

September 11, 2015

A regular meeting of the Board of Commissioners of the Borough of Deal, New Jersey was held on September 11, 2015 at 9:00 A.M.

Present: Mayor Ades, Commissioner Cohen and Commissioner Wiener

It was stated that in conjunction with the "Open Public Meeting Law", p.l. 1975 ch. 231, a notice required by this statute has been satisfied as per a resolution passed on December 9, 1997 at 5:05 P.M. at Borough Hall at a regular meeting of the Board of Commissioners, Borough of Deal, and Monmouth County, New Jersey. Notice of the change in date and time of this meeting was published in the Asbury Park Press and the Coaster and posted on the bulletin Board

It was moved by Commissioner Wiener, seconded by Commissioner Cohen and carried that the reading of the minutes of the previous meeting held on August 28, 2015 be dispensed with and the same be approved as recorded.

Ordinance #1121 was introduced on August 28, 2015 and the public hearing is scheduled for today, September 11, 2015. Mayor Ades moved to open the meeting to public comment on Ordinance 1121, seconded by Commissioner Cohen and approved. The Mayor invited public comment. There were no comments from the public and the public session was closed by the same vote.

#### **BOND ORDINANCE NO. 1121**

**BOND ORDINANCE PROVIDING FOR THE IMPROVEMENTS AND RENOVATIONS TO THE POPLAR AVENUE CELL TOWER, AND APPROPRIATING \$100,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$95,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE BOROUGH OF DEAL, IN THE COUNTY OF MONMOUTH, NEW JERSEY**

Commissioner Cohen moved to adopt Ordinance 1121, seconded by Commissioner Wiener. Roll Call: Ayes 3; Ades, Cohen & Wiener.

Ordinance 1122 Amending Chapter XXX Development Regulations was introduced by Commissioner Cohen, seconded by Commissioner Wiener. The Roll Call: Ayes 3; Ades, Cohen & Wiener.

#### **ORDINANCE NO. 1122**

**AN ORDINANCE AMENDING CHAPTER XXX DEVELOPMENT REGULATIONS, SPECIFICALLY SECTION 30-86.6 ADDITIONAL REGULATIONS CONCERNING YARDS IN RESIDENTIAL DISTRICTS, OF THE BOROUGH OF DEAL IN THE COUNTY OF MONMOUTH, NEW JERSEY**

BE IT ORDAINED, by the Board of Commissioners of the Borough of Deal, in the County of Monmouth and State of New Jersey, not less than two thirds of all members thereof affirmatively concurring, and the Board of Commissioners having referred the within ordinance to the Borough of Deal Planning Board pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26, and the Borough of Deal Planning Board having reviewed the ordinance on August 6, 2015 and reported to the Board of Commissioners its recommendations, and the Board of Commissioners having reviewed the recommendations of the Planning Board, as follows:

September 11, 2015

Section 1. Chapter XXX, Section 30-86.6 of the Ordinances of the Borough of Deal are hereby amended by the following:

**CHAPTER XXX**

**DEVELOPMENT REGULATION**

**30-86.6 Additional Regulations Concerning Yards in Residential Districts:**

**b. Side Yards.**

All side yards must remain open and unoccupied except that a paved driveway shall be permitted in each side yard provided that it does not cover in excess of fifty (50%) percent of the required area for such side yard. Side yards may also contain air conditioning units and generators. These units shall be within a minimum of 1 foot of the dwelling and a maximum of 6 feet.

Public Hearing for this ordinance will be given on October 9, 2015 at 9:00 A.M.

Ordinance 1123 Amending Chapter XXX Development Regulations was introduced by Commissioner Cohen, seconded by Commissioner Wiener. The Roll Call: Ayes 3; Ades, Cohen & Wiener.

