereby authorize the recommended refund.

BE IT FURTHER RESOLVED that the Village Clerk is hereby directed to forward a certified copy of this resolution to the Village Finance Officer, the Tax Assessor and the Tax Collector.

Recorded Vote:

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

Nays: None

Absent: None

**Resolution 2023-78: UPON MOTION** of Mayor Fernicola, seconded by Commissioner D'Angelo, carried that the following resolution is adopted.

WHEREAS, Robert Wiener, Page Avenue, Loch Arbour, requested permission to have his band practice on the north deck on the Kiely Pavilion, with an open date between September 15, 2023 and October 31, 2023.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour, County of Monmouth, State of New Jersey that permission is granted to Robert Wiener to hold his band practice on the north deck of the Kiely Pavilion, subject to the following:

1. The date will be between September 15, 2023 and October 31, 2023. Mr. Wiener will inform the Village Clerk a day prior to the event happening.
2. The event will be between the hours of noon and dusk.
3. The speaker/amp will face the ocean and the band will practice on the north deck of the Kiely Pavilion.

Recorded Vote:

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

Nays: None

Absent: None

#### **UPDATES/DISCUSSION**

A. Next Commissioners Meeting scheduled for October 4, 2023 at 6:30 pm to be held at the Village Municipal Building.

B. **Clean Ocean Action Fall Beach Sweeps** – scheduled for Saturday, October 21, 2023 9 am – 12:30 pm. Participants are urged to wear hats, boots, sunscreen and bring gloves.

#### **PUBLIC HEARING:**

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

Margot Fernicola, Euclid Avenue, reminded the residents of the Clean Ocean Action Fall Beach Sweeps is scheduled for October 21, 2023 and the Deal Lake Clean up is scheduled for the same day.

Melanie Nowlin, urged the Mayor and Commissioners to purchase a speed sign for Edgemont Drive. The Village is still waiting for the results from the traffic study from the Deal Police Department.

Remo Maisto, Elberon Avenue, stated there is a speeding issue on Elberon Avenue.

Pennie Cohen, Euclid Avenue, spoke to the Mayor regarding the Tree Ordinance and the requirements to take down a tree. Ms. Cohen spoke about a particular tree in her yard.

UPON MOTION, 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 D'Angelo, 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. Contractual Issues.  
The Mayor and Commissioners reserve the right to take action upon return from 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

RETURNED FROM EXECUTIVE SESSION:

**RESOLUTION:** UPON MOTION of Mayor Fernicola, seconded by Commissioner D'Angelo, 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, the Lease Agreement, at Paragraph 11, provides, in pertinent part, that if the Tenant violates any of the terms and conditions of the Lease, or commits an act detrimental to the health, safety and welfare of the residents or patrons of the Village of Loch Arbour, or an act detrimental or hazardous to the demised premises, the Board of Commissioners of the Landlord shall have the absolute and unquestioned right and privilege to terminate this Lease at any time during the term of the Lease..."

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour, that the Lease between the Tenant and Landlord be terminated for the violations of said terms and conditions, that include, but are not limited, the following:

- Discrimination
- Unauthorized Sub-Lease
- Failure to open kitchen area on Saturdays throughout the 2023 Summer Season
- Unauthorized alterations to the demised premises, which led to significant fines assessed by the Borough of Deal Construction Department for the lack of obtaining building permits.
- Impermissible surcharges to patrons.
- Refusing to close due to inclement weather, as directed by the Beach Manager.

Recorded Vote:

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

Nays: None

Absent: None

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

WHEREAS, the Village of Loch Arbour is interested in entering into a Shared Service Agreement with the Borough of Allenhurst to purchase a jet ski for beach operations.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour that the Village direct the Clerk to let the Borough of Allenhurst know the Village is interested in entering into a Shared Service Agreement with the Borough of Allenhurst to purchase a jet ski for beach operations.

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 7:45 p.m.

Marilyn Simons, RMC  
Village Clerk

