

**PURSUANT TO THE MUNICIPAL LAND USE LAW (CHAPTER 291, P.L. 1975);
ESTABLISHING A ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD
PURSUANT TO SAID LAW; AND REPEALING ALL PRIOR ORDINANCES
RELATING TO ZONING AND PLANNING, AND PROVIDING PENALTIES FOR
THE VIOLATION OF THE TERMS AND PROVISIONS THEREOF IN THE VILLAGE
OF LOCH ARBOUR, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY”
SO AS TO CONFORM WITH THE MASTER PLAN OF THE VILLAGE OF LOCH
ARBOUR**

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. Section 705 of Article 7, “C” Commercial, is hereby amended to read as follows:

A. Principal Permitted Use on Land and in Buildings

Office buildings and banks; churches or other places of worship; car wash; tavern; restaurant for sit-down dinners only and with no drive-in facilities; and retail businesses.

Section 2. All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

Section 3. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

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

Michael Goodman, Elberon Avenue, questioned the wording of the Ordinance.

There being no additional public comments, and **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

UPON MOTION of Mayor Fernicola, seconded by Commissioner D’ Angelo, carried, that said Ordinance 2018-437 be and the same is hereby 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

B. **Ordinance 2018-438** – The Mayor read the Ordinance by Title and advised of its publication by summary in The Coaster on April 19, 2018.

**ORDINANCE NO. 2018-438
AN ORDINANCE TO EXCEED THE CALENDAR YEAR 2018
MUNICIPAL BUDGET APPROPRIATION LIMITS AND
TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)**

BE IT ORDAINED by the Board of Commissioners of the Village of Loch Arbour as follows:

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1, et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Board of Commissioners of the Village of Loch Arbour in the County of Monmouth finds it advisable and necessary to increase its CY 2018 budget by up to 3.5% over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of its citizens; and,

WHEREAS, the Board of Commissioners hereby determines that a 3.5% increase in the budget for the said year, amounting to \$10,453.49 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Board of Commissioners hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Village of Loch Arbour, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2018 budget year, the final appropriations of the Village of Loch Arbour shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5%, amounting to \$10,453.49 and that the CY 2018 municipal budget for the Village of Loch Arbour be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED that a certified copy of this ordinance, upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Rich from Mr. Hulsart's office explained the proposed Ordinance.

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the meeting be opened for comments on the said Ordinance only.

Michael Goodman, Elberon Avenue, stated he is in favor of adopting this Ordinance.

There being no additional public comments, and **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

UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, that said Ordinance 2018-438 be and the same is hereby 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

C. 2018 Municipal Budget –

Resolution 2018-59: UPON MOTION of Commissioner D' Angelo, seconded by Commissioner Cheswick, carried that the following resolution be adopted:

WHEREAS, the Village of Loch Arbour 2018 Municipal Budget was introduced and approved on the 11th day of April, 2018; and,

WHEREAS, pursuant to N.J.S.A. 40A:4-1, et seq., the Synopsis of the Budget was published in *The Coaster* on April 19, 2018 and the Affidavit of Publication is on file in the Village Clerk's office; and,

WHEREAS, a public hearing thereon is being held on the 9th day of May, 2018.

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 \$1,228,911.17 for municipal purposes.

Recorded Vote:

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

Nays: None Absent: None

Resolution 2018-60: UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried that the following resolution be adopted:

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the *Village of Loch Arbour* has been declared eligible to participate in the program by the Division of Local government Services, and the

of the sums therein set forth as appropriations, and authorization of the amount of \$1,228,911.17 for municipal purposes.

Recorded Vote:

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

NEW BUSINESS –

Resolution 2018-62: UPON MOTION of Mayor Fernicola seconded by Commissioner D' Angelo, 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 Arbor:

May 26, 27 and 28. June 2, 3, 9, 10 and everyday thereafter commencing June 16 and ending September 3, 2018, 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, Commissioner D' Angelo, Mayor Fernicola
Nays: None Absent: None

Resolution 2018-63: UPON MOTION of Commissioner D' Angelo, 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 2018 season of the Village Beach Club, Loch Arbour, to wit: May 26, 27 and 28. June 2, 3, 9, 10 and thereafter commencing June 16 and ending September 3, 2018, 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, Commissioner D' Angelo, Mayor Fernicola
Nays: None Absent: None

Resolution 2018-64: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that this Resolution be tabled until after the Executive Session at the end of the meeting tonight.

