

The regular meeting of the Board of Commissioners of the Borough of Harvey Cedars, NJ was called to order by Mayor Oldham at 4:30pm. Commissioners Gerkens and Garofalo were present.

The Mayor asked all to rise for the Pledge of Allegiance.

Pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. The schedule of this meeting of the Board of Commissioners of the Borough of Harvey Cedars is listed in the notice of meetings posted on the bulletin board located in the Borough Hall and the Borough's website and was published on December 14, 2017 in the Beach Haven Times and the Asbury Park Press.

Motion to approve the minutes of the previous meeting, April 17, 2018, was made by Commissioner Gerkens, seconded by Commissioner Garofalo.

The following residents and interested persons were in attendance to discuss the status of the wetlands property known as Block 1 Lot 1 and to offer any help to the Borough for obtaining the property: Susan Carril, James Street, Wendy & Peter McBair, William Street, Howard & Myrna Asher, James Street, Vincent Vitale, Surf City, Fred Ballet, North Beach, Lisa Bromwell from Alliance for Living Ocean, Brita Wenzel from Save Barnegat Bay.

The Mayor stated he has met with Mr. George DiDonato twice and made an offer of what the Borough feels is a reasonable price (for this property); Mr. DiDonato feels the property must be worth something with all the interest in purchasing it and requested a higher price, but did not give an exact amount. The Board members discussed the following with the group: Green Acres funds are available as a matching grant and could be used to pay for the property at its appraised value, but the State requires a certified Green Acres appraiser; the Borough obtained appraisal was about \$25,500; Open Space Tax funds are available only for willing sellers, the Open Space Committee would need to be consulted; eminent domain is a long process; although designated as wetlands, there is no guarantee the property will not become developable; land swaps have been done in the past; public access to tidal flows should be researched to gain knowledge of how to legally access the water; any history of other similar issues would be helpful; the small pathway to access the bay is unsafe and the rubble should be removed; sit and wait is not a good option.

In conclusion, the Board will invite the Borough Attorney to attend the June 1st meeting with eminent domain information, and the representatives from Alliance for Living Ocean and Save Barnegat Bay will consult their organization's attorney regarding the same.

At 5:10pm the discussion concluded and the group left the room while the regular meeting continued.

The Mayor read the following ordinance by title and number and asked for a motion to introduce.

ORDINANCE #2018-06 FIRST READING

AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY, NEW JERSEY AMENDING CHAPTER 19 ENTITLED "STREETS & SIDEWALKS" AS IT PERTAINS TO THE COMMERCIAL USE OF PUBLIC STREET ENDS

A copy of the full ordinance as introduced is attached hereto and made a part hereof.

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

Vote: Ayes – Oldham, Gerkens, Garofalo

The Mayor read the following ordinance by title and number and asked for a motion to introduce.

ORDINANCE #2018-07 FIRST READING

AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY, NEW JERSEY AMENDING CHAPTER 13 ENTITLED "ZONING" AS IT PERTAINS TO OFF-STREET PARKING REQUIREMENTS IN THE GENERAL BUSINESS DISTRICT

A copy of the full ordinance as introduced is attached hereto and made a part hereof.

Motion to adopt: Commissioner Gerkens

Second: Mayor Oldham
Vote: Ayes – Oldham, Gerkens
Abstain – Garofalo

The Mayor read the following ordinance by title and number and stated that proof of publication is on hand and the ordinance has been posted.

ORDINANCE #2018-05 SECOND READING

AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS AUTHORIZING THE MUNICIPALITY IN PREPARING ITS 2018 BUDGET TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK

Motion to open public discussion: Commissioner Gerkens
Second: Commissioner Garofalo

Mike Songer asked what the cap bank is. Commissioner Gerkens stated the ordinance gives the Borough the right to go over the cap, which has not been used in years.

Motion to close public discussion: Commissioner Garofalo
Second: Commissioner Gerkens

Motion to adopt: Commissioner Gerkens
Second: Commissioner Garofalo
Vote: Ayes – Oldham, Garofalo, Gerkens
A copy of the full ordinance as adopted is filed in the ordinance book.

The Mayor read the following resolution:

RESOLUTION #2018-048:

AUTHORIZING THE BUDGET BEING READ BY TITLE ONLY

WHEREAS the Local Budget Law provides that the budget be read by title only at the time of the public hearing if a resolution is passed by not less than a majority of the full governing body, providing that at least one week prior to the date of hearing a complete copy of the approved budget as advertised has been posted in the Borough Hall and copies have been made available by the Clerk to persons requiring them; and

WHEREAS these two conditions have been met.

