

**MINUTES**  
**SPECIAL MEETING – JANUARY 9, 2014**

The Joint Meeting of the Allenhurst and Loch Arbour Boards of Commissioners was held on the above date at the Allenhurst firehouse. Present from the Borough of Allenhurst was Mayor McLaughlin, Commissioner Bolan, Commissioner McLoughlin and Borough Clerk Lori Osborn. Present from Loch Arbour was Mayor Fernicola, Commissioner Cheswick, Commissioner D'Angelo, Village Attorney Guy Ryan, Borough Clerk, Dan Mason and Deputy Borough Clerk, Marilyn Simons.

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 they asked everyone to come here tonight, not to approve the plan, but to get opinions. He gave a history as to what has occurred up to this point. The newest proposal is for Loch Arbour to pay Allenhurst \$5,000,000. The Board of Commissioners felt it was in Allenhurst's best interest to look at the proposal. They partnered with Loch Arbour to do a financial study. Allenhurst does not want to take on any risk. This is one of many meetings to come. The proposed plan will probably not be the final plan. They have had several meetings with the State. One of the misconceptions is that submitting a plan to the State makes it final. It is not so. They can decide not to go forward at any time. This is not two towns coming together to make a different town. Loch Arbour will become a part of Allenhurst.

Mayor Fernicola thanked the eight former Board of Trustee members who sent out a letter endorsing the plan. He stated the focus of tonight's meeting is to get feedback. They will try to get the feedback from the State on a preliminary plan. There is no risk to either town in submitting a plan to the Department of Community Affairs. It is after three public hearings and acceptance of the plan by the State that it goes to a vote. There is no commitment to engage in an election. There are three critical aspects of the plan: 1. Severing Loch Arbour's ties to the Ocean Township school system. They have a letter from the State that as part of Allenhurst, Loch Arbour will be a sending district to Asbury Park. If the State proposes anything else, they will not go forward with the consolidation. 2. Loch Arbour is willing to pay \$5,000,000 to Allenhurst to offset debt and to reduce the tax level over the next 10 years. 3. Ability of Loch Arbour to pay any of the costs associated with the consolidation, including any litigation. The State has agreed to this. If any of those aspects change, the process will come to an end. There is legislation pending to allow the payment of one municipality to another for consolidation.

**Presentation**

Reagan Burkholder, financial consultant, made a presentation of the taxes to be saved by both Allenhurst and Loch Arbour if the consolidation were to happen. Figures were based on the financial study which will be filed with the consolidation plan.

**PUBLIC HEARING**

Kevin Rogers, Allenhurst, asked where the \$5,000,000 came from. Mayor Fernicola stated that is the estimate of Allenhurst's existing debt. Mr. Rogers asked if there was an assumption that a revaluation was being done. Mr. Burkholder stated if that were so, it would still come out very close to an equalized value.

Mr. Rogers stated that there may a drop in home values. Mr. Burkholder stated that in talking to the County Tax Assessor, that was not a bad assumption. If the home values in the south part of Allenhurst were to go up, it would mean that taxes would be lower in the remaining part of town.

Mr. Rogers stated there were significant differences in resident versus non-resident rates at the ABC. Mr. Burkholder stated there is room for 10 cabanas and he billed them in at residential rates. Mayor Fernicola added that there are 235 Loch Arbour residents who are members of the Village Beach Club.

Bernard Costello, Allenhurst, asked if calculations were based on the recently reduced assessments in Allenhurst. Mr. Burkholder stated they were based on the 2013 rates. Mr. Costello stated that those calculations may not be relevant. He stated there was a calculation that two students from Loch Arbour would attend public school. There was no attempt at an actual

number, just a supposition. He asked if there was any discussion on capping the amount if there are more than two students. Mayor McLaughlin replied, no.

Mr. Costello asked how Loch Arbour debt would be paid off prior to consolidation and Mayor Fernicola stated that is the amount they pay to Ocean Township. That is the source. Mr. Costello asked the amount of Loch Arbour debt and Mayor Fernicola stated it was approximately \$1,000,000. It will be paid off.

Mayor Fernicola stated Loch Arbour will finance a bond which Loch Arbour homeowners will pay. Also, the Loch Arbour municipal building will be sold to help pay Loch Arbour debt.

Mr. Costello stated there was an estimate of one additional employee. Did the other departments concur? Mayor McLaughlin replied that they did. They may have to add one or two special police officers.

