

**BOROUGH OF ALLENHURST
MINUTES
JANUARY 23, 2017**

The Meeting of the Board of Commissioners of the Borough of Allenhurst was held on the above date with Mayor McLaughlin presiding and Commissioner Bolan answering the roll call. Commissioner McLoughlin was absent. Also in attendance was the Acting Borough Clerk/Administrator 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 Acting Borough Clerk.

COMMUNICATIONS:

None

ANNOUNCEMENTS:

None

ORDINANCES FINAL READING:

Offered By: Comm. McLoughlin

Seconded By: Mayor McLaughlin

ORDINANCE#2018-01

AN ORDINANCE TO AMEND THE ORDINANCE ENTITLED, "AN ORDINANCE FIXING THE SALARIES OF ALL APPOINTED OFFICIALS AND EMPLOYEES OF THE BOROUGH OF ALLENHURST IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY (EXCEPTING MEMBERS OF THE POLICE DEPARTMENT)"

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

ORDINANCES FIRST READING:

Offered By: Comm. McLoughlin

Seconded By: Mayor McLaughlin

ORDINANCE#2018-02

AN ORDINANCE REVISING THE BOROUGH CODE OF THE BOROUGH OF ALLENHURST, CHAPTER XXVI ENTITLED "DEVELOPMENT REGULATIONS" REGULATING THE USES PERMITTED IN THE ZONING DISTRICTS

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTIONS

RESOLUTION #2018-39

A RESOLUTION TO RATIFY AND APPROVE MINUTES

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

BE IT RESOLVED, That the minutes of the regular meeting held January 9, 2018, be ratified and approved.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-40

A RESOLUTION TO DISPENSE WITH READING OF MINUTES

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

BE IT RESOLVED, That the Clerk dispense with the reading of the minutes of the regular meeting held January 9, 2018.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-41
A RESOLUTION TO CONFIRM PURCHASES

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, Purchases were made for amounts over \$1,000.00 and it is the policy of the Borough that the Board of Commissioners approve or confirm said purchases; and;

WHEREAS, Funds for these purposes are provided for in various accounts within the current budget, and the CFO has so certified; and,

NOW, THEREFORE, BE IT RESOLVED, That the following contracts are hereby confirmed:

Monmouth County Public Works and Engineering (Salt)	\$1,061.23
Security World, Inc. (Yearly Pump Station Monitoring)	\$1,100.04
Team Life Inc. (New Defibrillator for the Police)	\$2,300.00

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-42
A RESOLUTION TO APPOINT BEACH MANAGEMENT

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

BE IT RESOLVED, That the following be hired for the 2018 Beach Club Season:

Facilities Supervisors

Marc Heitmueller	\$13,000.00
James Vandervort	12,500.00

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-43
A RESOLUTION TO AWARD CONTRACT FOR THE ALLENHURST BEACH CLUB
POOL DECK IMPROVEMENTS PHASE II

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, The Clerk advertised for bids for the Allenhurst Beach Club Pool Deck Improvements Phase II; and;

WHEREAS, The following 9 bids were received:

Demac Concrete Inc.	\$221,692.50
Down to Earth Landscaping	431,750.00
A-Tech Concrete Co.	278,725.00
Cypreco Industries	306,075.00
T. Fiotakis Construction	378,685.00
Seacoast Construction	308,530.00
Berto Construction	398,912.12
Ascend Construction Management Co. Inc.	596,550.00
Diamond Construction	472,400.00

WHEREAS, The Borough Attorney and Borough Engineer have reviewed the bids for compliance and recommend the contract be awarded to Demac Concrete Inc, the lowest bidder; and,

WHEREAS, Funds for this purpose are available in the appropriation entitled “2015-11 Beach Club and Park Improvements”, and the Chief Finance Officer has so certified;