NOW, THEREFORE, BE IT RESOLVED that the 2018 budget will be read by title only.

Motion to adopt: Commissioner Gerkens
Second: Commissioner Garofalo
Vote: Ayes – Oldham, Gerkens, Garofalo

Motion to open public discussion of budget: Commissioner Gerkens
Second: Commissioner Garofalo

Commissioner Gerkens announced there is no increase in the municipal tax rate this year.

There were no public comments.

Motion to close public discussion: Commissioner Garofalo
Second: Commissioner Gerkens

The Mayor read the following resolution:

RESOLUTION #2018-049:

BUDGET ADOPTION

BE IT RESOLVED by the Board of Commissioners of the Borough of Harvey Cedars, County of Ocean that the budget hereinbefore set forth is hereby adopted and shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of \$3,229,863.28 for municipal purposes.

Motion to adopt: Commissioner Gerkens
Second: Commissioner Garofalo
Vote: Ayes – Oldham, Garofalo, Gerkens

The Mayor read the following resolutions by title only and asked for motions to adopt after reading each title. Copies of the full resolutions are attached hereto and made a part hereof:

RESOLUTION #2018-050:

**CHAPTER 159 ITEM OF REVENUE INSERTION IN THE SUM OF \$6,600.00 –
2018 DISTRACTED DRIVING STATEWIDE CRACKDOWN**

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

RESOLUTION #2018-051: Bills

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

Public Property Usage requests:

1. Yoga Session – Sunset Park

A motion was made by Commissioner Garofalo, seconded by Commissioner Gerkens, to approve the request to use Sunset Park to Officer Kevin Snow for a “Pink” Yoga Class on Sunday, May 20, 2018 from 9am – 10am.

2. Community Yard Sale

A motion was made by Commissioner Gerkens, seconded by Commissioner Garofalo, to approve the Harvey Cedars Taxpayers’ Association town wide yard sale on Saturday, May 26, 2018.

PRIVILEGE OF THE FLOOR –

Mike Songer, asked about the proposed new water well being built at the Borough Hall, its cost and where to view the file. The Mayor explained the Borough has been fighting this for about 10 years; the Borough is over its permitted water allocation and in order to get a new permit the State is mandating a monitor well to test for salt water intrusion. Other points regarding the well were discussed: the cost is about \$700k to \$1million, with a grant for ½ the cost and an NJEIT 2% loan, which will be bonded; Long Beach Township will be responsible for part of the cost; the 77th Street well is from the 1960’s, if it goes bad, the new well will take over; the State would be satisfied if we only built a monitoring well and never used it (after the test); the new well must be within a certain distance from an existing well, therefore the 80th Street location cannot be used; it will be no noisier than the well at 77th Street and water pressure will not be effected.

Mr. Songer asked if the Borough will be placing more beach mats on the walkovers. The Mayor stated that if the beach project builds the walkovers with hardpack, it may not be necessary to place the mats out this year.

Motion to adjourn: Commissioner Garofalo

Second: Commissioner Gerkens

Meeting adjourned at 5:30pm.

ORDINANCE NO. 2018-06

**AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY,
NEW JERSEY AMENDING CHAPTER 19 ENTITLED “STREETS & SIDEWALKS”
AS IT PERTAINS TO THE COMMERCIAL USE OF PUBLIC STREET ENDS**

**THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HARVEY
CEDARS DOES ORDAIN AS FOLLOWS:**

Section 1. Chapter 19 of the Borough Code of the Borough of Harvey Cedars entitled “Streets and Sidewalks” is hereby amended and supplemented so as to add a new Section 19-2 entitled “Commercial Use of Public Street Ends”, which shall read as follows:

19-2 COMMERCIAL USE OF PUBLIC STREET ENDS.

19-2.1 Definition. As used in this section “street end” shall mean the end of any road, highway, public way, public alley, easement or other right of way that is directly adjacent to bay waters.

19-2.2 Permitted Use. From October 15th through May 14th commercial businesses shall be permitted to use any public street end for loading and unloading materials under the following conditions:

1. Loading and unloading shall be between 9:00AM to 5:00PM
2. No loading or unloading on weekends and holidays
3. Idling of vehicles and equipment are prohibited
4. Mooring to public property is prohibited
5. No overnight dockage

19-2.3 Prohibited Use. From May 15th through October 14th commercial businesses are prohibited from using any public street end for loading and unloading purposes.

19-2.4 Exceptions. In emergency situations, the Chief of Police or his designee may grant approval to use a street end during prohibited times. In the case of any other non-emergency, the matter shall be referred to the Governing Body who may allow temporary use for any civic purpose with concurrence of the police department concerning any possible safety issues. Allowed road openings shall be exempt from this provision.

