

**MINUTES**  
**JULY 10, 2012**

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

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.

## RESOLUTION #1

## 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 June 26, 2012, be ratified and approved.

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

## RESOLUTION #2

## 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 of June 26, 2012.

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

### RESOLUTION #3

## A RESOLUTION TO APPROVE ABC REFUNDS

Offered By: Comm. McLoughlin                      Seconded By: Comm. Bolan

**BE IT RESOLVED**, That the following refunds are hereby approved:

Tracy Fitzsimmons - \$36.00 – overcharge on guest book  
 Sylvia Antar - \$210.00 – Refund for Joe Bouganim  
 Patty Carvalho - \$291.00 for daughter employed with Borough

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

**RESOLUTION #4**  
**A RESOLUTION TO HIRE SEASONAL EMPLOYEES**

Offered By: Comm. McLoughlin                      Seconded By: Comm. Bolan

**BE IT RESOLVED**, That the following are hereby employed by the Borough of Allenhurst for the 2012 summer season:

**Recreation**

Stephanie Towns - \$7.25/hr.

**Substitute Lifeguards**

Frank Henry - \$7.25/hr.

Diandra Henry - \$7.25/hr.

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

**RESOLUTION #5**  
**A RESOLUTION TO TERMINATE MEMBERS FROM**  
**ALLENHURST FIRE DEPARTMENT**

Offered By: Mayor McLaughlin                      Seconded By: Comm. McLoughlin

**BE IT RESOLVED**, By the Board of Commissioners, pursuant to the recommendation of the Allenhurst Fire Department, the following are hereby removed from membership in the Fire Department:

Stephanie Todd  
Roberto Roman-Lopez

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

**RESOLUTION #6**  
**A RESOLUTION TO APPROVE ENGINEER'S CERTIFICATE**  
**FOR MAIN STREET IMPROVEMENT PROJECT**

Offered By: Comm. Bolan                      Seconded By: Comm. McLoughlin

**WHEREAS**, A contract was awarded to Fernandes Construction, Inc., for Improvements to Main Street – Phase II; and,

**WHEREAS**, The Borough Engineer has reviewed the project and recommended payment as provided for in Engineer=s Certificate #3, which is on file in the Clerk=s office;

**WHEREAS**, Funds for this purpose shall be provided in the Capital Improvements Ordinance, known as #2011-12, entitled, “Main Street Improvements – Phase II”, and the Chief Finance Officer has so certified;

**NOW, THEREFORE, BE IT RESOLVED**, That Fernandes Construction, Inc., be compensated in the amount of \$12,661.60 for work done in accordance with Engineer=s Certificate #3.

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

**RESOLUTION #7**  
**A RESOLUTION TO APPROVE CHANGE ORDER FOR**  
**MAIN STREET IMPROVEMENT PROJECT**

Offered By: Comm. Bolan

Seconded By: Comm. McLoughlin

**WHEREAS**, A contract was awarded to Fernandes Construction, Inc., for Improvements to Main Street – Phase II; and,

**WHEREAS**, The scope of work was changed as follows:

1. Increase in traffic directors
2. Increase in concrete sidewalk
3. Decrease in pavement and curbing as shown on Change Order #2; and,

**WHEREAS**, Fernandez Construction, Inc., has submitted a request for a Change Order for an increase in traffic directors and concrete sidewalk and a decrease in paving and curbing, resulting in a decrease in the original amount of the contract by \$17,882.20, which request has been reviewed by the Borough Administrator and Engineer, and found to be acceptable;

**NOW, THEREFORE, BE IT RESOLVED**, That Change Order No. 2 resulting in a decrease of \$17,882.20 be approved, thereby amending the contract total from \$150,760.00 to \$138,877.80.

