

**MINUTES**  
**SPECIAL MEETING - JULY 19, 2011**

A Special Meeting of the Board of Commissioners was held at the Allenhurst Firehouse on the above date with Mayor McLaughlin presiding and Commissioner Bolan answering the roll call. Comm. McLoughlin was absent. Also in attendance were the Borough Clerk and Borough Attorney.

The meeting was called to order at 7:30 P.M. with a salute to the flag.

Mayor McLaughlin announced that the notice requirements of R.S. 10:4-18 had been satisfied by delivering the required notice to the Coaster, posting the notice on the board in Borough Hall and filing a copy of said notice with the Borough Clerk.

Mayor McLaughlin stated that the purpose of this meeting is to give an overview and the conclusions of the subcommittee which was formed to study the issue of consolidating Loch Arbour into Allenhurst Borough. The other reason for this meeting is to get the response and opinions of Allenhurst residents. There will be no action taken tonight.

Mayor McLaughlin continued, stating that Loch Arbour introduced an ordinance proposing consolidation with Allenhurst. They adopted that ordinance on April 12, 2011. They sent it to the Board of Commissioners who had 90 days to review the proposal and determine whether they wish to place a question on the ballot regarding consolidation. This proposal was presented under the Sparsely Populated Communities Consolidation Statute. A subcommittee was formed to review the tax implications, municipal rate and school rate. Members of the subcommittee included himself, Larry O'Rourke, President of the School Board, Joseph Tomaino, Planning Board Chairman, Kevin Rogers, Borough Treasurer and Al Walker, former Planning Board member. They requested documentation from Loch Arbour to complete their review. If the Board of Commissioners decided to approve the proposal, they would adopt an ordinance and a question would be placed on the ballot for the voters to decide. If approved, Loch Arbour would no longer exist. They will become Allenhurst. He described the things the subcommittee took into consideration during this process. They concluded it would be a very good transaction for Loch Arbour as they are in a very difficult spot. It became apparent that it was one-sided. All the risk comes to Allenhurst. The Statute provides that he and Loch Arbour President, John Zazzarino would sit down with the Commissioner of Education. He stated that Paul Fernicola has worked very hard on this issue. He asked the Department of Education for Guidance. They wrote that it was their opinion that all students would go to Asbury Park, but they also cited the statute that says they would have to go to the State for consultation after the vote.

Dave Laughlin, Borough Attorney, stated that the problem with the statute is that after the vote, if the issue is approved, the Commissioner of the Department of Education will be consulted regarding apportionment of school taxes. Allenhurst's own school board issues are up in the air. The Department of Education could come in and put Allenhurst in the same position as Loch Arbour. They have seen nothing, so far, to the contrary. There is a heavy amount of risk for Allenhurst. That is the problem with this particular method of consolidation.

Mayor McLaughlin stated it is a difficult thing to come up with a number because there are different variables. The tax rate may go down as much as \$300. However, the school tax rate will go up as there will be more children. At the very minimum, there would be a busing cost.

Mayor McLaughlin added that he received a phone call today from Thomas Neff, Director of the Division of Local Government Services. He offered to come and talk to them about their concerns and he will be here for the next Board meeting on July 26<sup>th</sup>.

Randi Sternberg, One Cedar Avenue, asked what would be the benefits to Allenhurst and Mayor McLaughlin stated that is the million dollar question. There will be some savings in the municipal tax rate and they would inherit a beautiful beach.

James Caulfield, 2 Spier Avenue, asked if the subcommittee has made a recommendation

not to pursue this and Mayor McLaughlin stated that was correct. Mr. Caulfield commented that anything to change this town would be a terrible mistake. He is comfortable where it is. Allenhurst voters are leaving and Loch Arbour may have total control of the town. They don't need this.

Richard Bamberger, Allenhurst, asked if the two towns had ever been joined and Mayor McLaughlin answered no. However, we do provide fire and first aid and trash pickup to Loch Arbour.

Anthony Mauro, Allenhurst, asked if there was another statute. Mayor McLaughlin stated there is and they have talked about it with Loch Arbour. They are willing to look at that as long as they get some answers.

Joan March, Allenhurst, asked if the statute says they must take Loch Arbour. Mayor McLaughlin responded that they have 90 days to make their decision yes or no. Mrs. March commented, "Then why would we?". Comm. Bolan clarified that they have to make a yes or no decision to even put it on the ballot.

