

VLLAGE OF LOCH ARBOUR
MINUTES –REGULAR MEETING
FEBRUARY 7, 2024

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, ON WEDNESDAY, FEBRUARY 7, 2024 AT 6:30 P.M.

Salute to the Flag. Present were Commissioner Cheswick, Commissioner D’ Angelo, Mayor Fernicola.

Also present was William Healey, Village Attorney and Marilyn Simons, Village Clerk.

MOMENT OF SILENCE FOR LONG-TIME RESIDENT WHO PASSED AWAY RECENTLY – JOSEPH GASSARO

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 regular meeting to the Village’s two official newspapers on January 8, 2024 positing the notice on the office bulletin board on the same date and filing a copy of this notice in the Clerk’s office.

BILLS

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D’ Angelo, carried, that the payment of bills totaling \$150,696.66 for the month of February, 2024 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 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 February, 2024 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 Commissioner Cheswick, seconded by Commissioner D’ Angelo, carried, that the minutes of the following meeting are hereby approved:

- Minutes of the Reorganization, Regular Meeting and Executive Session held on January 3, 2024.

Recorded Vote:

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

REPORTS

UPON MOTION of Mayor Fernicola, seconded by Commissioner D’Angelo, carried, that the following Reports for the period ending January 31, 2024 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 2024
- 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 Mayor Fernicola, 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:

- Jersey Shore Regional Health Commission No. 1, agenda and various reports/correspondence;
- Proposal received from Avakian, Inc., 2024 Stormwater Regulatory Compliance Assistance
- Proposal received from Avakian, Inc., 2023 NJDEP Stormwater Assistance Grant Tier A Stormwater Infrastructure Mapping.
- Allenhurst Fire Department – 2023 Call Summary – Fire and EMS
- Monmouth County Clerk – project to commemorate America’s upcoming Semi-quincentennial in 2026.

- Recorded Vote:**

OLD BUSINESS

**CAPITAL ORDINANCE PROVIDING FOR IMPROVEMENTS TO OCEAN PLACE, AND
APPROPRIATING \$174,000 THEREFOR, AUTHORIZED IN AND BY THE VILLAGE OF LOCH
ARBOUR, IN THE COUNTY OF MONMOUTH, NEW JERSEY.**

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

David Dweck, asked for the timeline to do the work and spoke about the sand on Ocean Place. The Mayor discussed.

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

Recorded Vote:

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried, Ordinance 2024-491 be and the same is hereby adopted on final reading directing the Clerk to post and publish as required by law.

Recorded Vote:

B. Ordinance 2024-492

ORDINANCE 2024-492
AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 156, AND
ORDINANCE 2022-480 ENTITLED “AN ORDINANCE ESTABLISHING LAND USE
DEVELOPMENT REGULATIONS (CHAPTER 291, P.L. 1975) AMENDING ORDINANCE 156,
ARTICLE 4, (417 D) AND ORDINANCE 2022-480 ENTITLED “PERMITS” FOR THE VILLAGE OF
LOCH ARBOUR, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY.”

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

BE IT ORDAINED, the Board of Commissioners of the Village of Loch Arbour has determined it is in the best interest of the community to revise portions of the existing Land Use Development Regulations to address escrows and costs for reviewing applications, making zoning determinations and conducting inspections to assure that approved projects are constructed according to the approved plans.

SECTION 1: ORDINANCE 156, ARTICLE 4, (417 D) AND ORDINANCE 2022-480 is hereby amended to read as follows:

TYPE OF APPLICATION	FEE	ESCROW
Zoning Determination	\$300.00	No escrow
Zoning Determination	\$300.00	\$1,000.00

There being no public comments, and UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, 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, Ordinance 2024-493 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

D. Ordinance 2024-494

ORDINANCE NO. 2024-494

An Ordinance Amending and Supplementing Ordinance 2023-487 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:

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.
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. 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 \$250.00. An application may include more than one Heritage Tree within a single application fee.

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried the meeting be opened for comments on this Ordinance only.

Melanie Nowlin, asked for clarification of the changes. Mayor Fernicola explained specifics of the Ordinance. Mayor Fernicola discussed the hiring of a Tree Expert to be the Enforcing Officer.

Margot Fernicola, reminded the public of the process of applying for a tree to be removed.

