

February 13, 2019

A regular meeting of the Board of Commissioners of the Borough of Deal, New Jersey was held on February 13, 2019 at 9:00 A.M.

Present: Mayor Cohen, Commissioner Ades & Commissioner Simhon  
Also Present: Paul Fernicola, Borough Attorney & Peter Avakian, Borough Engineer

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.

It was moved by Commissioner Simhon, seconded by Commissioner Ades and carried that the minutes of the previous meeting held on January 11, 2019 be approved as recorded.

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

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

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

A report of property tax rates of the lowest and highest within the State was provided by Theresa Davis.

Peter Avakian, Borough Engineer then presented to the Board of Commissioners a plan to alleviate flooding and drainage issues along the Brighton Avenue Brook. Mr. Avakian provided an updated plan to replace existing draining on the west side of Ocean Avenue which will produce a significant savings from the original plan. Mr. Avakian explained the proposed plan as well as the historical data land size that drains into the Brighton Avenue Brook. Mr. Avakian also discussed the NJ DEP's site visits with towns along the shore. Mr. Avakian stated that the NJ DEP is requiring municipalities to acquire an individual permit to build the seasonal berms. Mr. Avakian will study the new request and determine the best course of action. Mr. Avakian was asked to provide insight on utilizing artificial turf or pervious pavers on properties to reduce impervious coverage. Mr. Avakian described the concept as well as what other municipalities have done. Further study will be undertaken on this subject. Mr. Avakian provided an update on the grant received from the Monmouth County Park System for improvements to the Harry Franco Park Phase II. Mr. Avakian will work on obtaining and completing the project prior to summer 2019.

Mayor Cohen invited any public comment. Barbara Coffey, 85 Norwood Avenue asked about the overflow from the manhole at Phillips Avenue. Mr. Avakian explained that the Army Corp needed to extend the outflow pipe due to the end of the outfall being covered with sand causing a backup. Mr. Levin, 28 Richmond, asked if a pre-survey was done with the drainage system and the flooding that has been occurring on Richmond Avenue. Mr. Avakian explained the process they went through to obtain the design plans, but unfortunately this work would not relieve the flooding on Richmond Avenue.

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Barbara Coffey, 85 Norwood Avenue, stated to the Board of Commissioners that she requested Resolution 19-24 and 19-25 open to public comment prior to vote. Paul Fernicola, Borough Attorney, stated that she was interfering with the business of the governing body. Mr. Fernicola did ask that Resolution 19-24 and 19-25 be held to the end of the resolutions.

Ordinance 1182 to amend the Salary Ordinance was introduced on January 11, 2019 and the public hearing is scheduled for today, February 13, 2019. Mayor Cohen moved to open the meeting to public comment on Ordinance #1182, seconded by Commissioner Simhon and approved. The Mayor invited public comment. There were no comments from the public and the public session was closed by the same vote.

### **ORDINANCE #1182**

#### **An Ordinance to Amend the Salary Ordinance**

Commissioner Ades moved to adopt Ordinance 1182, seconded by Commissioner Simhon. Roll Call: Ayes 3; Cohen, Ades & Simhon.

The following resolutions were discussed and enacted:

Commissioner Simhon offers the following Resolution:

#### **Resolution 19-17**

WHEREAS, the Borough has made an application to Monmouth County for financial assistance under the Municipal Open Space Program; and

WHEREAS, the Borough has been awarded funding for Harry Franco Park Phase II Improvement project;

WHEREAS, Monmouth County is requiring the Borough to sign the grant agreement for this project.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that the Mayor and Borough Administrator sign the grant agreement with Monmouth County for funding of the Harry Franco Park Phase II Improvements.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

#### **Resolution 19-18**

WHEREAS, the Borough of Deal and the Township of Ocean Sewerage Authority desire to enter into an interlocal Service Agreement pursuant to N.J.S.A. 40:8A-1 to provide jet-vac and televising inspection services for the Borough's sanitary and storm sewers;

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners that the Interlocal Service Agreement with the Township of Ocean Sewerage Authority be approved; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk / Administrator, be and is authorized to sign the agreement on behalf of the Borough of Deal.