NOW, THEREFORE, BE IT RESOLVED, That a contract be awarded to Demac Concrete Inc., the lowest of eight bidders on their total bid of \$221,692.50, for the Allenhurst Beach Club Pool Deck Improvements Phase II.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-44
A RESOLUTION TO AWARD CONTRACT FOR INSTALLATION OF
UNDERGROUND CONDUIT

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, There is a need for the installation of an underground conduit at the Allenhurst Beach Club; and,

WHEREAS, The following quotes were secured:

R. Sullivan Electric, Inc.-	\$ 15,500.00
Midcoast Electric Corp. -	\$ 16,850.00
Conrad Electric . -	\$ 17,500.00

WHEREAS, Funds for this purpose are available in the appropriation entitled “2015-11 Beach Club and Park Improvements”, and the Chief Finance Officer has so certified;

NOW, THEREFORE, BE IT RESOLVED, By the Board of Commissioners of the Borough of Allenhurst, that a contract be awarded to R. Sullivan Electric, Inc, on their quote of \$15,500.00 for the installation of an underground conduit at the Allenhurst Beach Club.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-45
A RESOLUTION TO AUTHORIZE BIDS

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

BE IT RESOLVED, That the Borough Clerk be and she is hereby authorized and directed to receive bids for the "Allenhurst Beach Club Canopy Improvements.”

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-46
RESOLUTION AUTHORIZING SETTLEMENT OF
LITIGATION OVER THE USES APPLICABLE TO 108
ALLEN AVENUE

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, the owners of 108 Allen Avenue have filed an action alleging that the Borough of Allenhurst has violated the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. §§ 2000c, et seq. (“RLUIPA”) in that the Borough’s zoning ordinance fails to provide any location in the Borough where “Churches or other houses of worship” are a permitted use; and

WHEREAS, in order to avoid extensive and expensive litigation, the Borough instructed its counsel to negotiate a settlement of all issues as swiftly as possible, which efforts have come to an agreement to resolve all outstanding claims as set forth in a Consent Order, which is attached hereto and incorporated herein by reference; and

WHEREAS, the Borough Council has determined that it is in the best interests of the community to promptly resolve the action by means said Consent Order.

NOW THEREFORE, BE IT RESOLVED by the Borough of Allenhurst that the statements contained in the foregoing preamble be and are hereby incorporated into this Resolution as if more fully set forth herein at length; and

BE IT FURTHER RESOLVED that, the settlement of the litigation brought by the owners of 108 Allen Avenue in accordance with the terms set forth in Consent Order attached hereto and made a part hereof by reference, be and is hereby authorized and approved; and

BE IT FURTHER RESOLVED that the Borough does hereby instruct its counsel to execute the Consent Order on behalf of the Borough and to file the same in Federal Court at his earliest convenience.

VOTE: Comm. McLoughlin-AYE; Comm. Bolan -AYE; Mayor McLaughlin AYE.

ANSELL GRIMM & AARON, P.C.
Jennifer S. Krimko, Esq.
Attorney ID No.:
1500 Lawrence Avenue
Ocean, New Jersey 07712
Tel.: (732) 643-5284
Attorneys for the Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

	}	
OHEL YIS'HAK SEPHARDIC	}	
SYNAGOGUE OF ALLENHURST,	}	
and RABBI MOSHE SHAMAH,	}	
	}	
Plaintiffs,	}	
	}	
V.	}	Civil Action No.: _____
	}	
THE BOROUGH OF ALLENHURST,	}	
	}	CONSENT ORDER
Defendant.	}	
	}	

