

**MINUTES – SPECIAL MEETING
DECEMBER 29, 2014**

A Special 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.

COMMUNICATIONS

Notice from Monmouth County Board of Chosen Freeholders of award of an Open Space Grant for improvements to the Allen Avenue beachfront in the amount of \$140,000.

Notice from Monmouth County Board of Taxation with new tax rate reflecting the additional school tax levy.

**RESOLUTION #1
A RESOLUTION APPROVING THE DESIGN OF
THE ALLENHURST BEACH CLUB RESTAURANT**

Offered By: Mayor McLaughlin

Seconded By: Comm. McLaughlin

WHEREAS, On October 29, 2012, Super Storm Sandy destroyed the Allenhurst Beach Club (“ABC”) restaurant that had been a fixture of the community since approximately 1930; and,

WHEREAS, Following the advice of experts, the remains of the original one (1) story above grade structure were demolished so that the Borough could rebuild in keeping with Governor Christie’s directive to restore the shore; and,

WHEREAS, The Borough hired professionals to assist it in designing a new ABC restaurant to be constructed in the same footprint as the original; and,

WHEREAS, The professionals soon determined that the new ABC restaurant would require a greater floor area than was contained in its predecessor in order to comply with the Borough’s Zoning Ordinance, current construction codes, ADA accessibility requirements as well as mechanical and utility needs. Moreover, the issue was complicated by the fact that 675 square feet of pre-existing floor area had to be sacrificed by moving the proposed east wall of the building back off the sea wall to the west in order to place it outside the preliminary VE 22 Zone, while still meeting the requirement to stay in the original footprint; and,

WHEREAS, A capital review hearing was held before the Planning Board of the Borough of Allenhurst on January 22, 2014, and the proposed design of the ABC restaurant was presented and discussed at length; and,

WHEREAS, Many design considerations were examined by the Borough, both before and at the capital review hearing. As a potential means of satisfying the need for greater floor area, the Borough considered adding a second story to the new ABC restaurant. However, a number of factors mitigated against a two story structure as follows:

1. A two (2) story building would have required an overall building height in excess of forty-three (43) feet which would violate the thirty-five (35) foot maximum allowable height permitted by the Borough’s Zoning Ordinance in the subject residential zone; and,
2. The residential neighborhood in question is listed in the New Jersey and National Register of Historic Places as the Allenhurst Residential Historic District; and,
3. The NJDEP State Historic Preservation Commission (SHPO) expressed concern regarding the proposed height of the structure and its effect on the pre-existing view corridor; and,
4. The construction of a second story would block the existing view corridor of the multi-million dollar homes immediately surrounding the ABC restaurant to the north, south and west, which could lead to expensive and time consuming litigation by said homeowners seeking to protect their existing ocean views; and,

5. The design professionals were of the opinion that a dry flood-proofed basement could provide the necessary additional floor area as well as result in a stronger and better building while avoiding all the difficulties associated with a second floor; and,

WHEREAS, It was concluded by the Board of Commissioners that, in light of the many problems, and particularly the potential for litigation, associated with construction of a second floor, the only viable option to satisfy the floor area needs for the new ABC restaurant would be to construct the same with a dry flood-proofed basement; and,

WHEREAS, A jurisdictional determination for CAFRA permit compliance was submitted to NJDEP and a letter of compliance with the Permit by Rule regulations was received; and,

WHEREAS, The Borough's design professionals complied with the Borough's Ordinance (adopted as mandated by FEMA using the Model prepared by the NJDEP Bureau of Dam Safety and Flood Control), chapter XIV Flood Damage Prevention, Section 14-5.2 when designing the proposed structure. In addition to locating the structure outside the VE 22 Zone depicted on the Preliminary Flood Insurance Rate Maps (FIRM), dated January 31, 2014, the basement walls were designed in compliance with the dry flood-proofing and structural design requirements within the AO Zone for non-residential basement construction;

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 design of the new ABC restaurant, inclusive of a dry flood-proofed basement and without any problematic, non-code compliant and litigation exposing second floor, be and is hereby approved.