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

**RESOLUTION #8**  
**A RESOLUTION TO APPROVE 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 Cycles - \$7,679.00 for an ATV to be used at the ABC  
Micro Strategies - \$1,965.00 for repair of police car videos  
Crabnet - \$2,495.81 for purchase of two tablets for ABC Security System  
Monmouth County Treasurer - \$11,376.67 for police computers

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

**RESOLUTION #9**  
**A RESOLUTION TO OPPOSE COMMUTER TAX**

Offered By: Mayor McLaughlin

Seconded By: Comm. McLoughlin

**WHEREAS**, The Borough of Allenhurst in the County of Monmouth is in receipt of information regarding a proposed Commuter Tax on anyone who works in New York City, but does not reside in New York City; and,

**WHEREAS**, The Borough of Allenhurst understands that many residents of the Borough of Allenhurst are commuters who travel to New York City for work every day and that they would be adversely affected financially by this proposed Commuter Tax; and,

**WHEREAS**, The 301,702 residents of the State of New Jersey who commute daily to New York City for employment would be forced to endure yet another tax during these difficult economic times;

**NOW, THEREFORE, BE IT RESOLVED**, That the Borough of Allenhurst of the County of Monmouth strongly opposes the proposed “Commuter Tax” which would be imposed on anyone who works in New York City, but resides elsewhere; and,

**BE IT FURTHER RESOLVED**, That the Borough of Allenhurst in the County of Monmouth feels that the proposed “Commuter Tax” would pose an unfair financial burden on residents of Monmouth County and other counties throughout the State of New Jersey and surrounding tri-state area who travel to New York City every day for employment; and,

**BE IT FURTHER RESOLVED**, That the Board of Commissioners of the Borough of Allenhurst of the County of Monmouth urges Manhattan Boro President, Scott Stringer and New York City Mayor Mike Bloomberg to reconsider the imposition of this unfair tax; and,

**BE IT FURTHER RESOLVED**, That the Clerk forward a certified true copy of this resolution to Manhattan Boro President Scott Stringer, New York City Mayor Mike Bloomberg, Governor of the State of New Jersey, and the 11<sup>th</sup> Legislative District and that they be asked to join in opposition to the proposed commuter tax.

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

### **RESOLUTION #10**

#### **A RESOLUTION TO CONFIRM BILLS AND PAYROLL (07/01/12 - 07/16/12)**

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

**BE IT RESOLVED**, That bills and payroll totaling \$214,243.17 be approved for payment; and,

**BE IT FURTHER RESOLVED**, That the July 10<sup>th</sup> consolidated bill list be attached hereto and made a part thereof.

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

### **PUBLIC HEARING**

Tim Moriarty, West Allenhurst, asked about the bus for Beach Club members and whether other people could ride it. Mayor McLaughlin stated the bus is for everyone. Mr. Moriarty asked if the Beach Club members pay for it and Comm. McLoughlin replied that it is paid for out of the general fund.

Mr. Moriarty then talked about the race on Saturday and asked who is responsible for getting everyone to leave. Someone set a towel down to stay for the rest of the day. Comm. McLoughlin stated Beach Club management should have asked them to leave. Mr. Moriarty stated members pointed it out to the Manager. Comm. McLoughlin asked if they left and Mr. Moriarty answered, yes. Mayor McLaughlin replied, “That is your answer.”

Mr. Moriarty stated the Vice Versa Triathlon tied up the first block of Corlies Avenue. He asked that they hold it earlier. Mayor McLaughlin stated they were out by 10:00 or 10:30. Mr. Moriarty stated the street did not open until 9:30. Mayor McLaughlin responded that it was early. He received no complaints. Ptl. DiBona added that the race was over by 8:30. Mr. Caron stated the swimming portion went on until 9:00 – 9:15. If it is possible for them to start a little earlier, it would be good. At 10:00, there were still a few finishers. Awards were given after 9:30.

Mr. Moriarty then stated that Mr. C’s has tables set up past his tent towards the ocean. The rail is no longer there. Mayor McLaughlin asked the Beach Club manager if that was a problem and Mr. Caron stated he has not received any complaints. There are two tables infringing about 3 feet. He will ask Mr. C to move them back.

Bill Capik, Hume Street, had a question about the water situation. He sees quite a few sprinklers. He asked if warnings were being given. Mayor McLaughlin answered that the police were checking properties and enforcing the restrictions. Most people seem to be responsible, but he will speak with the Chief.