Pat McGinnis, Allenhurst, stated it seems to her with the risk as great as it is, it should be a no. Because Allenhurst is small, they can make a difference in their community. The biggest risk is school taxes.

Adele Gannon, asked when will the Allenhurst problem with school taxes be resolved.

Larry O'Rourke, School Board President, stated there is a law on the books that non-operating school districts shall be consolidated with operating school districts. Although Governor Christie is not taking action at this time, it is still a law on the books.

Nick Falcone, Allenhurst, asked for a description of the other statute. Mayor McLaughlin stated they have not reviewed it yet. There is not just the school issue, but a lot of issues. Ocean Township told them there could be some liability if Loch Arbour were to leave the school system. Would that be on Allenhurst? They may be able to explore that and answer it. The problem with this statute is that you don't get many answers. They don't know how many students will go to public or private school.

Comm. Bolan gave a web site where the statute on consolidation could be found. He stated there are three different acts. The Sparsely Populated Act is the one that Loch Arbour chose to offer to Allenhurst. It is quicker. They have a vote first and then the details are worked out later. That is why there is so much uncertainty. They can continue to look at this where the details are worked out in advance of a vote. It will take a longer amount of time. Quicker is better for Loch Arbour. They tried to get answers ahead of time.

Mr. Falcone added that those answers would not be binding in any case and Mayor McLaughlin agreed.

Richard Senior, Allenhurst asked what would happen to zoning and Mayor McLaughlin stated they would create another zone. However, they would come under Allenhurst guidelines.

Tanya Tomaino asked about indebtedness and Mayor McLaughlin stated that Loch Arbour debts would become Allenhurst's and Allenhurst's debts would become Loch Arbour's. Loch Arbour's debt is fairly low as is Allenhurst's. He added that Kevin Rogers, Borough Treasurer, did a wonderful job in determining what costs and assets could be eliminated. There are not a lot of Loch Arbour employees.

John Zazzarino, Loch Arbour Board of Trustees President, stated Loch Arbour would no longer have to pay a Police Contract or a Public Works Contract. That is a savings of \$180,000.

Mayor McLaughlin agreed, but stated there was a poison pill in getting out of the police contract.

President Zazzarino explained that they have to give a year's notice, but it would really come down to five months. They would knock out about \$500,000 in costs from the Loch Arbour budget. They came up with a savings in Allenhurst of about \$700,000. It depends on the school. There are some creative ways to eliminate the debt in Loch Arbour.

Mayor McLaughlin stated that in the big picture there are some long-term opportunities, but there are hurdles now that they can't get over.

President Zazzarino stated that Jack Kassin would like to build houses on his parking lot in return for a portion of his beach. Loch Arbour did not take him up on that, but Allenhurst may want to in order to gain more beachfront. It would help alleviate overcrowding.

Mayor McLaughlin stated it would be beneficial in the long term maybe. However, they would have to look at CAFRA permits, etc. Also, there was a lawsuit regarding the Loch Arbour beach. They need answers. Under this statute, it is hard to get comfortable. They are open to looking at these issues under another statute.

Paul Fernicola stated that the Sparsely Populated Communities Act was selected by Loch Arbour because it was only available to towns of 500 people or less. The authority of the Commissioner of Education is the same under both statutes. The State indicated twice that Loch Arbour would be severed from Ocean Township and would be redistricted to the Asbury Park School System.

Mayor McLaughlin stated that Mr. Neff will make himself available at the next Commissioner meeting. He seemed to be sympathetic towards Allenhurst's concerns.

Mr. Fernicola stated that the statute reads that the Commissioner of Education would consult with the Mayors of both towns. Consultation is much different than having the authority to do anything. He thinks the letters have been read improperly. There is no doubt that the main beneficiary would be Loch Arbour. The benefits to Allenhurst would be long term. It will save the police department down the road as the state is pushing for shared services. The budget is now 2.1 – 2.2 million dollars with Loch Arbour contributing another third. They also have to consider the acquisition of additional public property. They would not only be acquiring the beach, but also the municipal building.

Dennis Sternberg, Allenhurst, stated a risk is rarely overrated. The most important thing for Allenhurst is to avoid risk. He doesn't think the beach is overcrowded in Allenhurst. The further away from the effluent of Deal Lake the happier he is. The town is run by competent people. The risk far outweighs the future of what they might have.