Recorded Vote:

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

Resolution 2018-65: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the following resolution be adopted:

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1967, c. 102, established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and,

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and,

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and,

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and,

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and to indicate the assent of the Board of Commissioners to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and,

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that the Village of Loch Arbour hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund used solely for the purposes of recycling.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2018-66: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following Resolution be adopted:

WHEREAS, the Department of Environmental Protection and the Village of Loch Arbour desire to enter into a State Aid Agreement for the initial construction of the Project known as Sandy Hook to Barnegat Inlet Section 1- Sea Bright to Ocean Township, Elberon to Loch Arbour Beach, New Jersey – Hurrican and Storm Damage Reduction Project;

BE IT FURTHER RESOLVED, that the Mayor and the Municipal Clerk are hereby authorized to sign the Agreement, on behalf of the Village of Loch Arbour, and their signatures constitute acceptance of the terms of the Agreement between the Department of Environmental Protection and the Village of Loch Arbour.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2018-67: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick carried that the following Resolution be adopted:

WHEREAS, Mrs. Carol Delia purchased four 2018 season badges for the Village Beach Club during the pre-season, and

WHEREAS, Mrs. Carol Delia has requested a refund in the amount of \$190.00, (cost of 2 badges) and,

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour that a refund of \$190.00 be and the same is hereby authorized to Mrs. Carol Delia.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be supplied to the Chief Financial Officer for his information and action.

Recorded Vote:

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

Nays: None

Absent: None

Resolution 2018-68: UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, 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 \$839,261; 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 2018A, dated May 2, 2018 in the face amount of \$839,261 for the period of one year to May 2, 2019 at the interest rate of 2.00% to Kearny Bank, Fairfield, New Jersey pursuant to the Local Bond Law, N.J.S.A. 40A:2-28.

Recorded Vote:

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

Nays: None

Absent: None

REPORTS/DISCUSSION

A. **School Tax Issue** – Mayor Fernicola reported a hearing date for the Ocean Township School District Appeal was heard on April 16, 2018. The Mayor reported he does not expect a decision any earlier than 6-8 weeks.

B. **Consideration of possible new Ordinances:**

- Roof Top Decks –
 - Change of Definition “Height of Building” –
 - Add language to Ordinance 2017-424, regarding any denial of a Certificate of Appropriateness –
 - Add language to Ordinance 420 (definition) regarding driveway materials/coverage –
- The above Ordinances will be drafted by the Village Attorney and considered at the next regular scheduled Commissioners Meeting.

C. **Memorial Day Ceremony** – to be held at the Village Beach at the end of Euclid Avenue on Ocean Place, on Saturday, May 26, 2018 at 10:30 a.m.

D. **UPON MOTION** of Mayor Fernicola, seconded by Commissioner Cheswick, carried the regular meeting of the Board of Commissioners scheduled for July 4, 2018 is being cancelled and being rescheduled for Monday, July 9, 2018 at 6: 30 p.m.

Recorded Vote:

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

Nays: None

Absent: None

PUBLIC HEARING

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

Michael Goodman, Elberon Avenue, spoke about the pending Ordinances, and explained the system of permeable pavers, and how they are installed.

Melanie Nowlin, Edgemont Drive, stated gravel is impermeable, due to the plastic that is put underneath the gravel. Ms. Nowlin also asked for clarification regarding the “House of Worship” Ordinance.

Michael Goodman, Elberon Avenue, spoke about his pending lawsuit against the Village of Loch Arbour.

There being further comments, and UPON MOTION of Mayor Fernicola, seconded by Commissioner D’ Angelo, carried, that the public hearing be closed.

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: Discuss, contract negotiations, litigation and attorney client privileged information regarding school funding and taxation issues as well as personnel matters. 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

Return from Executive Session:

Resolution 2018-64: UPON MOTION of Mayor Fernicola, seconded by Commissioner D’ Angelo, carried that the following Resolution be adopted:

WHEREAS, the Village Clerk, in consultation with Beach Manager, Matt Hoyle, has recommended the following personnel for seasonal employment at the Village Beach commencing May 26, 2018 for the summer season of 2018; 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 26, 2018 for the summer season of 2018:

NAME	TITLE	SALARY PER HOUR	HOURS PER WEEK
Harry Harson	Head Guard	15.00	48 hours
Richard Naples	Guard	12.50	48 hours
Sydney Stout	Guard	10.00	40 hours
Clayton Hauck	Guard	10.00	48 hours
Ian Delaney	Guard	9.00	48 hours
John Napolitani	Guard	9.00	40 hours
Mark Schell	Guard	9.00	40 hours
Sarah Nichols	Guard	10.50	Part time
Christopher Nagy	Head Gateperson	15.00	48 hours
Abigail Collins	Gateperson	10.50	48 hours
Liam Gleason	Gateperson	10.00	48 hours
Allie Collins	Gateperson	9.50	48 hours
Brian Fisher	Gateperson	9.00	40 hours
Stephen Hagerman	Gateperson	9.00	40 hours
Sydney Maxwell	Gateperson	8.75	48 hours
Shane Foster	Gateperson	8.75	40 hours
John Paul Fernicola	Gateperson	9.00	Part time

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

There being no further business, and UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried that the meeting be finally adjourned at 8:07 p.m.

Marilyn Simons, RMC
Village of Loch Arbour