Harold Shamah stated he put his catamaran on the beach last year. He left it there for the winter. He thought it was at his own risk. A storm came up and it caused some damage. He has

been in communication with Doug. He was sorry for the damage and will make restitution to the Borough. Mayor McLaughlin asked if the catamaran had been paid for and Mr. Shamah stated it was under someone else's name. Mayor McLaughlin asked if he had permission to leave it over the winter and Mr. Shamah said no. Mr. Caron stated damage was done to the shed where the first aid keeps the jet skis. The catamaran had to be moved twice. He would like to see the damage paid for as well as the cost for moving the catamaran. Mayor McLaughlin agreed. Comm. Bolan suggested Doug work up an invoice and present it to Mr. Shamah.

Joseph Tomaino, Cedar Avenue, asked if police could step up patrol on drivers not stopping for pedestrians. He and his grandchild were almost hit on Cedar and Norwood. Comm. McLoughlin stated the specials should patrol during the busiest hours of the Club. Mayor McLaughlin added that if you can get a license plate number, the police may be able to apprehend the person.

Bill Capik stated that Loch Arbour has signs on Norwood Avenue and the Mayor stated they do not have permission, but have put them out anyway. Mr. Capik asked how many crosswalks were painted on Norwood and Mayor McLaughlin replied, none.

Mr. Moriarty asked if any more thought had been given to limiting guests. On the Fourth of July, there were over 700 guests. Mayor McLaughlin responded that they have taken some action. They have restricted renters without facilities from buying any more guest books.

Mr. Moriarty stated the Deal Casino limits the number of guest books a member can buy. Mayor McLaughlin stated the Club is absolutely closed to new members. They have talked about an eight person limit to facilities. Mr. Moriarty stated he sees guests all sitting together without a member. There is no one there to guide them and let them know the rules. Comm. McLoughlin suggested they could put the rules in each locker. Mayor McLaughlin felt it was the member's responsibility for each guest. Mr. Caron stated that members have received warnings and one member was suspended for a time.

There was a lengthy discussion regarding Club rules.

There being no further comments or questions, public hearing was closed.

#### **MERCANTILE LICENSE HEARING – DOWN TO EARTH**

Mayor McLaughlin stated the Board would now conduct a hearing concerning the Mercantile License of Down to Earth. This hearing will be recorded and witnesses will be sworn and evidence given. Comm. Bolan will conduct the hearing.

Comm. Bolan swore in the following witnesses; Douglas Caron, Public Works Supervisor; Chris Rogers, Zoning Officer, Public Works employee; and Joseph Greenstein, owner of Down to Earth. Mr. Greenstein was represented by Neil Greenstein, attorney.

Comm. Bolan stated a letter, dated July 3, 2012 was addressed to Mr. Greenstein, notifying him of tonight's hearing and complaint. Neil Greenstein acknowledged receipt of the letter and summons dated 7/02/12. Joseph Greenstein stated he did not receive the summons.

Comm. Bolan stated the summons will be addressed in municipal court. This hearing has to do with the Mercantile License. Comm. Bolan continued, stating a hearing was held on this same matter on January 24, 2012. Mr. Caron was here as was Mr. Bijou on behalf of Down to Earth. There was a discussion of the on-going problems with garbage, recycling and washing of mats outside, causing his neighbors to complain. Mr. Bijou assured them they would correct the problems and there would be no further issues. There was an operations report dated the next day by Ptl. DiBona who saw a pool of milky water flowing from Down to Earth.

Mr. Caron stated since that time, when Public Works went to pick up recycling, they found garbage mixed in. They were unable to pick it up. It just escalated the trash around the dump. It was agreed that from Memorial Day to Labor Day, they would hire a private company to handle the trash. The amount of trash is well beyond what Allenhurst picks up at no charge. Cravings has a dumpster and they pay for their pick-up. Three other locations have the same arrangement.

