

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. Commissioner Gerkens, Commissioner Garofalo, and Borough Attorney William Hierung 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, May 15, 2018, was made by Commissioner Gerkens, seconded by Commissioner Garofalo.

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

ORDINANCE #2018-08 FIRST READING

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 6 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HARVEY CEDARS, 1975, ENTITLED "ANIMALS" AS IT PERTAINS TO LIVESTOCK

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

Commissioner Garofalo stated a rooster was making noise in town and surprisingly there are no ordinances preventing such animals to be kept in town.

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 #2018-09 FIRST READING

ORDINANCE OF THE BOROUGH OF BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 3 OF THE BOROUGH CODE OF THE BOROUGH OF HARVEY CEDARS ENTITLED "POLICE REGULATIONS" SO AS TO ESTABLISH A PROHIBITION ON THE SALE, DISPENSATION AND CULTIVATION OF MARIJUANA IN THE BOROUGH OF HARVEY CEDARS

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

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

Vote: Ayes – Oldham, Garofalo, Gerkens

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

ORDINANCE #2018-10 FIRST READING

AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS APPROPRIATING THE SUM OF \$65,000 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR CERTAIN CAPITAL IMPROVEMENTS IN THE BOROUGH OF HARVEY CEDARS

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 stated that proof of publication is on hand and the ordinance has been posted.

ORDINANCE #2018-06 SECOND 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

Commissioner Garofalo explained that on various streets, specifically 80th Street, the street end was being used for loading and off-loading bulkhead and construction materials in a residential area; during the summer season this will be prohibited; signs will be erected and contractors will be notified of the change; street ends will be able available for contractors in the winter time or in a summer emergency situation.

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

There were no public questions or comments.

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

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

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 #2018-07 SECOND 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

Motion to open public discussion: Commissioner Gerkens
Second: Mayor Oldham

There were no public questions or comments.

Motion to close public discussion: Commissioner Gerkens
Second: Mayor Oldham

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

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 #2018-065:

RENEWAL OF PLENARY RETAIL DISTRIBUTION LICENSE TO HILLCO CORP., INC. FOR THE YEAR 2018-2019

The Mayor asked the public if there were any objections to the granting of this license.

There were no objections made by the public.

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

RESOLUTION #2018-066:

AUTHORIZING THE SALE OF PERSONAL PROPERTY OWNED BY THE BOROUGH OF HARVEY CEDARS NO LONGER NEEDED FOR PUBLIC USE

Motion to adopt: Commissioner Gerkens
Second: Commissioner Garofalo

RESOLUTION #2018-067:

CHAPTER 159 ITEM OF REVENUE INSERTION IN THE SUM OF \$439.39 – MUNICIPAL COURT ALCOHOL EDUCATION, REHABILITATION AND ENFORCEMENT FUND

Motion to adopt: Commissioner Garofalo
Second: Commissioner Gerkens

RESOLUTION #2018-068:

RECOGNIZING THE LBI SCHOOL DISTRICT STUDENT FOR THE 2018 SEASONAL BEACH BADGE DESIGN AND AUTHORIZING A BADGE DONATION

Motion to adopt: Commissioner Gerkens
Second: Commissioner Garofalo

Mayor Oldham announced the LBI Grade School student, Skylyn, who designed the 2018 beach badges is present with her parents. He presented to her a Recognition of Outstanding Service certificate and one of the seasonal beach badges. The Board congratulated and thanked her.

RESOLUTION #2018-069: Bills

Motion to adopt: Commissioner Garofalo
Second: Commissioner Gerkens

Public Property Usage requests:

1. Surf Contests

Motion was made by Commissioner Garofalo, seconded by Commissioner Gerkens, to approve the request to use Hudson Ave. beach (or a beach outside of ACOE project) to Randy Townsend and the NSSA for a Southern Regional High School surf contest on June 3rd & August 26th from 8am – noon.

TOPICS OF INTEREST –

The Mayor gave the following update on the beach project: it was supposed to be done by the end of May; the contractor started the Saturday of Memorial Day Weekend; it is about 1.2 million cubic yards of sand; the pumping will start at 68th Street and go south, then turn around and go north; all the equipment will be loaded and unloaded at Bergen Avenue; estimated days of pumping was 49 but more sand is necessary and is now 58 days; progress of the project will be posted on the Borough's website. The Mayor stated it will be a difficult summer, but it (the project) is in the best interest of the town. The Mayor had conversations with the Army Corps about future contracting.