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Seconded by Commissioner Ades

Commissioner Ades offers the following Resolution:

**Resolution 19-19**

WHEREAS, the Borough received a reimbursement check from the NJ Division of Pensions and Benefits;

WHEREAS, the reimbursement is for improper loan deductions for retired employee and PFRS member John Gregg;

WHEREAS, this deduction was taken from John Gregg's paycheck and would require the reimbursement to be paid to John Gregg.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners that a reimbursement check in the amount of \$449.16 be paid to John Gregg for loan deduction remitted in error.

Seconded by Commissioner Simhon

Commissioner Ades offers the following Resolution:

**Resolution 19-20**

WHEREAS, the Deal Police Department is in need of a Police Dispatcher; and

WHEREAS, Christopher Conti, has been a Class I Special Officer for the Deal Police Department, has applied for this position, has been interviewed and has been determined to be qualified for this position.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners that Christopher Conti be offered a position as a Police Dispatcher, serving under the direction of the Chief of Police at the pay scale set for this position effective February 16, 2019.

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Ades offers the following Resolution:

**Resolution 19-21**

WHEREAS, the Monmouth County Vocational School District has requested a student for internship with the Deal Police Department; and

WHEREAS, the purpose of the internship is to provide the student with the opportunity to explore and practice academia and occupationally related skills; and

WHEREAS, the Deal Police Department has utilized interns from the Monmouth County Vocational School in the past;

WHEREAS, Dana Rose McQuade has been selected for the internship to begin February 15, 2019 and end on or before June 1, 2019.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that Dana Rose McQuade be provided the internship opportunity with the Deal Police Department beginning February 15, 2019 through June 1, 2019.

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Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Ades offers the following Resolution:

**Resolution 19-22**

WHEREAS, due to the age and mileage of a police car 6108 Chevy Tahoe, and the totaling of 6112, Chevy Tahoe due to a motor vehicle collision, which has made it necessary to purchase a replacement for these vehicles; and

WHEREAS, the Board of Commissioners have agreed to replace these police vehicles with two (2) 2019 Chevy Tahoe's.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners that two (2) 2018 Chevrolet Tahoe's 4WD SSV Police Vehicle be purchased through competitive biddings with bids due by March 7, 2019.

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

**Resolution 19-23**

WHEREAS, Paula Pinedo, Brooklyn, NY has made a payment for their membership at the Deal Casino; and

WHEREAS, a refund is being requested for their membership due to the removal of a member due to a family emergency.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that a refund of \$375.00 be issued to Paula Pinedo for their membership to the Deal Casino.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

**Resolution 19-24**

**RESOLUTION AUTHORIZING  
THE COUNTY OF MONMOUTH MOSQUITO CONTROL DIVISION TO  
CONDUCT AERIAL MOSQUITO CONTROL OPERATIONS WITHIN**

WHEREAS, the Monmouth County Board of Chosen Freeholders, pursuant to N.J.S.A. 26:9-27 et seq. has elected through its Mosquito Control Division to perform all acts necessary for the elimination of mosquito breeding areas and/or to exterminate mosquitoes within the county; and

WHEREAS, the County has instituted an Integrated Pest Management Program consisting of surveillance, water management, biological control, and chemical control to exterminate the mosquito population within the county of Monmouth; and

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WHEREAS, prior to conducting aerial dispensing operations over a designated "congested area," the County is required, pursuant to Federal Aviation Administration Regulation (FAR Part 137.51), to secure prior written approval from the governing body of the political subdivision over which the aircraft is to be operated; and

WHEREAS, the Borough of Deal is designated as a "congested area" by the Federal Aviation Administration and the County has requested that this governing body consent to its proposed aerial dispensing operations.

NOW, THEREFORE, be it resolved as follows:

1. The Governing Body hereby authorizes the County of Monmouth Mosquito Control Division or its agent to apply pesticides by aircraft for mosquito control in certain areas of the municipality designated by the County as being either larval mosquito habitat or areas harboring high populations of mosquitoes constituting either a nuisance, a health hazard, or both with the understanding that:
  - a. The County shall utilize pesticides, application equipment and aircraft that are approved for aerial applications by the applicable Federal (USEPA) and State (NJDEP) agencies, and
  - b. Such operations will be performed in compliance with applicable Federal and State regulations, and
  - c. The County will notify the police department of each municipality over which aerial pesticide operations are planned prior to commencement of such operations.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