I. INTRODUCTION AND BACKGROUND

1. This consent order (“Order”) is entered between Plaintiffs Ohel Yis'hak Sephardic Synagogue of Allenhurst and Rabbi Moshe Shamah (“Plaintiffs”) and Defendant Borough of Allenhurst (the “Borough” or “Defendant”), (collectively “the Parties”).
2. Plaintiffs brought this action to redress alleged violations of the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc, et seq. (“RLUIPA”), that Plaintiffs contend were caused by the Borough’s land use regulations which prohibit a place of worship from locating anywhere in its jurisdiction, and also because such regulations permit nonreligious assembly and institutional land uses.
3. Specifically, Plaintiffs allege that:
- a) The Borough’s regulation of land use through its zoning code in which a house of worship is not a permitted or conditional use in any of the Borough's seven zoning districts and in which all uses not expressly permitted are prohibited, constitutes an imposition of land use regulations that totally excludes religious facilities from its jurisdiction and unreasonably limits religious assemblies, institutions and structures within its jurisdiction.
 - b) The Borough’s regulation of land use through its zoning code in which certain nonreligious assembly and institutional uses such as art galleries, fitness centers and restaurants are permitted by right and religious assembly and institutional uses are prohibited, treats religious assemblies and institutions on less than equal terms as nonreligious assemblies and institutions.
4. The Defendant acknowledges that the statements in paragraphs 3A & 3B above are true of its outdated zoning code, which the Defendant intends to immediately address. Nevertheless, Plaintiffs’ above allegations fairly describe the Borough’s zoning code as it exists at this time.
5. Plaintiffs and Defendant agree that Plaintiffs’ claims should be resolved amicably and without protracted and expensive litigation. Accordingly, Defendant and Plaintiffs agree to the terms of and entry of this Consent Order, as indicated by their signatures below.

6. As such, this Consent Order represents a compromise of a disputed claim, and shall not in any way be construed as an admission of wrongdoing or liability on the part of any Party. Therefore, the parties shall be responsible for their own attorneys fees and costs associated with this action.

7. As indicated by the signatures below, the Parties agree to the entry of this Order. Therefore, it is hereby ORDERED, ADJUDGED and DECREED as follows:

II. JURISDICTION AND VENUE

8. The subject matter jurisdiction of this Court is founded upon 28 U.S.C. §1331 (federal question jurisdiction) in that this action is brought under 42 U.S.C. § 2000cc, et seq. and 42 U.S.C. §1983.

9. The Parties agree that venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) in that all of the events giving rise to the claims herein occurred in the District of New Jersey, and Defendant is subject to personal jurisdiction in this District as of the commencement of this action and the service of the Summons and Complaint.

III. SETTLEMENT AGREEMENT

10. The Borough hereby agrees that Plaintiffs shall be permitted to use the real property located at 108 Allen Avenue, Allenhurst, New Jersey, 07711 as a place of worship. The Borough agrees that 108 Allen Avenue shall hereby be deemed to be zoned as having the additional permitted use of "Church or other house of worship," which permitted use shall apply for as long as the property continues to be used by the Plaintiffs, or its successors, for that purpose. The Borough shall agree to process any applications by Plaintiffs respecting the property for such use including, but not limited to, Certificate of Appropriateness, in good faith and without discrimination or undue delay.

IV. ENFORCEMENT

11. The Court shall retain jurisdiction to enforce the terms of and resolve any disputes arising under this Consent Order, including a proceeding that would nullify or have the effect of nullifying any portion of this Consent Order.

12. Upon the entry of this Consent Order, the case will be dismissed with prejudice. In the event that either Party needs to enforce this Consent Order, they can petition the Court for appropriate relief at such time.

V. COSTS OF LITIGATION

13. Each party to this litigation will bear its own costs and attorney's fees associated with this litigation.

ENTERED THIS ____ DAY OF JANUARY, 2018.

**THE HON.
UNITED STATES DISTRICT JUDGE**

AGREED TO:

ANSELL GRIMM & AARON, P.C.

Jennifer S. Krimko, Esq.
1500 Lawrence Avenue
Ocean, N.J. 07712
Direct Dial: 732-643 -5284
Direct Fax: 732-643-5294

STORZER & ASSOCIATES, P.C.