PUBLIC DISCUSSION OF THE JAMES STREET WETLANDS –

The Mayor acknowledged that most of the public in attendance was here to discuss the wetlands property at James Street; he also acknowledged the Borough Attorney was present and ALO (Alliance for a Living Ocean) and Surfrider groups were present.

The Mayor asked the groups if there was any history for this kind of property and situation. Lisa Bromwell, Vice-President of ALO and a member of the Jersey Shore Chapter of Surfrider, stated she has a copy of the Public Trust Doctrine; it is the legal principle which allows everyone to access the gentleman's property (Block 1 Lot 1). She quoted the administrative code 7:7-16.9 "grants public access to the waterfront which is the ability of the public to pass physically and visually to and from the tidal waterways and their shores and to use such shores, waterfronts and waters for activity such as navigation, fishing and recreational activities..." She stated she has copies of case laws regarding public access and eminent domain (possible route, but expensive) which she will share.

Comments and questions were made by Todd Rendfrey, Susan Carril, Ted Einhorn, Wendy McBair and Lisa Bromwell. Discussed were comparable court decisions, the offer to the property owner, appraisal amount, eminent domain process and expense, funding from Open Space and the Green Acres grant, flood protection the property provides for the surrounding properties, Taxpayer Association involvement, the walkway filled with broken macadam, signage in the right-of-way, moving the fence for access, filling the walkway with sand.

Susan Carril asked what can be done to encourage the Borough to use eminent domain. The Mayor suggested to engage the Taxpayers Association, and that he would like to read similar cases to see the outcomes and costs. Lisa Bromwell said she will forward the case laws to the Mayor. The Clerk will forward a contact for the President of the Taxpayers Association to Wendy McBair.

Motion to adjourn: Commissioner Garofalo
Second: Commissioner Gerkens

Meeting adjourned at 5:20pm.

ORDINANCE #2018-08

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 6 OF THE
REVISED GENERAL ORDINANCES OF THE BOROUGH OF HARVEY CEDARS,
1975, ENTITLED “ANIMALS” AS IT PERTAINS TO LIVESTOCK**

WHEREAS the Board of Commissioners of the Borough of Harvey Cedars is obligated from time to time to review and update existing ordinances that are inconsistent and/or outdated; and

WHEREAS the Board of Commissioners has an obligation to effectively maintain the peace and quiet enjoyment of everyday life within its borders by establishing regulations regarding farm animals.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of Harvey Cedars, as follows:

Section 1. Section 6-1 of the Revised General Ordinances of the Borough of Harvey Cedars, 1975, entitled “Definitions” is hereby amended by supplementing the following:

Fowl means any feathered bird customarily found on a farm including, but not limited to roosters, chickens, hens, chicks, quails, turkeys, geese, ducks, emus, ostriches, and pigeons.

Livestock means any animal customarily found on a farm or typically raised for use and sale, including, but not limited to swine, pigs, hogs, sheep, bull, cows, calves, heifers, llamas, camels, goats, horses, alpacas, donkeys, mules, or ponies.

Section 2. Section 6-1 of the Revised General Ordinances of the Borough of Harvey Cedars, 1975, entitled “Definitions” is hereby amended by amending the following definition in its entirety:

Nuisance means conduct by any animal that disturbs the peace, including habitually or continually howling, barking, crowing or making loud noises, and habitually and significantly destroying property.

Section 3. Section 6-5 of the Revised General Ordinances of the Borough of Harvey Cedars, 1975, entitled “Livestock and Fowl” is hereby supplemented as follows:

6-5 LIVESTOCK AND FOWL.

It shall be unlawful for any person, firm or corporation to keep, stable, breed or quarter livestock or fowl within the corporate limits of the Borough of Harvey Cedars.

This prohibition shall not include the keeping of cats, dogs or other domestic animals within the limits of the Borough as permitted by any other section of this chapter.

Section 4. If any provision, section, subsection, or paragraph of this ordinance shall be declared to be unconstitutional, invalid or inoperative, in whole or in part, by a Court of competent jurisdiction, such provision, section, subsection, or paragraph shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining provisions, subsections, or paragraphs of this ordinance.