**ORDINANCE NO. 1123**

AN ORDINANCE GOVERNING THE DEVELOPMENT AND MAINTAINENCE OF SWIMMING POOLS, AMENDING AND SUPPLEMENTING CHAPTER XV KNOWN AS SWIMMING POOLS, TENNIS COURTS AND RECREATIONAL AREAS AND FACILITIES WITHIN THE BOROUGH OF DEAL AND SPECIFICALLY AMENDING IN PART BOROUGH ORDINANCE #892, OF THE BOROUGH OF DEAL, MONMOUTH COUNTY NEW JERSEY

BE IT ORDAINED, by the Board of Commissioners of the Borough of Deal, in the County of Monmouth and State of New Jersey, not less than two thirds of all members thereof affirmatively concurring, and the Board of Commissioners having referred the within ordinance to the Borough of Deal Planning Board pursuant to NJ.S.A. 40:55D-64 and NJ.S.A. 40:55D-26, and the Borough of Deal Planning Board having reviewed the ordinance on August 6, 2015 and September 3, 2015 and reported to the Board of Commissioners its recommendations, and the Board of Commissioners having reviewed the recommendations of the Planning Board, as follows:

Section 1. Chapter XV, Section 15-1 of the Ordinances of the Borough of Deal are hereby amended including Ordinance #892 passed February 26, 2002 which is hereby repealed and replaced, by the following:

**CHAPTER XV**

**SWIMMING POOLS, TENNIS COURTS, RECREATIONAL AREAS & FACILITIES**

**15-1 Permit:**

15-1.1 *Permit Required* No swimming or bathing pool or tennis court or recreational area & facility shall be constructed, installed, maintained or remodeled unless and until the owner of, or the person in possession of, the lot on which such pool is intended to be constructed or located obtains a permit therefore

September 11, 2015

from the building inspector. No swimming pool shall be located within a district zoned for business under the zoning ordinance of the Borough. 30 % of continuous linear feet may be exposed 18 inches from the top of ground, and the remaining portion of the pool shall not be erected or maintained above ground but shall be wholly at or below ground.

Public Hearing for this ordinance will be given on October 9, 2015 at 9:00 A.M.

The following Resolutions were discussed and enacted:

Commissioner Cohen offers the following Resolution:

**Resolution 15-121**

**RESOLUTION AUTHORIZING THE BOROUGH OF DEAL TO PARTICIPATE  
IN INTRA-COUNTY MUTUAL AID AND ASSISTANCE  
AGREEMENTS WITH PARTICIPATING UNITS  
IN THE COUNTY OF MONMOUTH**

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. Seq., (“Act”) provides that any local governmental unit may enter into a contract with any other local governmental unit to provide or receive any service that each local unit is empowered to provide or receive within its own jurisdiction; and

WHEREAS, mutual aid and assistance agreements between municipalities, counties, law enforcement agencies, police, emergency medical service, fire departments, fire companies, or EMS organizations and fire departments situated in fire districts operated by a Board of Fire Commissioners, are permitted pursuant to N.J.S.A. 40A: 14-26 and 40A: 14-156.1; and

WHEREAS, the President in Homeland Security Directive (HSPD-5), directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (“NIMS”), which would provide a consistent nationwide approach to Federal, State, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, “The New Jersey Civilian Defense and Disaster Control Act” App.A9-33 et. seq., provides for the health, safety and welfare of the people of the State of New Jersey during any emergency by centralizing control of all civilian activities having to do with such emergency giving the Governor control over the resources of each and every political subdivision to cope with any condition that shall arise out of such emergency; and

WHEREAS, The Director of the Division of Fire Safety in the Department of Community Affairs promulgated rules in accordance with the “Fire Service Resource Emergency Deployment Act,” N.J.A.C. 52:14E-11 et. seq., commonly referred to as the “Fire Service Resource Emergency Deployment Regulations” N.J.A.C. 5:75A et. seq.; and

WHEREAS, the Board of Commissioners of the Borough of Deal deem it to be in the best interests of the Borough of Deal to enter into Mutual Aid and Assistance Agreements with governmental entities throughout Monmouth County and all of their departments, authorities, boards, commissions and other functions under the auspices of each participating governmental entity

September 11, 2015

including but not limited to, law enforcement, public works, emergency medical services, emergency management, human services, hazardous materials response units technical or special operations teams, Community Emergency Response Team (“CERT”) members, Medical Reserve Corps (“MRC”) members or other volunteers and other jurisdictions defined “local governments” in the Homeland Security Act of 2002; and

WHEREAS, N.J.S.A. 40A: 14-26 AND 156.1 et seq. has authorized interjurisdictional mutual aid; and

WHEREAS, the Board of Commissioners of the Borough of Deal and the Participating Units recognize the benefit of entering into an Agreement for mutual aid and assistance with each other to protect against loss, damage or destruction by fire, civil unrest, hazardous material, major criminal or emergency events, natural and man-made disaster or catastrophe and to address those situations when additional aid and assistance is needed to protect the best interests of the persons and property of each individual jurisdiction.

