

VILLAGE OF LOCH ARBOUR
MINUTES ~ REGULAR MEETING
APRIL 6, 2016

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, LOCH ARBOUR, NEW JERSEY ON APRIL 6, 2016, CALLED TO ORDER AT 6:30 P.M. BY DEPUTY MAYOR, AL CHESWICK.

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

Also present were William H. Healey, Esq., Village Attorney, Marilyn Simons, Village Clerk and Dan Mason, Deputy Village Clerk.

The Clerk read the Open Public Meetings Announcement: The notice requirements of C.231, P.L. 1975, have been satisfied by transmitting the notice of this Regular Meeting to the Village's two official newspapers on January 14, 2016 posting the notice on the office bulletin board on the same date and filing a copy of the notice in the Clerk's office.

UPON MOTION of Commissioner Cheswick and seconded by Commissioner D' Angelo carried the Agenda be amended for all financial matters to be heard when Mayor Fernicola is present.

MINUTES

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried, that the minutes of the following meetings be approved:

- *The minutes of the Regular Meeting held March 2, 2016;*
- *The minutes of the Special Meeting held March 18, 2016.*

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo

Nays: None

Absent: Mayor Fernicola

REPORTS/CORRESPONDENCE

UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried, that the following reports and correspondence for the period ending March 31, 2016 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*
- *Deal Police Department, Monthly Incident Report*

- *Monmouth Regional Health Commission No. 1, agenda and various reports/correspondence;*

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo

Nays: None

Absent: Mayor Fernicola

OLD BUSINESS - None

NEW BUSINESS

Resolution 2016-50: UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried the following Resolution is adopted:

The County of the Municipality enter into this agreement pursuant to the Rules governing cooperative purchasing, namely N.J.A.C 5:34-7.15.

IT IS AGREED:

1. **Commodities Offered.** The County will offer the commodities listed on Exhibit "A" to the Municipality through the Monmouth County Commodity Resale System.

2. **Amendment to Services Offered.** The County, in its discretion, may amend Exhibit "A" from time to time, upon approval by the Director of the Division of Local Government Services, if necessary, and written notice to the Municipality.

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3. **No Obligation by Municipality.** The Municipality is under no obligation to purchase any commodities offered by the County.

4. **No Obligation by County.** The County is under no obligation to provide a commodity requested by the Municipality if the County is not then in a position to honor the request.

5. **Total Cost Undetermined.** The total cost of the services to be rendered under this agreement cannot be estimated in advance, but will be determined by the extent to which the Municipality avails itself of the services available.

6. **Effective Dates.** This agreement shall be in effect from the date of its execution by both parties until September 30, 2021, unless sooner terminated by either party.

7. **Early Termination.** Either party may terminate this agreement, with or without cause, upon thirty (30) days written notice to the other party.

8. **County's Representative.** The County's Administrator or its director of Public Works and Engineering, or his/her respective designee, will act on behalf of the County with regard to the commodities available to the Municipality.

9. **Municipality's Representative.** The Municipality's Clerk, or her respective designee will act on behalf of the Municipality with regard to a request for commodities from the County.

10. **Payment of Invoices.** The Municipality will pay the County for commodities purchased under this agreement within thirty (30) days of the County's invoice for those commodities. If the Municipality disputes a County invoice, the Municipality will pay the undisputed portion and attempt to resolve the remaining portion in accordance with the article below, entitled Disputes.

11. **Disputes.** If there is a dispute concerning either party's performance under this agreement, the parties will attempt to resolve the dispute amicably between them. If the parties cannot resolve the issue amicably, the parties will mediate the dispute before a third party mediator jointly agreed to by the parties. Each party will bear its own cost of participating in mediation and the parties will share the cost of

the mediator equally. If the dispute is not resolved through mediation, either party may then pursue any available legal or equitable remedy to resolve the dispute.

12. Indemnification. Each party will indemnify the other party and hold the other party harmless for the negligent or intentional acts of the indemnifying party.

13. Authority to Execute Agreement. The execution of this agreement has been duly authorized by the governing bodies of the County and the Municipality.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo,

Nays: None

Absent: Mayor Fernicola

Resolution 2016-51: No Motion was made to adopt this Resolution.

Resolution 2016-52: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried that the following Resolution is adopted:

WHEREAS, the State of New Jersey, Department of Environmental Protection has notified all municipalities of the availability of funding under the Flood Hazard Risk Reduction and Resiliency Grant Program; and

WHEREAS, the Village of Loch Arbour is desirous of submitting an application under this program for the following purpose:

- Deal Lake Flood Improvements

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of Loch Arbour, County of Monmouth, State of New Jersey, formally approves the grant application for the above stated projects; and

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FURTHER BE IT RESOLVED that the Village Engineer, and Village Clerk are hereby authorized to submit an electronic grant application to the New Jersey Department of Environmental Protection on behalf of the Village of Loch Arbour; and

FURTHER BE IT RESOLVED that the Village Clerk is hereby authorized to sign the applicant authorization form on behalf of the Village of Loch Arbour and that their signature constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo

