

**VILLAGE OF LOCH ARBOUR  
MINUTES - RESCHEDULED REGULAR MEETING  
SEPTEMBER 14, 2016**

**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, LOCH ARBOUR, NEW JERSEY ON SEPTEMBER 14, 2016, CALLED TO ORDER AT 6:30 P.M. BY MAYOR PAUL V. FERNICOLA.**

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

Also present were William H. Healey, Esq., Village Attorney, Marilyn Simons, Village Clerk, Dan Mason, Village Deputy 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 Rescheduled Regular Meeting to the Village's two official newspapers on September 2, 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.

**PAYMENT OF BILLS**

UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried, that the payment of bills totaling \$32,717.87 for the month of September, 2016 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 Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the payment to the Township of Ocean Board of Education in the amount of \$167,585.33 for the month of September, 2016 be and the same is hereby approved.

**Recorded Vote:**

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

**MINUTES**

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

- The minutes of the Regular Meeting held June 1, 2016;
- The minutes of the Regular Meeting held July 6, 2016.

**Recorded Vote:**

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

**REPORTS/CORRESPONDENCE**

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the following reports and correspondence for the period ending August 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;
- Memorandum from D. Howarth from P. Avakian's office explaining the Executive Order (E.O.) issued by the Governor, which is still in full force and effect regarding Euclid Avenue Phase II and III Projects.
- Email received from Thomas Moore, T.M. Foods, exercising his option to a one year renewal of the Lease to operate the James V. Kiely Pavilion Snack Bar for the 2017 beach season.

**Recorded Vote:**

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

**OLD BUSINESS - None**

**NEW BUSINESS**

**A. Resolution 2016-21:** UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the following resolution be adopted:

WHEREAS, Gerald V. Matthews, of the Eastern Surfing Association has requested permission to hold a Surfing Contest on the south end of the Village of Loch Arbour Beach on Saturday, October 8, 2016 and Sunday October 9, 2016;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that permission is granted to Gerry Matthews, of the Eastern Surfing Association to hold a Surfing Contest on Saturday, October 8, 2016 and Sunday, October 9, 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 October 1, 2016 along with a copy of the insurance policy;
2. All plans must be coordinated with the Borough of Deal Police Department;
3. Adequate personnel must be supplied to ensure the safety of the Surfers and the Patrons.
4. Execution of the required Hold Harmless Agreement.

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

1. Gerald V. Matthews, The Eastern Surfing Association
2. Chief Ronen Neuman, Borough of Deal Police Department

**Recorded Vote:**

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

**B. Resolution 2016-22:** UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried that the following resolution be adopted:

WHEREAS, pursuant to Paragraph 27 of the Lease Agreement between GO Foods and the Village of Loch Arbour to operate the James V. Kiely Pavilion Snack Bar at the Village Beach Club, Loch Arbour, GO Foods has the option to renew the Lease Agreement for the 2017 Season; and,

WHEREAS, GO Foods has chosen to exercise the option for the 2017 Season and so notified the Village in writing and submitted the required deposit of \$5,190.00 to secure the renewal as required by the Bid Specifications and Lease Agreement; and,

WHEREAS, the Board of Commissioners of the Village finds that GO Foods has substantially and satisfactorily complied with the provisions of the 2015 Bid Specifications and Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the option to renew the lease to operate the James V. Kiely Pavilion Snack Bar at the Village Beach Club for the 2017 Season.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be forwarded to GO Foods.

**Recorded Vote:**

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

**C. Resolution 2016-23:** UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried that the following resolution be adopted:

WHEREAS, it is the policy of the Village of Loch Arbour to treat the public, employees, prospective employees, appointees, volunteers and contractors in a manner consistent with all applicable civil rights laws and regulations including, but not limited to the Federal Civil Rights Act of 1964 as subsequently amended, the New Jersey Law against Discrimination, the Americans with Disabilities Act and the Conscientious Employee Protection Act, and

WHEREAS, the governing body of the Village of Loch Arbour has determined that certain procedures need to be established to accomplish this policy.

NOW, THEREFORE, BE IT ADOPTED by the Board of Commissioners of the Village of Loch Arbour as follows:

1. No official, employee, appointee or volunteer of the Village of Loch Arbour by whatever title known, or any entity that is in any way a part of the Village of Loch Arbour, shall engage, either directly or indirectly in any act, including the failure to act, that constitutes discrimination, harassment or a violation of any person's constitutional, statutory or common law rights while such official, employee, appointee volunteer, or entity is engaged in or acting on behalf of the Village of Loch Arbour's business or using the facilities or property of the Village of Loch Arbour.
2. The prohibitions and requirements of this resolution shall extend to any person or entity, including but not limited to any volunteer organization or inter-local organization, whether structured as a governmental entity or a private entity, that receives authorization or support in any way from the Village of Loch Arbour to provide services that otherwise could be performed by the Village of Loch Arbour.
3. Discrimination, harassment and civil rights shall be defined for purposes of this resolution using the latest definitions contained in the applicable Federal and State laws concerning discrimination, harassment and civil rights.
4. The Village Clerk shall establish written procedures for any person to report alleged discrimination, harassment and violations of civil rights prohibited by this resolution. Such procedures shall include alternate ways to report a complaint so that the person making the complaint need not communicate with the alleged violator in the event the alleged violator would be the normal contact for such complaints.
5. No person shall retaliate against any person who reports any alleged discrimination, harassment or violation of civil rights, provided however, that any person who reports alleged violations in bad faith shall be subject to appropriate discipline.
6. The Village Clerk shall cause a summary of this resolution and the procedures established pursuant to this resolution to be communicated within the Village of Loch Arbour. This communication shall include a statement from the governing body expressing its unequivocal commitment to enforce this resolution. This summary shall also be posted on the Village of Loch Arbour's website.
7. This resolution shall take effect immediately.
8. A copy of this resolution shall be published in the official newspaper of the Village of Loch Arbour in order for the public to be made aware of this policy and the Village's commitment to the implementation and enforcement of this policy.

Recorded Vote:

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

Nays: None

Absent: None

D. Resolution 2016-24: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following resolution be adopted:

WHEREAS, the Village of Loch Arbour is committed to complying with the Conscientious Employee Protection Act, also known as the "Whistleblower Act", N.J.S.A. 34:19-1, et. seq. which prohibits an employer from taking retaliatory action against an employee when an employee engages in protected conduct under the Act;

WHEREAS, the Village wishes to designate two persons to whom an employee may bring, by written notice, any activity, policy or practice to the attention of the Village in order to give the Village a reasonable opportunity to address and, if necessary, correct the activity, policy or practice.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour as follows:

1. The Village Clerk and the Deputy Village Clerk are hereby appointed as contact persons to receive written notifications for claims of retaliation and/or violations of the Conscientious Employee Protection Act, any Village policies promulgated pursuant to that Act, and for any written notices by employees seeking to address and/or correct any activity, policy or practice which the employee reasonably believes is in violation of a law or a rule or regulation issued under the law.
2. This resolution shall take effect immediately upon adoption.

Recorded Vote:

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

E. Resolution 2016-25: UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried that the following resolution be adopted:

WHEREAS, the Village of Loch Arbour is in need of a lifeguard, due to fact lifeguards have left for college before the summer season has ended:

WHEREAS, the Village Clerk, in consultation with Beach Manager John Bosmans, has recommended the following personnel for seasonal employment at the Village Beach Club on a part-time basis (as needed) for the summer season of 2016; and,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Village of Loch Arbour, as follows:

1. The following person is appointed for employment at the Village Beach Club, Loch Arbour, on a part-time basis (as needed) for the summer season of 2016:

NAME	TITLE	SALARY PER HOUR	HOURS PER WEEK
Timothy Henry	LIFEGUARD	\$9.87	Part-time (as needed)

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.

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

F. Resolution 2016-26: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following resolution be adopted:

WHEREAS, John W. Grossarth, of the Rumson Fair Haven High School Surf Team has requested permission to hold a Surfing Contest on the south end of the Village of Loch Arbour Beach on Friday, September 30, 2016 and/or Friday, October 7, 2016:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that permission is granted to John W. Grossarth, of the Rumson Fair Haven High School Surf Team to hold a Surfing Contest on Friday, September 30, 2016 and/or Friday, October 7, 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 23, 2016 along with a copy of the insurance policy;
2. All plans must be coordinated with the Borough of Deal Police Department;
3. Adequate personnel must be supplied to ensure the safety of the Surfers and the Patrons.
4. Execution of the required Hold Harmless Agreement.

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

1. John W. Grossarth, Rumson Fair Haven High School Surf Team
2. Chief Ronen Neuman, Borough of Deal Police Department

Recorded Vote:

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

## REPORTS/DISCUSSION

A. **School Tax Issue** - Mayor Fernicola stated no further updates to the School Tax Issue. The Village is still waiting for a response from the State of New Jersey, Commissioner of the Department of Education. Mayor Fernicola stated the ruling is supposed to be this week.

B. **Village Beach Club** - 2016 Revenue Report - Beach Badge Sales

	TOTAL REVENUE
2016	252,294.
2015	283,054.

**PUBLIC HEARING**

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

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

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: To discuss anticipated or threatened litigation regarding consolidation and/or school funding and taxation issues and attorney-client privileged advice. 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 7:10 p.m.

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Darilyn Simons, RDC  
Village of Loch Arbour