

MINUTES
December 22, 2020

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

COMMUNICATIONS:

Public Notice from the NJ DEP regarding the Proposed FFY21 Priority System, Intended Use Plan (IUP) and Project Priority List Documents for the Clean Water and Drinking Water Financing Programs.

ANNOUNCEMENTS:

Happy Holidays!

ORDINANCES

ORDINANCE – FINAL READING

ORDINANCE #2020-17
AN ORDINANCE AMENDING AND SUPPLEMENTING
THE BOROUGH CODE OF THE BOROUGH OF
ALLENHURST, CHAPTER III, SUBSECTION 3.1.1
ENTITLED “LIMITING HOURS FOR THE USE OF
POWER MACHINERY, EQUIPMENT, OR DEVICES.”

Offered By: Mayor McLaughlin

Seconded By: Comm. McLoughlin

WHEREAS, the Borough Council of the Borough of Allenhurst has determined that it is in the best interests of the community to revise a portion of its existing Borough Code concerning limitations on the use of power machinery, equipment or devices in the Borough.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Allenhurst that Chapter III, section 3-1.1 of the Borough Code of the Borough of Allenhurst, be and is hereby amended and supplemented as follows:

SECTION 1. Existing section 3-1.1 is deleted and replaced and amended as follows:

3-1.1. Limiting Hours for the Use of Power Machinery, Equipment, or Devices.

a. Certain Construction Activities Prohibited. It shall be unlawful for any person, firm or corporation to operate any power equipment used in connection with construction activities and tree removal, or similar activities in the Borough between the hours of 6:00 p.m. and 8:00 a.m. the following day. Tree removal, by means of power equipment is hereby prohibited, except in emergency situations, between June 30th and Labor Day.

b. Certain Gardening and Landscaping Activities Prohibited. It shall be unlawful for any person, firm or corporation to operate any power equipment used in connection with gardening, landscaping, lawn service or similar activities in the Borough between the hours of 7:00 p.m. and 8:00 a.m. the following day. There shall be no commercial use of any power equipment used in connection with gardening, landscaping, lawn service, tree service or similar activities in the Borough at any time on Sundays. Notwithstanding the foregoing, nothing herein shall be deemed to prohibit a homeowner and/or their immediate family members, from using lawn equipment at their homes on Sundays between the hours of 8:00 a.m. and 7:00 p.m.

Exceptions to the foregoing shall be allowed in the following circumstances:

1. For snow blowers or other motorized snow removal equipment when snow

has reached a depth that warrants the Borough snow plows to remove snow from public streets or when accumulation prevents personal access to walkways and vehicle access to driveways.

2. For emergency power generators in the case of a power outage until primary power is restored.

3. For chain saws when fallen trees affect egress or ingress to any structure, street or driveway or affect the structural integrity of any building or present personal harm or risk of injury to any citizen or resident.

c. Penalties. Any person, firm or corporation who violates any provision of this section shall, upon conviction thereof, be subject to a fine as follows:

i. For a 1st Offense, fine of \$276.00, plus \$24.00 Court Costs;

ii. For a 2nd Offense, fine of \$576.00, plus \$24.00 Court Costs; and

iii. For a 3rd and any subsequent Offense, fine of \$1,176.00, plus \$24.00 Court Costs.

Each hour of such violation's continuance shall be considered a separate offense and be separately punishable.

SECTION 2. A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 3. Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Allenhurst Borough Code are ratified and remain in full force and effect.

SECTION 4. If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions of applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption according to law.

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

ORDINANCE – FINAL READING

Tabled for future discussions. See Public Comments.

**ORDINANCE #2020-18
AN ORDINANCE AMENDING AND SUPPLEMENTING
THE BOROUGH CODE OF THE BOROUGH OF
ALLENHURST, CHAPTER XXVI, SUBSECTION 4.3
ENTITLED “DEVELOPMENT REGULATIONS, R-2
RESIDENTIAL DISTRICT”**

WHEREAS, the Borough Council of the Borough of Allenhurst has determined that it is in the best interests of the community to revise a portion of its existing Borough Code Concerning the Development Regulations, section 26-4.3 to add new subsection “b”.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Allenhurst that Chapter 26, section 4.3 of the Borough Code of the Borough of Allenhurst, be and is hereby amended and supplemented as follows:

SECTION 1. §26-4.3 Development Regulations, R-2 Residential District,

Existing §26-4.3 is hereby renumbered 26-4.3(a), with existing subsection “a.” renumbered as subsection “1.” And,

The following Section §26-4.3(b) is hereby added:

(b) Notwithstanding the provisions of subsection (a) of this Section or the provisions of any other Section of these Regulations, all lots in the R-2 Residential District shall conform to the following requirements:

1. For any lot in this District of a minimum of four thousand (4000) square feet but less than five thousand (5000) square feet, the maximum permitted floor area of the dwelling house shall be one thousand eight hundred (1800) square feet

- plus an additional forty-two (42) square feet of floor area for every one hundred (100) square feet by which the lot exceeds the minimum.
2. For any lot in this District of a minimum of five thousand (5000) square feet, the maximum permitted floor area of the dwelling house shall not exceed two thousand one hundred (2100) square feet plus an additional forty-two (42) square feet of floor area for every one hundred (100) square feet by which the lot exceeds the minimum.
3. Portions of lot sizes of less than one hundred (100) square feet each above the minimum may not be considered in the above calculations. By way of example and not limitation, the formula for a lot containing 4,335 square feet is: 1800 square foot maximum floor area plus (3 x 42) additional square feet, for a total of 1926 maximum square feet of floor area. The remaining 35 square feet are discarded and shall not be considered in calculating the maximum floor area of the dwelling house.