Mr. Costello asked if there was a review of infrastructure needs. What if the sewer system needs to be replaced? Mr. Costello asked if there was an end date to when Loch Arbour residents would pay for litigation. Comm. McLoughlin stated that any litigation would be borne by the special taxing district.

Mayor McLaughlin stated that he spoke to officials at the State earlier this week. The plan submitted to the State needs to be modified and changed. However, the challenge is for the State to find a way to make it happen. A special taxing district is designed for existing debt and not to pay off a future debt.

Mayor Fernicola stated they will create a legal services district to pay off litigation costs. The State is looking at that also.

Sandra DeMurley, Allenhurst, asked if the Borough would have to build more beach facilities and where would they put them? What happens to people in Interlaken who have been members of the Loch Arbour Beach Club for a long time? Mayor Fernicola stated that there will be 10 additional facilities on Loch Arbour beach prior to consolidation. Mayor McLaughlin stated they will be put on a list until a facility is available. Perhaps they can join Loch Arbour beach until then.

Paul Vignone, Allenhurst, asked why the taxpayers of a town so well-run would want to take on additional responsibilities with potential severe liabilities. Promises of taxes not rising is never true. The liability is the value of the Allenhurst homes. If you take this unique 4 x 4 block and expand, you risk losing the value of your home. He then asked about exposure to storms. Allenhurst has the benefit of a 15' sea wall that has withstood every storm in Allenhurst. There has been no damage to any properties. Unfortunately, that is not true in Loch Arbour. They have sustained damage from the lake rising. Five million dollars is a shot in the arm. It will feel good for a little while. However, it could cause long term liability. He is very leery of supporting this. He is willing to share the current debt rather than sharing the potential debt by consolidating.

Larry O'Rourke, Allenhurst, stated he heard there is pending legislation. Mayor Fernicola stated it is pending in the Assembly. Gina Genovese, from Courage to Connect, stated that the Bill is #S2679. Mayor Fernicola stated that what the State is recognizing is that quite often one town will have a substantially greater tax savings than another. It is not just for municipalities, but also for school districts.

Mr. O'Rourke asked if it was permitted at this time and Mayor McLaughlin answered, no. Mayor Fernicola commented that they won't know until they send the plan to the State. If it is not allowed, they will not go forward.

Mayor McLaughlin stated that he spoke to Tom Neff, Director of the Division of Local Government Services on Monday. A special taxing district is designed to pay existing debt. However, the State is aware of this and is looking at options. Right now, there is no mechanism to do this.

Mr. O'Rourke stated he is trying to understand why they are submitting a plan that statute will not allow. Mayor Fernicola stated that it doesn't prohibit it.

Mr. O'Rourke asked why the plan calls for an election in April of 2014. Mayor McLaughlin stated it is because of the school budget. It is very aggressive and he doesn't think

the timeline will work. The mechanism for this plan is not there.

Dennis Sternberg, Allenhurst, stated he loves his little town. He has heard honesty and he has heard things he is concerned about. The aesthetics of the Beach Club are important to him. He stated if he were Ocean Township, he would put up a fight. How long could litigation go on?

Mayor Fernicola stated that Ocean Township would have to sue the State of New Jersey, because the State has given their opinion that Loch Arbour will cease to exist and Allenhurst's school district is Asbury Park. Ocean would also have to challenge the vote.

Dr. Sternberg replied that sometimes they win. He stated that the financial study is based on a lot of ifs. Sometimes when it looks too good to be true, it is. He feels for Loch Arbour. He is satisfied with his Commissioners and with the way the town is run. It is not worth the future risk. He knows Mayor Fernicola is trying to do the best for his town. It is admirable.

Mayor Fernicola stated his mother is a resident of Allenhurst. He would never jeopardize his own mother's ability to continue to live in Allenhurst if he thought there would be any risk. His Aunt Vera also lives in Allenhurst.

Bob Scally, Allenhurst, stated his biggest fear is that they are taking children out of Ocean Township and putting them in Asbury Park. He is afraid that eventually, Allenhurst will be put in the Ocean Township school system. Allenhurst has had a very low profile as far as its school system.

Comm. Bolan stated he hears that a lot. Loch Arbour's problem will become ours. There is no legal way that Ocean Township can force Allenhurst into their school system. The State can do that with or without consolidation. If there is any sentiment at the State level, it is that there are too many municipalities. His fear is the exact opposite. If Allenhurst does not want to consolidate, that is when they will look at Allenhurst. Allenhurst will become the poster child for municipalities that never want to change.