David Dweck, stated in Ordinance 156, there should be a tree every 50 feet on the Village right of way. Mr. Dweck stated he could raise money to plant trees on the right of way.

There being no further public comments, and UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, 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, Ordinance 2024-494 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

E. Ordinance 2024-495

ORDINANCE NO. 2024-495
AN ORDINANCE TO FIX AND DETERMINE THE SALARIES AND WAGES TO BE PAID TO THE OFFICERS AND EMPLOYEES OF THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH, NEW JERSEY, AND REPEALING ORDINANCES NO. 295, 337, 2019-495 AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT THEREWITH

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE VILLAGE OF LOCH ARBOUR, COUNTY OF MONMOUTH, NEW JERSEY, as follows:

Section 1. The annual salaries to be paid to certain officers or employees of the Village of Loch Arbour shall be as follows:

TITLE OF OFFICER OR EMPLOYEE	MINIMUM	MAXIMUM
Village Clerk	\$25,000.00	\$100,000.00
Collector of Taxes	\$1,000.00	\$15,000.00
Chief Finance Officer	\$1,000.00	\$25,000.00
Tax Assessor	\$1,500.00	\$15,000.00
Beach Manager	\$5,000.00	\$25,000.00
C-1 Licensed Sewage System Operator	\$1,000.00	\$5,000.00
Zoning/Local Code Official	\$1,000.00	\$20,000.00
Superintendent of Parking Meters	\$1,000.00	\$5,000.00
Clerk, Planning Board (per meeting or meeting equivalent)	\$150.00	\$500.00
License Inspection	\$100.00	\$500.00
Registrar of Vital Statistics	\$100.00	\$500.00
Director, Local Assistance	\$100.00	\$500.00
Acting Clerk (per diem)	\$75.00	\$150.00

Section 2. Wages to be paid to hourly employees shall be a minimum of \$13.73 per hour to a maximum of \$30.00 per hour.

Section 3. Salaries may be paid in annual, quarterly, monthly or semi-monthly installments with the exception of hourly employees, who must be paid weekly or bi-weekly in accordance with State Statute.

Section 4. All Ordinances or parts of Ordinances, which are inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency.

Section 5. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried the meeting be opened for comments on this Ordinance only.
There being no public comments, and UPON MOTION of Mayor Fernicola, seconded by Commissioner Cheswick, carried, 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, Ordinance 2024-495 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

NEW BUSINESS

A. Ordinance 2024-496 – introduction

ORDINANCE NO. 2024-496
AN ORDINANCE TO EXCEED THE CALENDAR YEAR 2024

**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 1% 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 2024 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 1% increase in the budget for the said year, amounting to \$7,781.84 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 2024 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 \$27,236.45 and that the CY 2024 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.

UPON MOTION of Commissioner Cheswick, seconded by Commissioner D' Angelo, carried that said Ordinance 2024-496 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 March 5, 2024.

Recorded Vote:

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

Nays: None

Absent: None

B. Resolution 2024-40: UPON MOTION of Commissioner Cheswick, seconded by Mayor Fernicola, carried the following Resolution be adopted:

WHEREAS, the Village of Loch Arbour, in the County of Monmouth, New Jersey (the "Village") has heretofore adopted, from time to time, various bond ordinances (the "Bond Ordinances") authorizing various capital improvements, and the issuance and sale, from time to time, of its bonds and bond anticipation notes in order to finance such capital improvements; and

WHEREAS, the Bond Ordinances authorize the Chief Financial Officer to sell any bond anticipation notes thereunder at public or private sale, as determined by the Chief Financial Officer; and

WHEREAS, the Village has applied to The Monmouth County Improvement Authority (the "MCIA") to participate in its pooled governmental note financing program (the "Program"); and

WHEREAS, under the Program, the MCIA will issue and sell its pooled notes (the "MCIA Notes"), which MCIA Notes will be secured by (i) payments by various governmental entities located in Monmouth County (including the Village) under various notes issued by such entities to the MCIA and (ii) the unconditional guaranty of the County of Monmouth (the "County"); and

WHEREAS, on January 10, 2024, the New Jersey Local Finance Board held a hearing and issued positive findings in respect of the issuance of the MCIA Notes by the MCIA; and