SECTION 2. A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 3. Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Allenhurst Borough Code are ratified and remain in full force and effect.

SECTION 4. If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions of applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption according to law.

RESOLUTIONS

RESOLUTION #2020-266

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 of December 8, 2020 be ratified and approved.

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

RESOLUTION #2020-267

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 Regular Meeting of December 8, 2020.

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

RESOLUTION #2020-268

A RESOLUTION TO TRANSFER APPROPRIATIONS

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

BE IT RESOLVED, That the following 2020 appropriations be transferred:

<u>Current Fund</u>	<u>From</u>	<u>To</u>
Administration - Other Expenses	\$ 14,100	
Tax Collector - Other Expenses		\$ 3,000
Tax Assessor - Salaries & Wages		200
Tax Assessor - Other Expenses		500
Legal - Other Expenses		25,000
Code Enforcement - Other Expenses		100
Employee Group Insurance	22,350	
Aid to Volunteer Ambulance		300

Garbage and Trash - Other Expenses		3,000
Buildings & Grounds - Other Expenses		6,000
Board of Health - Other Expenses		50
Fire Hydrant - Other Expenses		2,000
Gasoline - Other Expenses	9,400	
Recycling - Other Expenses		5,000
Animal Control - Other Expenses		700
Municipal Court - Salaries & Wages	6,000	
Municipal Court - Other Expenses		6,000
	\$ 51,850	\$ 51,850

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

RESOLUTION #2020-269
A RESOLUTION TO APPROVE FIRE AND FIRST AID APPOINTMENTS
Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan:

BE IT RESOLVED, That the following duly elected, named members of the Allenhurst Fire Company #1 and First Aid Squad be granted municipal approval for the positions indicated, for the year 2021:

<u>FIRE DEPARTMENT</u>	
Patrick Harvey	Chief
Kyle Ebbits	1 st Assistant Chief
Mike Powers	2 nd Assistant Chief
Patrick Harvey II	Captain
David Belhassan	Lieutenant
<u>FIRST AID SQUAD</u>	
Carla Ward	Captain
Patricia McLoughlin	Lieutenant
Sue Borden	Secretary/Treasurer

BE IT FURTHER RESOLVED, That the following named members be appointed Fire Police Officers:

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

RESOLUTION #2020-270
RESOLUTION TO REFUND OVERPAYMENT OF TAXES DUE TO A STATE OF NEW JERSEY TAX COURT JUDGMENT
Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, the Borough of Allenhurst has received from the Tax Court of New Jersey judgment(s) reducing the assessment on certain property for the years indicated and,
WHEREAS, the taxes on the certain property for the years indicated are overpaid and,
BE IT RESOLVED, by the Board of Commissioners of the Borough of Allenhurst that upon the recommendation of the Tax Collector, the taxes shown below be refunded to the taxpayer shown below due to a State Tax Court Judgment for the years indicated and,
NOW THEREFORE BE IT RESOLVED, that the Tax Collector is hereby authorized to refund the overpayment and charge taxes for the years indicated in the total amount of \$46,130.44.

BLOCK	LOT	OWNER	YEAR	AMOUNT
2	10	Michael I. Schneck, Esq. Attorney	2018	\$7,806.37
		Trust	2019	\$16,686.26
		Account of: Sutton, Carol &	2020	\$21,637.81
		Kassin, J et al		
		301 Livingston Avenue		
		Livingston, NJ 07039		

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

RESOLUTION #2020-271
A RESOLUTION TO ADOPT STANDARD PROCEDURES AND REQUIREMENT FOR
PUBLIC COMMENT DURING REMOTE PUBLIC MEETINGS HELD DURING A
DECLARED EMERGENCY

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, there is currently a public health crisis associated with the COVID-19 pandemic; and

WHEREAS, the COVID-19 pandemic has forced local government entities throughout New Jersey to hold public meetings remotely; and

WHEREAS, the Director of the Division of Local Government Services, pursuant to Section 8 of the newly enacted P.L. 2020 c. 34, promulgated emergency regulations codified in N.J.A.C. 5:39-1.1 through 1.7 to ensure continuity of government operations and transparency in conducting public business when an emergency requires a governing body meeting to be held remotely; and