Doug described the photos taken of Down to Earth, which were marked as Caron 1 and Caron 2. As you can see, garbage is mixed in with the recyclables. He added that if Allenhurst were to take it mixed like that, the County would give them two warnings and then ban them from the Reclamation Center. He tried to talk to some of the employees, but to no avail. He did talk to Mr. Bijou on three occasions.

Comm. Bolan asked Mr. Caron if he had seen conditions like this on other occasions and Mr. Caron replied he has seen this and worse.

Comm. Bolan asked if there had been any improvement after the January hearing and Mr. Caron stated they had someone pick up the bin that held the mixed garbage, but then it started over again. When he met with Mr. Bijou, he told him he was trying to work it out with his employees, but they didn't listen to him. The two businesses next door, Cravings and Fratelli's started to complain about insects, rodents, etc.

Neil Greenstein asked Mr. Caron how many restaurants were in that alley and Mr. Caron stated two, Cravings and Down to Earth. Mr. Greenstein asked how many other properties and Mr. Caron stated there was also Salon L and two other stores. Mr. Greenstein questioned the report on milky fluids and Mr. Caron stated he saw them washing the mats out in the alley and the milky fluid was coming from that. Mr. Greenstein asked if there had been any testing of the fluid. Could it have been peroxide from Salon L, or hair coloring? Mr. Caron stated he watched them rinse the mats at least four times.

Neil Greenstein stated they have a large influx of people. He asked Mr. Caron if he looked at the alley today. Mr. Caron answered, no. The last time he saw it was about three weeks ago.

Mr. Greenstein showed a picture taken with his phone of the alley today. He asked Mr. Caron if there was a dramatic improvement. Mr. Caron agreed that it was, as long as there was not garbage mixed with recyclables.

Mr. Greenstein asked if Mr. Caron knew the terms of the contract with the private hauler and Mr. Caron stated he did not.

Mayor McLaughlin interjected that he received an e-mail regarding cooking grease being dumped. Mr. Caron stated that at one time, there were eight cans of cooking grease stored outside without lids. When it rained, the grease spilled out. This was in January.

Chris Rogers stated he got involved because the dumpster should be sitting on a hard surface, but, instead was just sitting on dirt. He spoke with numerous employees and left his card. Then the garbage wasn't getting picked up at all. The neighbors complained about having their fence ruined because the dumpster was always hitting it. He has witnessed garbage being thrown on top of the dumpster. He gave them two weeks to put down either concrete or blacktop for the dumpster, but it was not done. They tried to use a piece of plywood, but that only split. This was in February.

Neil Greenstein asked Mr. Rogers if he knew that the parking barrier being used by Cravings was on the Down to Earth property. Mr. Rogers responded, no. Mr. Greenstein stated that a lot of things are coming from Cravings, such as a fridge. Mr. Rogers stated he is only talking about the garbage.

Neil Greenstein stated his brother feels slighted. He has been a member of this community for many years.

Joseph Greenstein stated that since he has been on board starting in April, a lot of problems have been cleaned up. He has contracted with Waste Management. Neighbors have been calling at 9 AM and two hours later, the garbage is removed. They received a summons on June 25<sup>th</sup> after one of their busiest weekends. By that afternoon, everything was spotless again. Unfortunately, they have neighbors they are not on good terms with. There have been shouting matches between Stu Kramer and Albert Bijou. Mr. Bijou also had problems with the hair salon. They have removed Mr. Bijou from the picture. Their hauler comes 3 or 4 times a week. They cannot control the amount of garbage they generate. They have added six new containers. The big container that was a nuisance has been

removed. Sometimes the truck can't get into the alley because of deliveries and they will not wait. The problem is the one driveway with easements. His neighbors have things all over the place and no one has said a word.

An e-mail was presented to Comm. Bolan and marked as DTE-1. It says service days are Friday. He asked if that meant Friday only. Joseph Greenstein stated cardboard is picked up every Friday. The garbage is picked up three times a week.

Joseph Greenstein stated they made a complaint to the Police Department regarding someone vandalizing their garbage. The bags are torn open and strewn about. Comm. Bolan asked if it could be raccoons. Mayor McLaughlin asked if there was food in the bags to which Mr. Greenstein responded, yes.