19-2.5 Violations. Any person, corporation or business entity that violates or fails to comply with this section or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a minimum fine of five hundred dollars (\$500.00) for the first offense. Each day for which a violation of this section occurs after the first offense shall be considered a separate offense. Any subsequent offense conviction shall be punishable by a minimum fine of one thousand dollars (\$1,000.00).

Section 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 4. This ordinance shall take effect upon its passage and publication as required by law and upon the approval of the County of Ocean as it applies to any effected Ocean County street end in the Borough.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was duly introduced and passed on the first reading at a regular meeting of the Board of Commissioners of the Borough of Harvey Cedars held on **May 4, 2018**. Further notice is given that said Ordinance shall be considered for final passage and adoption at a regular meeting of said Board of Commissioners to be held on **June 1, 2018** at 4:30pm at the Borough Hall, 7606 Long Beach Blvd., Harvey Cedars, NJ, at which time and place any person desiring to be heard will be given an opportunity to be so heard.

Daina Dale, Municipal Clerk

ORDINANCE NO. 2018-07

**AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY,
NEW JERSEY AMENDING CHAPTER 13 ENTITLED “ZONING”
AS IT PERTAINS TO OFF-STREET PARKING REQUIREMENTS
IN THE GENERAL BUSINESS DISTRICT**

**THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HARVEY
CEDARS DOES ORDAIN AS FOLLOWS:**

Section 1. Section 13-11.5b5 of the Code of the Borough of Harvey Cedars is amended to read:

5. Restaurants, Full Service

- One (1) off-street parking space for each three (3) seats
- Bench restaurant seats shall be counted as one seat for each 30 inches of length
- Waiting benches are permitted

Section 2. Section 13-11c of the Code of the Borough of Harvey Cedars is hereby deleted and in its place and stead the following shall be inserted:

- c. Violations and Penalties.
- i. Sections 13-11.5b subsections 5 through 8 are the result of the Borough attempting to allow restaurants to create additional seating by taking advantage of off-street parking for employees and by allowing additional off-street parking off-site under certain conditions. The Borough has assumed additional enforcement duties that are time consuming, labor intensive and are mainly effective on weekends and holidays. For these reasons the Borough requests the consideration of minimum fines.
- ii. Any person, corporation or business entity operating a restaurant as provided in Section 13-11.5(b)5 through 8 that violates or fails to comply with these sections or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a minimum fine of five hundred dollars (\$500.00) for the first offense. Each day for which a violation of this section occurs after the first offense shall be considered a separate offense. Any subsequent offense conviction shall be punishable by a minimum fine of \$750.00 for 1-5 seats over the permitted limit, \$1000.00 for 6-10 seats over the permitted limit, and \$1,250.00 for 11 or more seats over the permitted limit.
- iii. Any other violations of Chapter 13 shall be dealt with pursuant to Section 13-19 of this Chapter.

Section 3. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Borough Mayor and Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. This Ordinance shall take effect upon final adoption after publication in accordance with law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was duly introduced and passed on the first reading at a regular meeting of the Board of Commissioners of the Borough of Harvey Cedars held on **May 4, 2018**. Further notice is given that said Ordinance shall be considered for final passage and adoption at a regular meeting of said Board of Commissioners to be held on **June 1, 2018** at 4:30pm at the Borough Hall, 7606 Long Beach Blvd., Harvey Cedars, NJ, at which time and place any person desiring to be heard will be given an opportunity to be so heard.

RESOLUTION #2018-050

**CHAPTER 159 ITEM OF REVENUE INSERTION IN THE SUM OF \$6,600.00 –
2018 DISTRACTED DRIVING STATEWIDE CRACKDOWN**

WHEREAS NJSA 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS the Director may also approve the insertion of an item of appropriation for an equal amount.

NOW, THEREFORE, BE IT RESOLVED that the Commission of the Borough of Harvey Cedars, in the County of Ocean, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2018 in the sum of \$6,600.00, which is now available from the State of New Jersey, Division of Highway Traffic Safety for “2018 Distracted Driving Statewide Crackdown”.

BE IT FURTHER RESOLVED that the sum of \$6,600.00 is hereby appropriated under the caption: 8. General Appropriations (A) Operations excluded from “CAPS” Public and Private Programs offset by Revenues: Distracted Driving Crackdown Grant.

BE IT FURTHER RESOLVED that the above is a result of Federal funds obtained through the Division of Highway Traffic Safety as a State grant.

PASSED ON: May 4, 2018