WHEREAS, the Borough of Allenhurst, in an effort to take any and every necessary precaution to ensure the safety of its residents, and in an effort to abide by the Director of the Division of Local Government Services' emergency regulation, has elected to continue the use of remote public meetings; and

WHEREAS, in accordance with the provision set forth in J.J.Z.C. 5:39-1.4(h), the Borough is adopting the following standard procedures and requirement for public comment during remote meetings:

1. The Borough shall facilitate a dialogue with the commenter to the extent permitted by the electronic communications technology.
2. The Borough shall facilitate said dialogue through ZOOM and/or telephone conference via a webinar link and a call-in number to be provided on the Borough Public Notice in compliance with the Open public meetings Act.
3. The Borough shall permit members of the public to submit public comments by electronic mail and in written letter form to the Borough Clerk up to 3 days prior to the scheduled remote public meetings.
4. Public comments submitted through electronic mail or written letter before the public meetings in question, within the deadline addressed in sub-paragraph 4, shall be read aloud and addressed during the remote public meetings in a manner audible to all meeting participants and the public listening.
5. The Borough shall also allow members of the public to make public comment by audio or by audio and video. They will be provided an opportunity to provide public comment of no greater than five (5) minutes in duration (this applies equally to written public comments submitted via email or through the mail).
6. The governing body may, in its discretion, elect to summarize duplicate comments, however the governing body must not summarize certain duplicative comments while reading other duplicate comments individually.
7. The governing body may require members of the public to state whether they wish to speak and to identify themselves prior to speaking.
8. The procedures and requirements for making public comment, along with an explanation of the audio muting function of the communication technology being used, shall be announced at the beginning of the remote meeting.
9. Any presentations or documents that would otherwise be viewed or made available to members of the public physically attending a governing body meeting shall be made visible on a video broadcast of the remote public meeting or made available on the Internet website or webpage of the entity governed by the governing body.
10. If a document would be made available to individual members of the public in hard copy while physically attending the meeting, the document shall be made available in advance of the meeting for download through an internet link appearing either on the meeting notice, or near the posting of the meeting notice both on the website and at the building where the meeting would otherwise be held.
11. If a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the member of the local public body charged with running the remote public meeting shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in their being prevented from speaking during the remote public meetings or removed from the remote public meeting. Disruptive conduct includes sustained inappropriate behaviors such as, but not necessarily limited to, shouting, interruption, and use of profanity.

ITEMS FOR DISCUSSION:

The Mayor advised that Ordinance 2020-18 will be tabled. The ordinance is being sent to the Borough Planner for further review and clarification. Per regulations, the ordinance will need to be reintroduced in the New Year after the review. The Mayor clarified that the Planning Board recommended this ordinance and it was introduced at their request.

Comm. McLoughlin asked the Borough Administrator to update him regarding the status of the Water Tower. The Administrator advised that the Borough is currently waiting for the Cell Carriers to get back to the Borough with a design for the new monopole. This will likely occur at the beginning of 2021. After the equipment is moved from the water tower the Borough can look into what to do with the water tower itself.

Comm. McLoughlin also discussed the recent notification that the DOT will be closing the railroad crossing at Allen Avenue. The Borough pursued every possible avenue to prevent the closing but was unable to do so. The Mayor concurred.

The Mayor asked the Borough Administrator to obtain from the Planning Board Secretary all the attendance records for Planning Board Meetings during 2018, 2019 and 2020.

The Mayor thanked Sergeant Michael DiBona for arranging COVID testing for all Borough Employees. The hope is to make this available every two weeks.

OPEN PUBLIC HEARING:

Mr. Peter Chacanas, of Wilentz Goldman and Spitzer, representing the Allenhurst Homeowners' Association, commented on the status of Ordinance 2020-18. Mr. Chacanas stated that he supports sending the Ordinance to the Borough Planner for clarifications. Mr. Chacanas asked if there was any way to be involved and be able to view the planner's ultimate report. The Borough Attorney advised that any public report that is produced will be available to any interested party.

Albert Cohen asked if there was any way the Borough could ask NJ Transit to restrict the use of their horns. The Mayor advised that the use of the horns cannot be limited as the horns are used for public safety.

Bob Scalley stated that he feels the closing of the Railroad Crossing at Allen Avenue is a terrible mistake. He thanked the Board of Commissioners for all their efforts, but is disappointed that the state did not see the merits of the objections.

Paul Schechner commented on Ordinance 2020-18 and stated that he felt that sending the ordinance to the Borough Planners was a good idea because any objective standard will help everyone involved. Residents will have a better understanding of the impact of the ordinance prior to submitting plans and will confirm that the standards are viable.

There being no further business or comments, Comm. McLoughlin moved, seconded by Comm. Bolan that the meeting move to executive session at 7:45 PM. Motion carried.

After reconvening, Mayor McLaughlin moved, seconded by Comm. Bolan that the meeting be adjourned at 8:15 pm. Motion carried.

Donna M. Campagna, RMC
Borough Clerk/Administrator