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 **June 1, 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 19, 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. 2018-09

ORDINANCE OF THE BOROUGH OF BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 3 OF THE BOROUGH CODE OF THE BOROUGH OF HARVEY CEDARS ENTITLED “POLICE REGULATIONS” SO AS TO ESTABLISH A PROHIBITION ON THE SALE, DISPENSATION AND CULTIVATION OF MARIJUANA IN THE BOROUGH OF HARVEY CEDARS

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HARVEY CEDARS as follows:

Section 1. Chapter III of the Borough Code of the Borough of Harvey Cedars entitled “Police Regulations” is hereby amended and supplemented to establish Section 3-20 entitled “Prohibition on the Sale, Dispensation, and Cultivation of Marijuana; Penalty” as follows:

3-20 PROHIBITION ON THE SALE, DISPENSATION, AND CULTIVATION OF MARIJUANA; PENALTY.

3-20.1 Definitions. As used in this section, the following terms have the meanings indicated:

Marijuana – means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall not include the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana Cultivation Facility – means an entity licensed to cultivate marijuana and sell marijuana to marijuana producers, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Marijuana Establishment – means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a marijuana retailer.

Marijuana Paraphernalia – means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composing, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana Product Manufacturing Facility – means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana items; and sell items to other marijuana product manufacturing facilities and to marijuana retailers, but not to consumers.

Marijuana Retailer – means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana items from marijuana product manufacturing facilities or marijuana wholesalers and to sell marijuana and marijuana products to consumers.

Marijuana Testing Facility – means an independent, third-party entity meeting accreditation requirements established by the Division that is licensed to analyze and certify the safety and potency of marijuana items.

3-20.2 Prohibitions.

- A. The sale, resale, purchase, acquisition, distribution, dispensation, and cultivation of marijuana and marijuana paraphernalia are prohibited in the Borough of Harvey Cedars, notwithstanding any non-preemptive federal or state law to the contrary.
- B. Marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, marijuana retailers, and marijuana establishments

are prohibited in the Borough of Harvey Cedars, notwithstanding any non-preemptive state or federal law to the contrary.

3-20.3 Exemptions for Medicinal Marijuana.

The prohibitions imposed pursuant to this section do not apply to the “medical use of marijuana” by qualifying patients pursuant to the New Jersey Compassionate Use Medical Marijuana Act, N.J.S.A. 24:61-1 et seq., and regulations promulgated thereunder.

3-20.4 Enforcement; violations and penalties.

- A. The Police Department, Code Enforcement Officer and the Zoning Officer, as applicable, are charged with enforcing this section.
- B. Any person or entity violating this chapter shall be subject to the maximum fines and penalties established under N.J.S.A. 40:49-5 and any subsequent amendments to the statute.

3-20.5 Severability.

If any provision of this section is invalidated, pre-empted, or superseded by any state or federal law, regulation, or judicial decision, that provision shall be severed and the remainder of the section shall remain in full force and effect.

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 after public reading and publication as required by law.

NOTICE

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Daina Dale, Municipal Clerk

ORDINANCE NO. 2018-10

AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS APPROPRIATING THE SUM OF \$65,000 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR CERTAIN CAPITAL IMPROVEMENTS IN THE BOROUGH OF HARVEY CEDARS

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HARVEY CEDARS as follows:

Section 1. Pursuant to the applicable statutes of the State of New Jersey, there is hereby authorized the capital improvements within the Borough of Harvey Cedars as follows:

A. For the purchase of tractor there is hereby appropriated the sum of \$65,000.00

Section 2. This Capital Improvement Ordinance is to be financed from the capital funds that the Borough presently has on hand.

Section 3. The Capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services as on file with the municipal clerk and is available for public inspection.

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 **June 1, 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 19, 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

RESOLUTION #2018-065

**RENEWAL OF PLENARY RETAIL DISTRIBUTION LICENSE TO
HILLCO CORP., INC. FOR THE YEAR 2018-2019**

WHEREAS Hillco Corporation, Inc., trading as Neptune Liquors, has applied for the renewal of a Plenary Retail Distribution License for the year 2018/2019 for the premises known and designated as N.W. corner Long Beach Blvd. and 80th Street; and

WHEREAS said application, through the POSSE online system, shows evidence of application for a Federal Tax Stamp and payment to the Borough in the amount of \$2,150.00 for the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Harvey Cedars, in the County of Ocean, NJ that a Retail Plenary Distribution License be issued to Hillco Corp. Inc.