**Resolution 19-27**

WHEREAS, National Water Main Cleaning, Kearny, NJ has been awarded a contract for the cleaning and televising of the sanitary sewer system within the Borough at a cost of \$234,437.90; and

WHEREAS, National Water Main Cleaning has requested payment in the amount of \$158,207.60; and

WHEREAS, the Superintendent of Public Works has verified that the work to date has justified this payment;

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that the payment of \$158,207.60 be made to National Water Main Cleaning for the cleaning and televising of the sanitary sewer system.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

**Resolution 19-28**

WHEREAS, due to the fact the Board of Commissioners will be holding one meeting for the month of February; and

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WHEREAS, payroll and miscellaneous expenses must be approved for payment.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that payroll and associated deductions for the period ending February 28, 2019 be approved in the amount not to exceed \$300,000.00; and

BE IT FURTHER RESOLVED that the miscellaneous expenses not to exceed the amount of \$300,000.00 be paid at this time.

Seconded by Commissioner Ades

Paul Fernicola, Borough Attorney, addressed the Board of Commissioners. Barbara Coffey, 85 Norwood Avenue, interrupted Mr. Fernicola as he was addressing the Board of Commissioners. Mr. Fernicola advised Ms. Coffey that she was interrupting the business of the Governing Body. Ms. Coffey continued to speak and Mr. Fernicola advised to stop interfering with the business portion of the meeting. Ms. Coffey again began to speak and Mr. Fernicola stated to Ms. Coffey that she is violating State Statute interfering with the business of the governing body.

Mr. Fernicola advised Commissioner Ades that he should step down from the Dais and recuse himself from the next 2 resolutions due to a conflict of interest. Commissioner Ades stepped down from the Dais. Mr. Fernicola stated that Mayor Cohen can remain on the Dais because he does not feel there is a conflict of interest. Mr. Fernicola explained the background and details of Resolution 19-25 and 19-26. Mr. Fernicola asked the Board if they would like to open up for public comment prior to voting on the resolutions. Mayor Cohen invited any public comment.

Isadora Chamlin, 5 Poplar Avenue, stated what kind of building, and why do they want to build a building that size.

Barbara Coffey, 85 Norwood Avenue, asked the Board of Commissioners how many parking spots are created. Mayor Cohen stated he does not know the exact amount but will be more than currently. Ms. Coffey asked if the landscaping will be on town land and that people play baseball on that field and will not be able to with the concrete. Commissioner Simhon stated that no one has played on that field for many years. Ms. Coffey asked if CAFRA permit was required. Peter Avakian stated that they would not be required to obtain a permit. Ms. Coffey stated that the design has beach access. Mayor Cohen stated that there is no beach access.

Irwin Levine, 28 Richmond Avenue, stated that the Planning Board was instructed to not vote on the presentation made to them, Commissioner Simhon stated that it was not required.

Renee Levine, 28 Richmond Avenue, asked if all residents can have access. Mayor Cohen stated that the property is leased to the DSN and they will determine.

Vincent Lepore, 33 Ocean Avenue Long Branch, asked why the planning board would not vote. Paul Fernicola stated that it is a capital improvement project and is not required. Mr. Lepore asked how many parking spots will be created. Mayor Cohen stated he was not sure the amount, but will be an increase. Mr. Lepore asked what the DSN pro shop was, Paul Fernicola stated that it is defined in the agreement and read the section of the agreement containing the pro shop. Mr. Lepore asked that this facility will not be open to the public. Mayor Cohen stated that it was leased

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property. Mr. Lepore asked what DSN was, Mayor Cohen asked Mr. Saka, who attended the meeting and Mr. Saka explained what the DSN stood for and what they provide to the youths.

Joseph Gavin, 105 Poplar Avenue, asked the Board of Commissioners what was on the roof of the building. Mayor Cohen stated they appeared to be umbrellas. Mr. Gavin asked what the occupancy of the building. Mayor Cohen stated that he did not know but will conform to the building and fire codes. Mr. Gavin asked if there will be any overnight parking. Mayor Cohen stated that there currently is no overnight parking allowed.