Nancie Senet, Allenhurst, stated she didn't see any risk in putting this plan forth. She didn't see the harm in looking into it further.

Robert Fernicola, Loch Arbour, stated he was a long-time resident of Allenhurst and he moved to Loch Arbour. He was Beach Commissioner in Allenhurst. He loves Allenhurst. People are talking about risk. The greatest risk is to be regionalized into another school system. Loch Arbour has a letter from Commissioner Serf. There is a law that non-operating school districts were supposed to be abolished. Christie has not done it. The State has the power tomorrow to redistrict Allenhurst. The risk to Allenhurst is if the State of New Jersey decides to regionalize.

Mayor McLaughlin stated that other towns do not send their children to a school based on the assessed value of the town. The State has looked at this law and it is problematic. It doesn't work. There are many lawsuits pending because of it.

Robert Fernicola stated the point is that they have an opportunity to go to the State with the Consolidation Plan so that this doesn't happen. They can even try to write into the plan the formula they would use. Furthermore, he doesn't think the ABC will be impacted. Allenhurst could create a seasonal badge to be used on Loch Arbour's beach. It would enhance the beach. There would be a much bigger beach and increased revenue.

Mrs. Loushine, Loch Arbour, stated that once they merge, Loch Arbour will have no say on the Board. Who will monitor this taxing district? Mayor Fernicola stated the district will be responsible for the direct costs of the consolidation and for any litigation connected to consolidation.

Mrs. Loushine asked what fiduciary responsibility was there to provide an adequate education. Mayor Fernicola stated his responsibility is to the entire town. About 8 to 10 families use the public school system. They would be severing the ties with the Ocean Township school system. It will be a benefit to the entire community. Should Loch Arbour subsidize the benefits of a few families to go to the Ocean Township school system?

Mrs. Loushine stated she is the mother of three young children in Loch Arbour. Allenhurst residents know what they are getting with the schools when they purchase a home in

Allenhurst. She asked the Commissioners to try to find a way to work with the school children. This plan needs something that will help the children. Maybe a grandfather clause.

Mayor Fernicola stated that people have had to sell their homes after 40 years because they have not been able to pay the taxes.

Adele Gannon, Allenhurst, asked about the salaries of the existing Allenhurst employees, stating they will have to spend more time. That didn't seem to be built in.

Mayor McLaughlin stated they already provide sanitation services. They would not have to hire anyone new. There is no need to hire in the Police Department. In the summer, they will need two additional special officers. They already provide fire and first aid.

Comm. Bolan stated his opinion is that consolidation adds security to the DPW and Police Department. Losing the police contract hurt.

Al Cohen, Allenhurst, stated assessments have come down and could affect the financial analysis. Taxes go up and down. Mr. Burkholder stated his figures are based on an equalized value. If there is a reduction in assessments, it would not affect the amount of money to be raised by taxes. Mr. Cohen asked if these numbers would still be accurate and Mr. Burkholder stated he believed so.

Mr. Cohen stated he has looked at the census numbers and Allenhurst has dropped significantly. What if the new town votes to send its children to Ocean Township schools and Allenhurst has to pay the cost? Mayor Fernicola stated there is no rule or law that would allow that. Comm. McLoughlin added that the town cannot choose.

Mr. Cohen stated that Allenhurst focuses on the historic feel of the town. He felt they will be losing that. Will there be an opportunity to address all zoning issues in town? They are already overburdened with applications. He asked about the environmental concerns at the JCP&L lot.

Mayor McLaughlin stated that JCP&L is not owned by Allenhurst and Allenhurst has no liability as far as that goes.

Mr. Cohen stated he felt the vote should be for all taxpayers and not just residents.

Joel Fleming, Allenhurst, stated they haven't heard the opinions from the Commissioners. What would you do if you had to vote tonight?

Comm. McLoughlin stated if they agree to send the plan to the State, the State will still have to approve it. Then there are three public hearings which the State will attend. Then the plan will go to a vote before both towns. At the end, it will rely on the voters. The Commissioners want to explore this. At the end of the day, the Commissioners will either raise taxes, cut services or try to find a new revenue stream. At all times, the information will come back to the voters. He knows he works for the voters. If he gets an answer which he doesn't feel would be good for the town, he wouldn't even let it go to a vote. There is no risk in putting it out there. He feels it is something they at least have to explore.