BE IT FURTHER RESOLVED that Daina Dale, Municipal Clerk of the Borough of Harvey Cedars, NJ is hereby authorized and directed to execute and deliver said license on behalf of the Governing Body to said Neptune Liquors.

Before the Resolution was voted upon, the Mayor asked if there were any objections on the part of the public to the granting of this license.

MOTION: Commissioner Garofalo

SECOND: Commissioner Gerkens

ROLL CALL VOTE: Oldham, Garofalo, Gerkens

PASSED ON: June 1, 2018

RESOLUTION #2018-066

**AUTHORIZING THE SALE OF PERSONAL PROPERTY OWNED BY THE
BOROUGH OF HARVEY CEDARS NO LONGER NEEDED FOR PUBLIC USE**

WHEREAS pursuant to NJS A 40A:11-36 the governing body may by resolution authorize the sale of personal property no longer needed for public use by sealed bid or public auction; and

WHEREAS pursuant to Local Finance Notice No. 2008-09 a public auction is authorized to be held with an online vendor; and

WHEREAS the Borough of Harvey Cedars is the owner of certain surplus property which is no longer needed for public use; and

WHEREAS the Board of Commissioners is desirous of selling said surplus property in an “as is” condition without express or implied warranties.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Harvey Cedars, County of Ocean, as follows:

(1) The sale of the surplus property shall be conducted through GovDeals pursuant to State Contract A-70967/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals are available online at govdeals.com and also available from the Municipal Clerk.

(2) The sale will be conducted online and the address of the auction site is www.govdeals.com.

(3) The sale is being conducted pursuant to Local Finance Notice 2008-9.

(4) A list of the surplus property to be sold is as follows:

- a. Various abandoned bicycles
- b. Beach badges

(5) The surplus property as identified shall be sold in an “as-is” condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.

(6) The Borough of Harvey Cedars reserves the right to accept or reject any bid submitted.

PASSED ON: June 1, 2018

RESOLUTION #2018-067

**CHAPTER 159 ITEM OF REVENUE INSERTION IN THE SUM OF \$439.39 –
MUNICIPAL COURT ALCOHOL EDUCATION, REHABILITATION AND
ENFORCEMENT FUND**

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 Commissioners of the Borough of Harvey Cedars, in the County of Ocean, New Jersey, hereby request 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 \$439.39, which is now available from the State of New Jersey entitled “Municipal Court Alcohol Education, Rehabilitation and Enforcement Fund”.

BE IT FURTHER RESOLVED that the sum of \$439.39 is hereby appropriated under the caption: 8. General Appropriations (A) Operations excluded from “CAPS” Public and Private Programs offset by Revenues: Municipal Court Alcohol Education.

BE IT FURTHER RESOLVED that the above is a result of State funds obtained through the Office of the Attorney General as a State grant.

PASSED ON: June 1, 2018

RESOLUTION #2018-068

**RECOGNIZING THE LBI SCHOOL DISTRICT STUDENT FOR THE
2018 SEASONAL BEACH BADGE DESIGN AND
AUTHORIZING A BADGE DONATION**

WHEREAS the Long Beach Island School District was asked to provide a design for the 2018 seasonal beach badge through their students and Art Department; and

WHEREAS the Borough of Harvey Cedars fees for beach badges are set pursuant to Section 4-3 of the General Ordinances of the Borough of Harvey Cedars; and

WHEREAS the Board of Commissioners of the Borough of Harvey Cedars desires to congratulate the designer of the badge and provide the student a token of appreciation.

NOW, THEREFORE, BE IT RESOLVED the Board of Commissioners of the Borough of Harvey Cedars hereby congratulates the 6th Grade Student Skylyn Clayton for the 2018 Seasonal Beach Badge design and authorizes the Finance Office to donate one (1) seasonal beach badge to Skylyn as a token of appreciation.

PASSED ON: June 1, 2018