Mr. O'Rourke stated the current law is in place requiring someone to take them out of the non-operating school district. Asbury Park is a failed school district. The authority already exists for the Commissioner to remove them from Asbury Park.

Mr. Fernicola stated the law was passed on 6/30/09 to eliminate the non-operating school districts. The County Superintendent was required to report how that would be implemented. Her recommendation was to create a regional school district with Allenhurst and Asbury Park to merge into Ocean Township. Also, Interlaken and Deal.

Mr. O'Rourke stated that she recommended that a study be done. No report has been issued. Gov. Corzine never issued money for a study and it was not done.

Al Walker stated he did not think the purpose of this meeting was to get into a debate.

Pat McGinnis asked how many students in Loch Arbour and Allenhurst go to public schools. Mr. O'Rourke replied that three children in Allenhurst go to Asbury Park and two go to Red Bank Regional, which is a public school. He could not speak for Loch Arbour.

Mark Horowitz, Allenhurst, asked in what circumstances would Allenhurst say yes to this if there is such a risk.

Comm. Bolan stated that if it were all benefit and no risk to Allenhurst, they would recommend it.

Mr. Tinkler, Loch Arbour, stated the bottom line was pretty clear. He understands why people feel the way they feel. The Borough Attorney is contending one thing and Paul Fernicola is contending something else. He asked why we can't find out what is right and what is wrong. There must be some way to find an answer.

Mayor McLaughlin stated that the way the statute is formatted, they don't get answers up front. Someone can give their opinion, but that doesn't make it law.

Gerry Ann Varley asked if anyone has considered that some residents don't want to merge no matter what. Some people are happy the way they are.

Mayor McLaughlin stated that is the reason for the meeting tonight. Comm. Bolan agreed that it was the main reason for the meeting.

Mrs. Varley asked if there would be a straw vote and Mayor McLaughlin stated there was no point to it.

Barbara Tinkler, Loch Arbour, stated her concern is when she moved here, everyone was a full-time resident. Every day when she walks through Allenhurst, she sees more for sale signs in Allenhurst as well as Loch Arbour. In five years, there will be a different make-up for both towns.

Bob Scally, Allenhurst, stated he was strongly opposed to any merger. It is a proposal being driven by school taxes. He felt the risk of them being mandated to join the Ocean Township school system would be greater with this merger. It puts them at risk. There are other issues besides. The beach club is already overcrowded. Having Loch Arbour join would make it more so.

Joel Fleming, Allenhurst, stated this issue reminds him of someone announcing their mother-in-law was coming to live with them with certain obligations, including medical bills, activities, etc. You don't know what some of those bills might be. Without knowledge, they cannot make a decision.

President Zazzarino stated that when this tax issue first hit them, people said they didn't understand this problem. It is a complex issue. They got an answer from the County Superintendent of Education. Mr. Zazzarino then read the letter received by the County.

Richard Senior, Allenhurst, stated they were talking about 5 school children in Allenhurst and asked how many there were in Loch Arbour. Someone in the audience shouted 25 children in Loch Arbour.

Joan March, Allenhurst, stated she can tell most Allenhurst residents do not want this. Allenhurst was not good enough to get the police contract. It is part of the reason people feel so strongly.

Grace Morgan, Loch Arbour, stated her navigation system says she lives in Allenhurst south. They are not they far apart. They are only talking about three blocks square.

A Loch Arbour resident asked about the moral aspects. He has paid taxes in Loch Arbour for 46 years. Is Allenhurst so greedy that they can't share?

Mr. Senior asked if a Loch Arbour family wants to stay with Ocean Township schools, could they pay for that?

Comm. Bolan started that Mr. Fernicola stated the consolidation could include a heavier assessment to Loch Arbour.

President Zazzarino stated that under the Sparsely Populated Consolidation Act, Loch Arbour's ties with Ocean Township will be severed. It would be up to Ocean Township to continue any children on a paid basis. Ocean Township does not accept tuition.

Mayor McLaughlin stated that would be Ocean's decision. They would be losing \$1,800,000.

Kim Pollard stated when you live in Allenhurst, you go to private school. Loch Arbour made a deal with the Devil to go to Ocean school. Now it is time to pay the piper.

Larry Gruner, Allenhurst, asked if Ocean Township had any legal recourse. Mr. Laughlin answered, no. If the vote passed, Ocean Township could not do anything to stop it.