G. Resolution 2024-45: UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried that the following resolutions be adopted:

WHEREAS, the Monmouth County Board of Chosen Freeholders, pursuant to N.J.S.A. 26:9-27 et seq. has elected through its Mosquito Control Division to perform all acts necessary for the elimination of mosquito breeding areas and/or to exterminate mosquitoes within the county; and

WHEREAS, the County has instituted an integrated Pest Management Program consisting of surveillance, water management, biological control, and chemical control to exterminate the mosquito population within the County of Monmouth; and

WHEREAS, prior to conducting aerial dispensing operation over a designated "congested area," the County is required, pursuant to Federal Aviation Administration Regulation (FAR Part 137.51), to secure prior written approval from the governing body of the political subdivision over which the aircraft is to be operated, and

WHEREAS, the Village of Loch Arbour, is designated as a "congested area" by the Federal Aviation Administration and the County has requested that this governing body consent to its proposed aerial dispensing operations.

NOW, THEREFORE, be it resolved as follows:

1. The Board of Commissioners hereby authorizes the County of Monmouth Mosquito Control Division or its agent to apply pesticides by aircraft for mosquito control in certain areas of the Municipality designated by the County as being either larval mosquito habitat or areas harboring high populations or mosquitoes constituting either a nuisance, a health hazard, or both with the understanding that:

a. The County shall utilize pesticides, application equipment and aircraft that are approved for aerial applications by the applicable Federal (USEPA) and State (NJDEP) agencies, and

b. such operation will be performed in compliance with applicable Federal and State regulations, and

c. the County will notify the Police Department of each municipality over which aerial pesticide operations are planned prior to commencement of such operations.

Recorded Vote:

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

Nays: None

Absent: None

H. Resolution 2024-46: 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 for a new Office 365 GCC as the old system is antiquated.

WHEREAS, the Village Clerk in consultation with the Village IT Department received a quotation for the license and installation of Office 365 GCC G3 and online Emails for all Village Officials and Employees; and,

WHEREAS, pursuant to **N.J.S.A. 40A:11-1**, the Local Public Contracts Law, the following quote were received:

APPs4RENT, LLC

\$1,114.00

and the CFO has certified that funds are available in the 2024 Temporary Budget.

NOW, THEREFORE, BE IT RESOLVED that the quotation of APPs4RENT, LLC in the amount of \$1,114.00 for the license and installation of 365 GCC G3 and online Emails for all Village Officials and Employees; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to APPs4RENT and that the Village Clerk and the IT Department be directed to arrange for said service.

Recorded Vote:

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

Nays: None

Absent: None

REPORTS/DISCUSSION

A. UPON MOTION, of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the Commissioners Meeting scheduled for March 6, 2024 is hereby cancelled.

The Board of Commissioners of the Village of Loch Arbour will hold a rescheduled regular meeting at 6:30 pm on Tuesday, March 5, 2024. This meeting is taking the place of the regular meeting. Official action will be taken at this rescheduled regular meeting.

Recorded Vote:

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

Nays: None

Absent: None

B. Budget Workshop Meeting scheduled for Tuesday, February 20, 2024 at 6:30 p.m.

C. The Village of Loch Arbour Special Election – will be held on May 14, 2024 to elect three Commissioners to serve as the new governing body through May of 2028. Interested parties may receive a Candidate Package from the Village Clerk’s office 550 Main Street, Loch Arbour, New Jersey between the hours of 9:00 am and 4:00 pm. The deadline for filing the Petitions is February 29, 2024 at 4:00 pm in the Village Clerk’s Office.

PUBLIC HEARING:

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

Remo Maisto, Elberon Avenue, inquired about the New Zoning Officer.

David Dweck, Euclid Avenue, discussed with the Mayor the Allenhurst redevelopment project on Main Street. Mr. Dweck stated Allenhurst gave the builder permission to work during the summer moratorium and he would like Loch Arbour to object.

Mr. Dweck and the Mayor spoke about the parking situation and the Affordable Housing.

UPON MOTION, Commissioner Cheswick, seconded by Mayor Fernicola, 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: Pending Litigation/Attorney client privileged information.
The Mayor and Commissioners reserve the right to take Action 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, that the meeting be adjourned at 8:05 p.m.

Marilyn Simons, RMC
Village Clerk