Vincent Lepore, asked if it was legal to lease to a religious organization. Paul Fernicola stated that he did not believe this to be a religious organization someone would need to be a member as the previous tenant leasing the tennis courts. Mr. Lepore stated that he has a problem with leasing to a religious organization.

Renee Levine, stated that on the application it specifically asks what religion. Mrs. Levine asked if they have seen the application. Paul Fernicola stated that he does not believe so.

Isadora Chamlin stated that she went to the DSN and they asked what synagogue she belongs too.

Barbara Coffey, objected to Mayor Cohen being able to vote on the resolutions because of his wife being a member. Ms. Coffey asked Commissioner Simhon if any of his family was associated with the DSN, Commissioner Simhon repeatedly stated that no one in his immediate family was a member or associated with the DSN.

Mayor Cohen closed the public comment related to these two resolutions.

Commissioner Simhon offers the following Resolution:

**Resolution 19-25**

WHEREAS, the Borough of Deal and the Deal Sephardic Network (DSN) entered into a lease agreement dated July 2015; and

WHEREAS, the lease agreement requires the Board of Commissioners to approve any expansion or rebuilding of the existing pro-shop building; and

WHEREAS, the DSN has provided a plan dated February 7, 2019 from Massa Multimedia Architecture; and

WHEREAS, the lease extension agreement dated June 2018 requires the Board of Commissioners to approve a parking lot and landscape improvements for the grass lot located to the north of the multi-purpose surface courts;

WHEREAS, the DSN has provided a plan dated February 7, 2019 from Massa Multimedia Architecture.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that approval of the construction of a new building located on the property leased by the Deal Sephardic Network and the parking lot and landscape improvements located to the north of the multi-purpose surface courts be approved as outlined in the conceptual plan submitted by Massa Multimedia Architecture dated February 7, 2019.

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Seconded by Mayor Cohen

Roll Call: Ayes 2; Cohen & Simhon  
Recused (Stepped Down); Ades

Commissioner Simhon offers the following Resolution:

**Resolution 19-26**

WHEREAS, the Borough of Deal and the Deal Sephardic Network (DSN) entered into a lease extension agreement dated June 2018; and

WHEREAS, the lease extension agreement requires the DSN to construct a parking lot and landscape improvements to the existing grass area located to the north of the multi-purpose surface courts; and

WHEREAS, the DSN was required to complete this project at their sole cost and expense, no later than May 31, 2019; and

WHEREAS, due to unforeseen circumstances the construction would be better suited to be completed after the 2019 summer season to minimize any disruption in the beach club parking.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that approval of the extension of the parking lot and landscape improvements shall be completed at the sole cost and expense by the Deal Sephardic Network by May 31, 2020.

Seconded by Mayor Cohen

Roll Call: Ayes 2; Cohen & Simhon  
Recused (Stepped Down); Ades

Mayor Cohen made an appointment of Mandy Cohen, 115 Almyr Avenue, as a Class IV member of the Deal Planning / Zoning Board.

A letter was received from the Monmouth Excess Liability Joint Insurance Fund providing their MEL Annual Report.

A letter was received from the Monmouth County Improvement Authority advising of a Financing Seminar.

An email was received from Clean Ocean Action requesting permission for their 34<sup>th</sup> Annual beach sweep on April 13, 2019 and October 26, 2019. The Board of Commissioners approved the beach sweep.

A letter was received from Camp Veritans asking permission to send their campers to the Conover Pavilion on June 27<sup>th</sup> and July 31<sup>st</sup>. The Board of Commissioners approved their request.

A letter was received from the Monmouth County Board of Chosen Freeholders providing a resolution authorizing the annual allocation from the Monmouth County Open Space, Recreation, Floodplain Protection, and Farmland and Historic Preservation Trust Fund.

A notice of public hearing was received from NJ American Water to change the levels of its purchased water adjustment clause and purchased wastewater sewerage treatment adjustment clause.

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A notice of public hearing was received from NJ Natural Gas for the annual review and revision of Societal Benefits Charge.

A letter was received the Monmouth Municipal Joint Insurance Fund advising of their meeting dates for 2019.

A letter was received from the Superior Court of NJ Monmouth Vicinage advising they will be doing their annual inspection of the Deal Municipal Court and was interested with any concerns or issues regarding the Court's operation, staffing, customer service, security, etc.