Comm. Bolan stated he was struck by two things. He likes that they have their own police force and DPW. Consolidation gives them some security. It doesn't appear as if this plan will be rubber-stamped. As it stands now, he feels it is good for Allenhurst. He feels it will be changed to some degree. He is in favor of sending the plan to the State and starting the process. He is against just saying no. He knows Loch Arbour wishes it was a quick process. He doesn't think it will be. They can always pull the rip cord if it doesn't look good.

Mayor McLaughlin stated this is a monumental issue for both towns. He is a nitpicker for details. He sees no harm in looking at this. He thinks they should proceed methodically and very carefully. It can have serious implications. He is not necessarily for putting in an application tonight. Personally, he thinks they should look at this issue and correct what is wrong before they submit it. He wants to make sure they have thought of everything. The State is trying to help them get there, but right now, there is no legal mechanism. The April date was to try to let Loch Arbour avoid a school tax payment. Even the State said the timeline was too aggressive. He doesn't think this is the time to submit this plan. He thinks it is worthwhile exploring it. The Loch Arbour Board has worked extremely hard for its residents.

Mrs. Codispodi, Loch Arbour, stated there is a lot going on. As a resident of Loch Arbour, she wants to thank her Board for putting in the time on this issue. She also thanked Allenhurst for its time.

Mark Horowitz, Allenhurst, stated this meeting is about information. What is wrong with going forward and getting information?

Mayor McLaughlin stated although they haven't formally submitted it, the State has the plan. They are already coming back with feedback.

Comm. Cheswick stated Allenhurst wants something binding from the State. The only way to do that is to proceed. This is the way to get the ball started.

Mayor Fernicola stated that the only way the State will come and answer questions is by submitting the plan.

Mr. Brenner, Loch Arbour, stated he felt there should be representation from Loch Arbour on the Board of Commissioners while they have the special taxing district. Once the \$5,000,000 debt is paid, the debt will go away and they will become a part of Allenhurst. He asked if there is a time limit.

Mayor McLaughlin stated if the plan is approved by the Local Finance Board and they pull out or the vote doesn't pass, there is a five year moratorium on resubmitting anything.

Eric Mehr, Allenhurst, stated he is trying to keep an open mind. If the towns consolidate and if Ocean sues and wins, has any thought been given to that?

Comm. Bolan stated that any monetary judgment would be paid by the taxing district in Loch Arbour.

Mayor Fernicola stated that they want to eliminate any risk that Allenhurst may have.

Dave Moss, Allenhurst, asked if the \$5,000,000 included what they get from FEMA and the JIF. Mayor Fernicola stated it is an independent matter.

Mrs. Senet stated she was involved for many years with the school district. The attitude of the State is that Allenhurst is going to stay with Asbury Park. They have never let Allenhurst even consider changing schools.

Pat McGinnis, Allenhurst, stated that Asbury Park has been declared a failed school district. How would that affect this? She thinks there are 20 students who could conceivably go to Asbury Park. They have a letter from the Commissioner of Education, but is it legally binding?

Mayor Fernicola stated that is why the next step is submitting the plan. In that way, you know what is legally binding.

Kevin Rogers stated that the Boards mentioned a shared savings. There is way more savings on one side than the other. It is still unequal. It should be more equal.

Anthony Mauro, Allenhurst, stated he thought they should move forward.

There being no further comment, Comm. Bolan moved, seconded by Comm. McLoughlin, that public hearing be closed. Motion carried.

At this point, Comm. D'Angelo offered a resolution sending the Consolidation Plan and Financial Analysis study to the NJ State Department of Community Affairs. Comm. Cheswick seconded the resolution and it was adopted by all three Loch Arbour Commissioners.

The Loch Arbour Board of Commissioners then introduced and passed a resolution hiring Dilworth Paxson as its Bond Counsel.

Mayor McLaughlin announced that the Allenhurst Board of Commissioners would consider an identical resolution to submit the Consolidation Plan at their meeting on Tuesday, January 14<sup>th</sup> at 7:30 PM. There will be an opportunity to speak before adoption.

There being no further business, Mayor Fernicola moved, seconded by Comm. D'Angelo, that the Loch Arbour meeting adjourn. Motion carried.

Mayor McLaughlin moved, seconded by Comm. McLoughlin, that the Allenhurst meeting be adjourned. Motion carried.

Meeting was adjourned at 10:10 PM.

Lori L. Osborn, RMC  
Clerk-Administrator