Odette Lichtman, Allenhurst, asked if any other towns in New Jersey had merged and Mayor McLaughlin responded that it was his understanding that two towns in Sussex County had merged in 2008.

Cathy Conover, Loch Arbour, stated they had to stop when they found Allenhurst would be at risk. They stopped there and did not look further. She asked if it was possible under another statute to get answers and Allenhurst residents might see there are benefits.

Mayor McLaughlin stated one of the things they have discussed is looking at another statute. However, they have to look at this frame. They had 90 days and it goes very quickly. He stated they did an analysis and both towns were close to the same \$500,000 number.

Ms. Conover stated that not all Loch Arbour residents are in favor of a merger either. The real challenge for Loch Arbour will be losing their school. However, they can't afford to live where they live.

Mayor McLaughlin stated the ball is back in Loch Arbour's court. No decision has been made yet.

Comm. Bolan stated they just need more information. A representative from the State will be at the next meeting. If this doesn't work, they can look under another statute where they can give their residents more certainty.

An Allenhurst resident stated it would be difficult for him to vote yes. He asked if there could be a separate tax rate.

Mayor McLaughlin stated there were certain tax levies that could be put into place to pay for certain things.

Sandra DeMurley, Allenhurst, asked when the clock would run out and Mayor McLaughlin stated an ordinance would have to be introduced at the July 26, 2011 meeting to make the deadline.

Paul Schechner, Allenhurst, thanked everyone for the hard work they put in this task. They have done a lot of study and research. He thanked Paul Fernicola for his hard work. It is clear from a Loch Arbour perspective that there are a lot of benefits. Although he is empathetic, it is Loch Arbour's problem and not Allenhurst's. There is a lot of uncertainty. Even without the school tax issue, they may not want to merge. He does mergers and acquisitions for a living and he would not recommend this. They should always be open for discussion, but with this uncertainty, it should be a dead issue.

James Dowden, Allenhurst, stated there is a saying written over the courtroom which reads, "If you stand well, stand still." It is a wise observation. As a taxpayer in Allenhurst, they find they are standing well with their Police Department, their service department and the three people in the main office. He has not heard what the benefits would be to Allenhurst if they were to engage in a charity move with Loch Arbour.

A Loch Arbour resident stated she found this meeting very sad. She didn't think anyone in Loch Arbour wanted to be a part of Allenhurst prior to this issue. She thought Allenhurst would jump at the proposal. Anyone who paid \$10,000 in taxes who woke up one morning and had to pay \$25,000 in taxes would want to do something.

Penny Cohen, Loch Arbour, stated she thought what goes around comes around. This could get dumped on your town. There is nothing to do, but try to fight the government that seized them. If this happened to Allenhurst, where would they turn? There must be a way to help Loch Arbour without hurting Allenhurst.

Anthony Mauro, Allenhurst, stated some bureaucrat in Trenton could say they have to change districts.

Bob Weiner, Loch Arbour, thanked the Allenhurst committee for their work. This has been very insightful to him. This is not charity. They wanted to bring something forward that would also benefit Allenhurst. SAFRA is staying dormant. You don't know what your future holds. They should be looking at the long run. People should vote the way they feel. He is totally happy with the work that was done.

Mayor McLaughlin stated that the Allenhurst Board of Commissioner and the Loch Arbour Trustees have worked very hard on this. Loch Arbour got a very bad hand of cards. If he lived in Loch Arbour, he would be appreciative of what the Board of Trustees is trying to do. They have not said no. They would like to help their neighbors, but at the same time, they cannot put Allenhurst in jeopardy.

Mrs. Gannon stated it sounds like they cannot say yes. She hoped Loch Arbour would come back with another statute. If there is another way, perhaps they can do it.

Mr. Falcone asked if the legislature was asked to put something in place. Mayor McLaughlin stated there was not enough time to pass any new laws. They only had 90 days.

There were no further comments from the public.

Mayor McLaughlin announced that the Allenhurst Fire Department would be holding a casino night on July 23<sup>rd</sup> at the Allenhurst Beach Club.

Mayor McLaughlin added that the Board of Commissioners would meet July 26<sup>th</sup> at the Allenhurst Beach Club. They are expecting Mr. Neff to attend. The Board will make their decision shortly thereafter.

He thanked everyone for coming and moved to adjourn the meeting. Comm. Bolan seconded the motion and the meeting was adjourned.

Lori L. Osborn, RMC  
Clerk-Administrator