NOW, THEREFORE, BE IT RESOLVED that the Intra-County Mutual Aid and Assistance Agreements between the Borough of Deal and Participating Units be and are hereby accepted.

BE IT FURTHER RESOLVED that the Borough Administrator and Chief of Police are authorized to execute the Intra-County Mutual Aid and Assistance Agreements once they have been authorized and executed by each Participating Unit.

BE IT FURTHER RESOLVED that the Borough Administrator forward a certified true copy of this resolution to the Monmouth County Sheriff; and Office of Emergency Management Coordinator.

Seconded by Commissioner Wiener

Roll Call: Ayes 3; Ades, Cohen & Wiener

Commissioner Cohen offers the following Resolution:

**Resolution 15-122**

WHEREAS, there exists a need for a professional services to handle labor matters within the Borough of Deal; and

WHEREAS, Matthew Giacobbe, 169 Ramapo Valley Road Oakland, New Jersey, has been recommended by the Borough Attorney; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40:11-1 et seq.) requires that the resolution authorizing the award of contracts for Professional Services without competitive bidding must be publicly advertised; and

WHEREAS, funds have been and/or will be made available in the Annual and Capital Budgets of the Borough of Deal to support this service.

NOW, THEREFORE, BE IT RESOLVED that:

1. The aforementioned appointments are hereby ratified and confirmed.
2. The said contracts were awarded without public bidding as "Professional Services" under the provisions of said Local Public Contract Law.

September 11, 2015

3. A copy of the Resolution shall be published in The Coaster within 10 days of its passage.

Seconded by Commissioner Wiener

Roll Call: Ayes 3; Ades, Cohen & Wiener

Commissioner Cohen offers the following Resolution:

**Resolution 15-123**

WHEREAS, N.J.S.A. 40A: 5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, The Annual Report of Audit for the year 2014 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J. S. A. 40A: 5-6, and a copy has been received by each member of the governing body; and

WHEREAS, The Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, at a minimum, the sections of the annual audit entitled:

General Comments

Recommendations

And

WHEREAS, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments

Recommendations

As evidenced by group affidavit form of the governing body; and

WHEREAS, Such resolution of certification shall be adopted by the Governing Body no later than forty five days after receipt of the annual audit, as per the regulations of The Local Finance Board; and

WHEREAS, All members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, Failure to comply with the promulgation of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 53:27BB-52 – “A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon

September 11, 2015

conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition forfeit his office.”

NOW, THEREFORE BE IT RESOLVED, that the Board of Commissioners of the Borough of Deal, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated August 22, 2014 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Seconded by Commissioner Wiener

Roll Call: Ayes 3; Ades, Cohen & Wiener

Commissioner Cohen offers the following Resolution:

**Resolution 15-124**

WHEREAS, N.J.S. 40:8A-1 authorizes a municipality to enter into a contract with another municipality for the joint provision of services; and,

WHEREAS, the Village of Loch Arbour and the Borough of Deal have negotiated and wish to enter into an agreement whereby the Borough of Deal will provide Code Administration Services to the Village of Loch Arbour; and

WHEREAS, the Board of Commissioners has duly considered the foregoing.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that the Mayor and Borough Clerk / Administrator of the Borough of Deal be the same are hereby authorized to execute and deliver an agreement with the Borough of Deal for the provision of Code Administration Services, which agreement is on file in the office of the Borough Clerk / Administrator at the Borough of Deal Municipal Building and available for public inspection during regular business hours.

Seconded by Commissioner Wiener

Roll Call: Ayes 3; Ades, Cohen & Wiener

A report of the monthly activities, time and sick use for the Police Department in August was received from Chief Ronen Neuman.

A report of the Building Department for the month of August was received from Allison Gavin.

A report of the disbursement checks for the Municipal Court for August was received from Mary Ellen Supon.

A report on the Beach Revenues for the year 2015 was received from Theresa Davis.

A letter was received from the NJ State League of Municipalities advising of the Conference pre-registration deadline of October 1.