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

RESOLUTION #2

A RESOLUTION TO AWARD CONTRACT FOR LEASE OF ABC RESTAURANT

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, The Borough of Allenhurst owns the Allenhurst Beach Club and is seeking qualified persons to operate a Restaurant at that facility; and,

WHEREAS, The Borough authorized the use of competitive contracting for selecting a Prospective Tenant for the facility; and,

WHEREAS, The Borough advertised a Request for Proposals, which included the methodology to be used by the Borough to select the most advantageous proposal, and on November 18, 2014, the Borough received two sealed Proposals from Prospective Tenants; and,

WHEREAS, On December 8, 2014, the Governing Body held an Open Public meeting to evaluate said Proposals in accordance with the methodology described in the Request for Proposals; and,

WHEREAS, The Borough prepared a report evaluating the Proposals submitted by the Prospective Tenants and which ranked them in order of evaluation and which set forth the reasons why the Proposals were so ranked; and,

WHEREAS, The report has been made available to the public for at least 48 hours prior to the adoption of this Resolution awarding the contract; and,

WHEREAS, The report recommended that the contract/Lease be awarded to Santo Perrotto and Karen Marzulli, the owners and operators of Mister C=s Beach Bistro as their proposal was the most advantageous to the Borough when evaluated in accordance with the published methodology;

NOW, THEREFORE, BE IT RESOLVED, By the Borough that Contract/Lease be and hereby is awarded to Santo Perrotto and Karen Marzulli, the owners and operators of Mister C=s Beach Bistro; and,

BE IT FURTHER RESOLVED, That the award of the contract be and hereby is conditioned upon the Tenants signing the appropriate contract documents and Lease Agreement as set forth in the Request for Proposals in a form satisfactory to the Borough and its attorney; and,

BE IT FURTHER RESOLVED, By the Borough that its representative be and hereby is authorized to execute all necessary documents in connection herewith.

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

RESOLUTION #3

A RESOLUTION TO AUTHORIZE TRANSFER OF SURPLUS VEHICLE

Offered By: Comm. McLoughlin

Seconded By: Mayor McLaughlin

WHEREAS, The Borough of Allenhurst took ownership of a 1972 D7 RPS Caterpillar bulldozer, (Tractor, Full Tracked, Low Speed); and,

WHEREAS, The Borough of Allenhurst is no longer in need of said equipment; and,

WHEREAS, The City of Asbury Park is desirous of acquiring said equipment at no cost;

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of the Borough of Allenhurst, that the transfer of the equipment detailed herein is hereby approved; and,

BE IT FURTHER RESOLVED, That a certified copy of this resolution be provided to the City of Asbury Park.

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

RESOLUTION #4

A RESOLUTION TO HIRE PROPERTY LOSS CONSULTANTS

Offered By: Comm. McLoughlin

Seconded By: Comm. Bolan

WHEREAS, the Borough of Allenhurst has a need to acquire the services of a Property Loss Consultant in connection with recovery of insurance funds due to loss from Hurricane Sandy in 2012, and the Board of Commissioners has elected to proceed pursuant to the provisions of *N.J.S.A. 19:44A-20.5* respecting the award of professional contracts and the procedures set forth therein; and,

WHEREAS, the Borough Administrator, Lori Osborn has determined and certified in writing that the value of the acquisition may exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is for 1 year; and

WHEREAS, Rifkin and Rosen Ultimate Property Loss Consultants, Inc., has indicated that they will act as Property Loss Consultants for the Borough of Allenhurst at rate of ten percent of the amount of loss when paid by the insurance companies, or otherwise recovered above the original insurance offer of \$357,000.00; and

WHEREAS, Rifkin & Rosen will complete and submit a Business Entity Disclosure Certification which certifies that Rifkin & Rosen have not made any reportable contributions to a political or candidate committee for any presently sitting elected Commissioner of the Borough of Allenhurst in the previous one year, and that the contract will prohibit Rifkin & Rosen from making any reportable contributions through the term of the contract, and

WHEREAS, Funds for this purpose will be provided from any proceeds recovered from the Borough's insurance company over and above the initial recovery of \$357,000.00;

NOW THEREFORE, BE IT RESOLVED that the Commissioners of the Borough of Allenhurst hereby authorizes the Mayor and Clerk to enter into a contract with Rifkin & Rosen Ultimate Property Loss Consultants, Inc., as described herein; and,

BE IT FURTHER RESOLVED, that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; 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 Clerk and 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 #5

A RESOLUTION TO AUTHORIZE LEGAL CAUCUS

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 matters which are exempt from the public meeting under the Sunshine Law.

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

There being no further business, the meeting adjourned to caucus and did not reconvene.

Lori L. Osborn, RMC
Clerk-Administrator