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Attorneys for Plaintiffs

BIRDSALL & LAUGHLIN, LLC

David A. Laughlin, Esq.
Attorneys for Defendant,
The Borough of Allenhurst

**RESOLUTION #2018-47
REFERRING ORDINANCE 2018-02 TO THE PLANNING
BOARD PURSUANT TO N.J.S.A. 40:55D-15 FOR A
HEARING IN ACCORDANCE THEREWITH**

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, the Borough Council of the Borough of Allenhurst has determined that it is in the best interests of the community to revise certain portions of its existing Borough Code concerning the Development Regulations regulating the uses permitted in the zoning districts to address the needs of the community and in compliance with Federal Law.

NOW THEREFORE, BE IT RESOLVED by the Borough of Allenhurst that the statements contained in the foregoing preamble be and are hereby incorporated into this Resolution as if more fully set forth herein at length; and

BE IT FURTHER RESOLVED that, in accordance with N.J.S.A. 40:55D-15, Ordinance 2018-02 be and is hereby referred to the Planning Board for a hearing on the changes proposed by said Ordinance as required by said statute.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

**RESOLUTION #2018-48
AUTHORIZING THE EXECUTION OF PROFESSIONAL
SERVICES CONTRACT WITH ANTONIDES AND SIMONE
CPS'S FOR TEMPORARY CHIEF FINANCIAL OFFICER
SERVICES**

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, the Borough of Allenhurst's ("Borough") Chief Financial Officer ("CFO") is temporarily unable to perform her duties, in order to comply with the requirements of N.J.S.A. 40A:9-140.10, the Borough must appoint a temporary chief financial officer; and

WHEREAS, N.J.S.A. 40A:9-140.10 permits municipalities to temporarily fulfill the requirement for a chief financial officer by appointment of a private entity to perform said duties for a term of no more than two consecutive one-year terms, subject to the approval of the Director of the Division of Local Government Services in the Department of Community Affairs; and

WHEREAS, Edward J. Simone, C.P.A., R.M.A., P.S.A. of Antonides and Simone CPA's. has indicated his willingness to provide temporary chief financial officer services in the absence of the Borough's CFO for the period of January 1, 2018 through December 31, 2018; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A: 11-1 et seq.) authorizes the execution of professional services contracts without competitive bidding; and

WHEREAS, Edward J. Simone, C.P.A., R.M.A., P.S.A. of Antonides and Simone CPA's. has completed and submitted a Business Entity Disclosure Certification, a Stockholder Disclosure Form, and a Political Contribution Form which certified that the firm has not made any reportable contributions to a political or candidate committee or the elected officials of the Borough of Allenhurst in the previous one (1) year period, and that the contract will prohibit the firm from making any reportable contribution through the term of the contract, as required by state law; and

WHEREAS, the Borough Clerk/Administrator has Certified, in writing, that sufficient funds for this purpose shall be provided for the first six months of 2018 in the 2018 Temporary

Budget and funds for the balance of 2018 will be provided for in the budget for the year 2018 when finally adopted.

NOW THEREFORE, BE IT RESOLVED by the Borough of Allenhurst that the statements contained in the foregoing preamble be and are hereby incorporated into this Resolution as if more fully set forth herein at length; and

BE IT FURTHER RESOLVED that, Edward J. Simone, C.P.A., R.M.A., P.S.A. of Antonides and Simone CPA's. be engaged to provide temporary chief financial officer services for the Borough of Allenhurst, for the period of January 1, 2018 through December 31, 2018 at a fee set forth in an Agreement on file with the Borough Clerk/Administer; and,

BE IT FURTHER RESOLVED that the Mayor is authorized to execute, and the Borough Clerk/Administrator to attest to, an agreement between the Borough of Allenhurst and Edward J. Simone, C.P.A., R.M.A., P.S.A. of Antonides and Simone CPA's. to carry out the foregoing on a form approved by the Borough Attorney; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be published in the Coaster as required by law within ten (10) days from the date hereof; and,