A letter was received from the Township of Ocean Sewerage Authority advising of the new Authority's Connection Fees.

September 11, 2015

A notice of public hearing was received from NJ Transit in order to gather information and receive comments from interested parties concerning programs developed pursuant to the Senior Citizen and Disabled Resident Transportation Assistance Act.

A letter was received from Martin Barger, Borough Attorney, advising of materials found regarding Parking Permits in Hoboken and New Brunswick.

A letter was received from the Middlesex County Municipal Joint Insurance Fund asking if the Borough would be interested in receiving a competitive proposal. The Board of Commissioners wanted to remain with the Monmouth County Municipal Joint Insurance Fund.

A letter was received from the Monmouth County Library advising that September is the Library Card sign up month.

An application was received from the Monmouth County Division of Planning Office of Community Development for the HOME Housing Production Program for FY 2016.

A letter was received from Isaac Maleh, 150 Monmouth Drive, requesting permission to demolish his home to rebuild a new structure. The Board of Commissioners approved the demolition.

The following Resolution was offered by Commissioner Cohen:

BE IT RESOLVED, by the Board of Commissioners of the Borough of Deal, New Jersey that the following bills reported by the finance committee be ordered paid and vouchers drawn for same as listed on page 15-09 of the Warrant Register in the amount of \$597,346.90.

Seconded by Commissioner Wiener

Roll Call: Ayes 3; Ades, Cohen & Wiener

Mayor Ades requested comments from the floor. David Cronheim, 88 Monmouth Drive, addressed the Board of Commissioners about the use of the Deal Casino and Conover Pavilion. Mr. Cronheim objected to the leasing of land to the Deal Sephardic Network, DSN, which he classified as a Sectarian group. Mr. Cronheim stated that the Borough lacks the authority to lease the land. He stated if need be, he would file an injunction in Federal Court to stop the unconstitutional lease of land to the DSN. Mr. Cronheim also stated that the Borough should not grant special favors to any group and inquired if a camp was going to be held at the Deal Tennis Courts and if they received prior approval from the Planning Board for a change in use. Mayor Ades stated they did not go to the Planning Board. Mayor Ades also stated that the lounges would be setup on the beach open to the members of the Deal Casino and Conover Pavilion as has been in the past. Commissioner Cohen stated to Mr. Cronheim that before the Borough agrees to anything, the Borough will seek a legal opinion from the Borough Attorney.

Barbara Coffey, 85 Norwood, addressed the Board of Commissioners stating that she concurs with the presentation by Mr. Cronheim. She also asked the Commissioners on how the plan on handling the parking. Mayor Ades stated that the use of the Tennis Courts would be by kids on the weekdays and there should be no impact.

September 11, 2015

MaryAnn Cronheim, 88 Monmouth Drive, asked the Borough Commissioners about the bulk membership for the DSN and what it was. Mayor Ades stated that he was waiting to hear from the DSN on what they are proposing as far as membership to the Deal Casino or Conover Pavilion.

Beth Woolley, 1 Roseld Avenue Apt A5, asked about the leasing of the Tennis Courts and if it was open to the public. Mayor Ades stated that he was not sure on what the plans for use were for the DSN.

Isadora Chamlin, 5 Poplar Avenue, inquired about keeping the Deal Casino open longer after Labor Day. Mayor Ades stated we do not have the manpower and would not consider staying open longer. Mrs. Chamlin also stated that the Deal Tennis Courts were run by Harold Burke and the courts were always kept clean. Mrs. Chamlin also advised on bottles and papers that were littered around her property from the neighbors and stated that the street lights are always out. Mayor Ades stated that Jim Markey was in attendance at the meeting and look into the matter.

Helen O'Brien, 86 Sydney Avenue, asked the Board of Commissioner to have the meetings in the evening. She stated many people in the audience today had to take off work to attend the meeting. Commissioner Wiener agreed with Mr. O'Brien.

There were no other comments from the floor.

It was announced that the next meeting of the Board of Commissioners will be on Friday, September 25, 2015 at 9:00 A.M.

There being no further business or comments, it was moved, seconded and approved that the meeting be adjourned at 9:55 A.M.

MA \_\_\_\_\_

SMC \_\_\_\_\_

VSW \_\_\_\_\_

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Clerk