Mayor McLaughlin asked if the dumpsters were filled with garbage when Waste Management took over and Mr. Caron answered, yes. Everything was mixed. Mayor McLaughlin asked about trash for the months of February, March, April and May. Mr. Caron stated they couldn't pick it up because it was mixed.

Joseph Greenstein stated his workers took the garbage and disposed of it. He tried to contract with Marpal, who refused as they could not get their trucks in to pick it up.

Neil Greenstein stated the bottom line is that the problems have been resolved.

Comm. Bolan asked when Mr. Bijou ceased working at Down to Earth and Joseph Greenstein stated since May 1<sup>st</sup>. He has been there since.

Comm. Bolan asked that the contract with Waste Management be sent to the Borough Clerk.

Comm. Bolan also suggested asking Waste Management if they could pick up earlier when there is less traffic. Mr. Greenstein stated he could speak to them.

Comm. Bolan stated that if there was not an on-going problem, they wouldn't be here. However, he hears from Mr. Greenstein that there is no problem or that someone is sabotaging his garbage. Joseph Greenstein stated he has filed a complaint with the Police Department. He is not saying there is no problem, but that he is taking care of it as soon as possible.

Joseph Greenstein stated he asked the town if he could build an enclosure. Mayor McLaughlin stated they are not asking for cosmetic repairs, but to get rid of the garbage.

Joseph Greenstein stated he spoke with the Administrator, who told him the Borough could pick up the garbage for a fee. Mr. Caron added that the town makes money on recyclables. The town would be happy to pick it up. It is a simple solution. The dumpster is on mud. If the contractor can't line the dumpster up, he can't get it out. He stated Down to Earth does produce a lot of trash. With the proper dumpster, he can contract with the town to pick it up.

Stu Kramer, owner of Cravings was sworn and stated he has been listening to the testimony. Comm. Bolan asked Mr. Kramer if he witnessed Down to Earth this summer with garbage problems.

Mr. Kramer stated there was garbage in the back without containers. The garbage not being dumped ends up on the ground and attracts rodents and flies. It is not a personal vendetta. He stated his walk-in may be a couple of inches over on Mr. Greenstein's property. He will look into it. However, the parking blocks were put in by Aaron, who is an employee of Down to Earth.

Comm. Bolan asked if Mr. Kramer saw any improvements in June as opposed to April or May. Mr. Kramer responded, no. The containers from Waste Management would overflow and garbage would end up on the ground on an almost daily basis. Since last week, they have gotten more containers and it has been spotless.

Comm. Bolan asked if there were signs of critters and Mr. Kramer stated there are always squirrels, but it is inevitable. Comm. Bolan asked about last week and Mr. Kramer stated it has been

great. He doesn't want to see anyone out of business. He just wants it clean. What Mr. Greenstein does affects his business also.

Joseph Greenstein stated he is willing to do whatever it takes. He wants everyone to be happy. He does not want to be a nuisance.

Comm. Bolan asked the Greensteins if they would agree that if there is another problem and they have to have another hearing, there will be strong consequences, including revocation of the Mercantile License.

Neil Greenstein stated he understood.

Mayor McLaughlin stated he felt the same way. This issue was addressed in January and nothing improved. He does not want to come back in August or September. It is a small town and they all have to get along.

Neil Greenstein stated he understood. He assured the Board that as Mr. Greenstein's attorney and brother, they do not want to come back. If there is a problem, they will rectify it. If Stu has a problem, he can talk to Joe and they will rectify it.

Comm. Bolan stated that as far as the moratorium and paving under the dumpster, it is not an absolute. They can apply for a waiver. Paperwork can be obtained through the Clerk's office.

Mayor McLaughlin stated that for the record, the way it is now will be the way it remains.

There being no further testimony, comments or questions, Comm. Bolan moved, seconded by Comm. McLoughlin that the hearing be closed. Motion carried.

As there was no further business, Comm. McLoughlin moved, seconded by Comm. Bolan, that the meeting be adjourned. Motion carried.

Lori L. Osborn, RMC  
Clerk-Administrator