BE IT FURTHER RESOLVED that the Borough Clerk/Administrator shall maintain a copy of this resolution, and the Agreement with the appointee, on file in her Office and make the same available for public inspection during regular business hours.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-49
A RESOLUTION TO AUTHORIZE COUNTY TO PERFORM
AERIAL SPRAYING FOR MOSQUITOS

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

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 mosquitos 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 operations over a designated "congested area", the County is required, pursuant to Federal Aviation Administration Regulation (FAR Part 13.51), to secure prior written approval from the governing body of the political subdivision over which the aircraft is to be operated; and,

WHEREAS, The Borough of Allenhurst 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 Governing Body 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 bordering high populations of 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 operations 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.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-50
A RESOLUTION TO APPROVE TEMPORARY EMERGENCY APPROPRIATIONS

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, An emergency has arisen with respect to operating expenses in various departments, and no adequate provision was made in the 2018 temporary budget for the aforesaid purpose, and N.J.S. 40A:4-20 provides for the creation of emergency temporary appropriations for the purpose above mentioned; and,

WHEREAS, The total emergency temporary resolutions adopted in the year 2018 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total \$53,604.00;

NOW, THEREFORE, BE IT RESOLVED, (not less than two-thirds of all the members of the governing body affirmatively concurring), that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. Emergency appropriations be and the same are hereby made for the following:

Snow S&W	\$ 904.00
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2. That said emergency temporary appropriations will be provided for in the 2018 budget under the above-mentioned titles.

3. That one certified copy of this resolution be filed with the Director of Local Finance.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-51
A RESOLUTION TO TRANSFER APPROPRIATIONS

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

BE IT RESOLVED, That the following 2017 appropriations be transferred:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Election OE	Legal OE	\$3,381
Board of Health OE	Legal OE	\$1,200
Streets and Roads OE	Legal OE	\$3,650
MOMV OE	Legal OE	\$3,979
MOMV OE	Tax Appeals OE	\$363
Garbage & Trash OE	Snow OE	\$46

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-52
A RESOLUTION TO APPROVE EXECUTIVE SESSION

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, State law permits the exclusion of public in certain circumstances; and,

WHEREAS, The Board of Commissioners of the Borough of Allenhurst finds that such circumstances currently exist; and,

WHEREAS, The Board of Commissioners will make public, minutes of the closed session when confidentiality no longer exists;

NOW, THEREFORE, BE IT RESOLVED, By the Board of Commissioners that they are hereby authorized to enter into closed session to discuss legal/contractual matters which are exempt from the public meeting under the Sunshine Law.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

RESOLUTION #2018-53
A RESOLUTION TO APPROVE BILLS & PAYROLL (1/16/2018-1/31/2018)

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

BE IT RESOLVED, That bills and payrolls totaling \$208,471.91 be approved for payment; and,

BE IT FURTHER RESOLVED, That January 16, 2018 consolidated bill list be attached hereto and made a part thereof.

VOTE: Comm. McLoughlin- AYE; Comm. Bolan-AYE; Mayor McLaughlin-AYE

ITEMS TO DISCUSS

The Mayor asked if we go the payment from the insurance for the street light. The Borough Administrator stated we are still waiting for the part. The Mayor also asked the Mr. C light on the side of the Restaurant. The Borough Administrator responded they are still waiting on a part

Commissioner McLoughlin asked when Demac will be starting work on the pool deck improvements. The Borough Administrator advised that work would start as soon as the contract is signed.

PUBLIC COMMENTS

Tim Moriarity asked the status of the feral cat issue. The Borough Administrator responded that they are still working on the Feral Cat Ordinance and contract with the Humane Society.

There being no further comments, public hearing was closed.

There being no further business or comments, Commissioner McLoughlin moved, seconded by Comm. Bolan that the meeting move to executive session at 7:35 PM. Motion carried.

After reconvening, Commissioner McLoughlin moved, seconded by Comm. Bolan that the meeting be adjourned at 9:45 PM. Motion carried.