An email was received from Katie Williams expressing her concern regarding the DSN development.

A letter was received from the Congregation Torat El requesting use of the Conover Pavilion for services on July 26<sup>th</sup> and August 23<sup>rd</sup>. The Board of Commissioners approved the use.

A letter was received from the Monmouth Barracudas requesting use of the Deal Casino pool in the mornings from June 24<sup>th</sup> through August 15<sup>th</sup>. The Board of Commissioners approved the use of the pool.

A letter was received from the Ocean Township High School Marching Band Parent Association requesting donations for their fundraising efforts or sponsoring and advertisement. The Borough Attorney did not feel that it was appropriate to provide.

A raffle application was received from Jersey Shore University Medical Center Foundation at the Deal Golf & Country Club on July 8, 2019. The Board of Commissioners approved the application.

Commissioner Ades offers the following Resolution:

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 19-01 of the Warrant Register in the amount of \$669,181.39.

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

Mayor Cohen moved to open the floor to public comments, seconded by Commissioner Simhon and approved.

Vincent Lepore, 33 Ocean Ave Long Branch, asked the Board of Commissioners who would be paying to defend the lawsuit. Mayor Cohen stated our Borough Attorney will be defending the suit and will be paid by the Borough.

Isadora Chamlin, 5 Poplar Avenue, stated to the Board of Commissioners that no one asked the town if they wanted the sale. Mayor Cohen stated the money could be used for fixing the flooding issues. Mrs. Chamlin also stated that there were water issues coming from a house on Poplar Avenue from a sump pump. Commissioner Ades stated that they cannot put into the sanitary sewer and the water has to be placed somewhere.

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Renee Levine, 28 Richmond Avenue, addressed the Board of Commissioners about the bicycle safety laws and read the NJ statute for bicycle safety. Mrs. Levine stated that nothing has been done and has asked Chief Neuman to provide summonses and she had no response. Mrs. Levine stated the statute should be mailed to each resident. Commissioner Simhon stated he will meet with the Chief and prepare a mailer. Chief Neuman stated that Department Officers are enforcing violations and contacting the parents.

Barbara Coffey, 85 Norwood Avenue, asked the Board of Commissioners the plan for raking the north end of the beach front and if 1 rake will be enough to accomplish that goal. Mayor Cohen stated 1 rake would be enough. Ms. Coffey asked Paul Fernicola if he had received a response from NJDEP about the letter he sent them inquiring about beach access by residents and if they are required to pay. Mr. Fernicola stated that he did not receive a response. Ms. Coffey asked if the FAQ sheet that was disseminated about the same information. Mr. Fernicola stated that he believed it came from the Army Corp – Philadelphia Office. Ms. Coffey stated that no homes south of Marine Place should be considered because no one there owns any portion of the beach. Mayor Cohen stated that Neptune Avenue has riparian rights. Ms. Coffey asked for a copy of that map. Ms. Coffey asked who can figure out who is a resident or not. Mayor Cohen stated that the homeowners can walk be on their property but if they walk onto the public beach they would be required to have a bracelet.

Irwin Levine, 28 Richmond Avenue, asked the Board of Commissioners did their due diligence on determining the amount of money the property is worth on Neptune Avenue. Mayor Cohen stated the property was appraised for \$160,000. Mr. Levine asked the same question for the DSN property. Mayor Cohen stated that that property is leased, it was not for sale.

Mayor Cohen asked for any additional comments from the public, which there was none and closed the floor to public comments.

Commissioner Ades offers the following Resolution:

**Resolution 19-29**

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss a personnel matter and litigation.

WHEREAS, Minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of the Borough of Deal hereby exclude the public from this meeting.

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

The Board of Commissioners entered into closed session to discuss a personnel matter and litigation at 10:24 A.M.

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The Commissioners returned to open session at 11:27 A.M.

It was announced that the next meeting of the Board of Commissioners, which will be on Wednesday, March 13, 2019 at 9:00 A.M.

There being no further business or comments, it was moved by Commissioner Simhon and seconded by Mayor Cohen that the meeting be adjourned at 11:27 A.M.

SC \_\_\_\_\_

MA \_\_\_\_\_

DS \_\_\_\_\_

\_\_\_\_\_  
Clerk