Nays: None

Absent: Mayor Fernicola

Resolution 2016-53: UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried that the following Resolution is adopted:

WHEREAS, the Village of Loch Arbour, having made this Proclamation on behalf of Fibrodysplasia Ossificans Progressiva known as F.O.P to hopefully one day display a Proclamation/Resolution book in Washington, D.C on behalf and in support of the children/young adults in the State of New Jersey afflicted with F.O.P and equally show concern for all other children afflicted with

F.O.P.; and

WHEREAS, *Fibrodysplasia Ossificans Progressiva* is a rare a genetic condition in which the body makes additional bone where bone should not form, such as within muscle, tendons, ligaments and other connective tissues. Symptoms of *F.O.P* include excruciating pain and distortion of the existing skeletal frame; and

WHEREAS, a gene has been identified after 15 years of hard research by the University of Pennsylvania, the only known research facility currently investigating a cure for *F.O.P*. Discoveries made in the *F.O.P*. lab by scientists and researchers may aid in the treatment or cure for other genetic diseases such as osteoporosis, arthritis, and spinal cord injuries; and

WHEREAS, the symptoms of *FOP* usually begin in the first or second decade of life, with the majority of patients diagnosed by age 10, depriving children of normal development. One in every seven Americans suffers from musculoskeletal impairment causing physical disability and severe long-term pain. *F.O.P* affects approximately 2,500 people worldwide;

WHEREAS, the Village of Loch Arbour commends Gary W. Whyte, his wife and three sons for their dedication in making other aware of this affliction and for their work and support for the benefit of *F.O.P*. research;

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the Village of Loch Arbour, County of Monmouth and the State of New Jersey acknowledges and desires to help enlighten the people of the United

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo

Nays: None

Absent: Mayor Fernicola

Resolution 2016-54: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried that the following Resolution is adopted:

WHEREAS, *Eneractive Solutions* has requested permission to use Village streets for *One More Tri; a Triathlon to Benefit the Special Olympics, NJ* to be held on Sunday, September 25, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that permission is granted to *Eneractive Solutions* to use Village streets for *One More Tri; a Triathlon to Benefit the Special Olympics, NJ* to be held on Sunday September 25, 2016, subject to the following conditions:

1. *A Certificate of Insurance naming the Village as an additional insured must be supplied to the Village on or before September 1, 2016 along with a copy of the insurance policy;*

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2. *All plans must be coordinated with the Borough of Deal Police Department;*
3. *Adequate personnel must be supplied to ensure the safety of bikers and pedestrians.*
4. *Traffic control devices, i.e., cones or barricades, must be supplied by Eneractive Solutions to be set-up and removed as necessary by personnel supplied by the Eneractive Solutions;*
5. *Execution of the required Hold Harmless Agreement.*

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

1. *Eneractive Solutions;*

2. Chief Ronen Neuman, Borough of Deal Police Department

Recorded Vote:

Ayes: Commissioner Cheswick, Commissioner D' Angelo

Nays: None

Absent: Mayor Fernicola

Mayor Fernicola arrived at the meeting and joined the Commissioners on the dais.

PUBLIC HEARING

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

Cathy Cunniff, Euclid Avenue, asked about Resolution 2015-51. The Village Clerk read the Resolution in its entirety.

Resolution 2016-51: UPON MOTION OF Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following Resolution is adopted:

WHEREAS, the New Jersey Shore is a natural treasure that must be protected for future generations, and

WHEREAS, the Shore is an economic engine for municipalities along the length of the State's coastline, including this one, with businesses that attract millions of tourists to our State annually, create good jobs in our communities, and support the State through the creation of much-needed revenues, and

WHEREAS, the Atlantic Ocean also is a major provider of fish and other seafood that is shipped across the region and nation, both to restaurants and other establishments, and for the direct use of consumers, and

WHEREAS, the Atlantic fisheries also support charter businesses which provide recreational and economic benefits to residents, and

WHEREAS, any proposal to allow drilling for oil or other fossil fuels off the Coast of the Eastern United States could have long-lasting detrimental impacts on the environment and economies of our Shore communities, and

WHEREAS, any catastrophic failure that would result in the release of fossil fuels directly into the Atlantic Ocean would create an environmental disaster on land and in coastal waters, damaging the Atlantic fisheries, fouling beaches, and contaminating back bays and salt marshes,

NOW, THEREFORE BE IT RESOLVED, by the Village of Loch Arbour, County of Monmouth, State of New Jersey, that the government and residents of the Village of Loch Arbour oppose, in the strongest possible terms, any proposal to allow for the drilling for oil or other fuels off the coast of the Eastern United States, and

BE IT FURTHER RESOLVED, that the sentiments of the government and people of the Village of Loch Arbour, County of Monmouth, State of New Jersey, in opposition to such drilling be shared with all County, State, and Federal officials representing the Village of Loch Arbour, and

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BE IT FURTHER RESOLVED, that all County, State, and Federal officials are strongly urged to use the powers at their disposal, through their official positions, to stop any and all proposals to open the Atlantic Coast to all drilling or associated exploration.

Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Ferricola

Nays: Commissioner Cheswick Absent: None

Joseph Gassaro, Ocean Place, asked the Mayor and Commissioners to consider leasing a beach ATV to use at the Village Beach Club this summer. Mr. Gassaro stated the ATV is needed for safety reasons, due to the extended beach. The ATV would transport an injured beach goer, if someone got hurt up to the pavilion.

Antonio Santos, Edgemont Drive, asked for clarification of the wording of Resolution 2016-51.

Jim Markey, JCPL, reported the tree trimming in the Village of Loch Arbour has been completed. Mr. Markey also explained to the governing body, an educational program that JCPEL is collaborating with Brookdale Community College to ascertain an Associate's Degree.

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

Resolution 2016-49: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried the following Resolution is adopted:

WHEREAS, N.J.S. 40A:4-19 provides that where any contract, commitment or payments are to be made prior to the final adoption of the 2016 budget, temporary appropriations should be made for the purpose and amounts required in the manner and time therein provided, and

WHEREAS, the date of this resolution is within the first 30 days of the fiscal year, and

WHEREAS, the total appropriations in the 2015 current fund budget, exclusive of any appropriations made for interest and debt redemption charges, capital improvement and public assistance, is the sum of \$1,449,606.94 and

WHEREAS, 26.25% of the total appropriations in the 2015 budget, exclusive of any appropriations made for interest and debt redemption charges, capital improvement and public assistance in said budget is the sum of \$380,521.82 and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour, in the County of Monmouth, State of New Jersey, that the attached listing (Attachment 1 ~ 2016 Temporary Budget Worksheet) of appropriations be made and a certified copy of this resolution be transmitted to the Chief Financial Officer for his records.

Recorded Vote:

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

Nays: None Absent: None

PAYMENT OF BILLS

UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried, that the payment of bills totaling \$46,149.96 for the month of April, 2016 be and the same is hereby approved as presented.

Recorded Vote:

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

Nays: None

Absent: None

UPON MOTION of Mayor Ferricola, seconded by Commissioner D' Angelo, carried, that the payment to the Township of Ocean Board of Education in the amount of \$164,347.00 for the month of April, 2016 be and the same is hereby approved;

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Recorded Vote:

Ayes: Commissioner D' Angelo, Mayor Ferricola

Nays: Commissioner Cheswick Absent: None

A. Ordinance #2016-420 ~ introduction

The Mayor read the Ordinance in its entirety.

Ordinance 2016-420

AN ORDINANCE TO AMEND ORDINANCE NO. 156 and ORDINANCE 306 AMENDING THE DEFINITION OF BUILDING COVERAGE FOR THE VILLAGE OF LOCH ARBOUR, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY.

BE IT ORDAINED by the Board of Commissioners of the Village of Loch Arbour, in the County of Monmouth and the State of New Jersey, that the Ordinance referred to in the title hereof is amended and supplemented as follows:

Section 1. The term "Building Coverage" in Section 302 of Article 3 (Definitions) is amended to read as follows:

The square footage or other area measurement by which a building and/or structure occupies the land as measured on a horizontal plane and including the area under the roof of any structure supported by columns or walls, as measured around the extremities of the roof above the columns. The maximum building coverage requirements permitted by this ordinance shall be the total area of all building and structures. Buildings and structures include, but are not limited to, buildings, structures dwellings, accessory buildings, garages, storage sheds, tool sheds, recreation courts, pools, pool houses, cabanas, decks, patios, driveways, walkways, and all other areas covered by stone, gravel, pavers or impervious materials.

Section 2. This Ordinance shall become effective twenty days after its final passage and publication as required by law.

UPON MOTION, of Mayor Ferricola, seconded by Commissioner D' Angelo, carried that said Ordinance #2015-418 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 May 4, 2016.

Recorded Vote:

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

Nays: None

Absent: None

REPORTS/DISCUSSION

A. Consolidation Matters ~ Mayor Ferricola explained the Village filed a Petition with the County Superintendent and the process leading up to now. Mayor Ferricola reported the County Superintendent and the Village of Loch Arbour received Ocean Township's

fiscal analysis. Mayor Fernicola spoke about the fiscal analysis Ocean Township submitted. The Village is anxiously waiting for a decision from the County Superintendent.

B. A Special Meeting will be scheduled for the Introduction of the 2016 Village of Loch Arbour Budget in the next two weeks. A tentative date was set for Thursday, April 14, 2016 at 5:30 pm. The Clerk will post and notice the meeting as required by law when the date is determined.

UPON MOTION of Commissioner Cheswick 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: Discuss, contract negotiations and anticipated or threatened litigation and attorney client privileged

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Information regarding school funding and taxation issues. Mayor Fernicola stated 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 D' Angelo, carried that the meeting be finally adjourned at 8:08 p.m.

Marilyn Simons, RMC
Village of Loch Arbour