

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, June 21, 2018, was made by Commissioner Garofalo, seconded by Commissioner Gerkens.

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

ORDINANCE #2018-11 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" AS IT PERTAINS TO THE DEFINITIONS OF SMOKING

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 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 #2018-078:

GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

RESOLUTION #2018-079:

APPROVAL OF CORRECTIVE ACTION PLAN FOR THE 2017 AUDIT

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

RESOLUTION #2018-080:

APPOINTMENT OF MUNICIPAL JUDGE FOR THE BOROUGH OF HARVEY CEDARS

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

RESOLUTION #2018-081:

AUTHORIZING CHANGE ORDER #3 FOR THE HAZARD MITIGATION PROJECT AT 80TH STREET WATER PLANT

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

RESOLUTION #2018-082:

AUTHORIZING LEASE AGREEMENT WITH T-MOBILE FOR COMMUNICATION FACILITIES ON THE BOROUGH'S WATER TOWER

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

RESOLUTION #2018-083:

AUTHORIZING LEASE AGREEMENT WITH AT&T FOR COMMUNICATION FACILITIES ON THE BOROUGH'S WATER TOWER

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

RESOLUTION #2018-084:

AMENDING SHARED SERVICES AGREEMENT FOR CONSTRUCTION CODE ENFORCEMENT SERVICES “SCHEDULE C”

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

RESOLUTION #2018-085:

RESOLUTION OF THE BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN, SUPPORTING PARTICIPATION IN THE RESILIENT NJ GRANT PROGRAM OPPORTUNITY

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

RESOLUTION #2018-086: Bills

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

Public Property Usage requests:

1. Lacrosse Camp – Sunset Park

A motion to table the request to use Sunset Park ballfield to Brothers Lacrosse Camp on August 5-8, 2019 and August 12-15, 2019 was made by Mayor Oldham, seconded by Commissioner Gerkens until the end of the season to have time to review all applications for sport camp requests.

2. Fitness Classes – Hudson Avenue Beach

A motion was made by Commissioner Garofalo, seconded by Commissioner Gerkens, to approve the request to use Hudson Avenue beach to Debbi Meyer for fitness classes/personal training on Tuesdays & Thursdays at 8:00am through the 2018 summer season.

PRIVILEGE OF THE FLOOR –

Bruce Shapiro from the NJ Realtors Association spoke on behalf of the many realtors in attendance. He asked the Board to consider changing the ordinance regarding placement of Open House real estate signs. He offered copies Open House Facts and ordinances from other towns to review. After a discussion of the pros and cons of the placement of Open House and Directional signs, and the history of the current ordinance, the Board agreed to consider changes to the ordinance with limitations to the time, size and location of placement.

Jim Loudon, on behalf of the Taxpayers Association asked and discussed with the Board the following:

- Placement of beach walkover mats – the Mayor said hard pack will be installed by the beach project contractors; mats were not installed because the project should have been completed by now; DPW has been instructed to install mats on the north end in areas that had them last year and also on the south end.
- Mats on vehicle access crossovers – the Mayor stated there will be design changes to the width of all public accesses and will also consider the vehicle accesses.
- Shuttle donation – now that there is a shuttle fee, will the town still be donating? The Mayor stated he was told an accounting will be done at the end of the season; he said it was not our intent to pay the \$10k forever, it should pay for itself; at this point the Township is paying the lion’s share. The Mayor instructed the Clerk to get this year’s accounting prior to donating the \$10k.
- Is there a maintenance code to remove dead pine trees? The Mayor stated the County removed some along the Boulevard; there is not a maintenance code for dead trees.
- Will pickleball courts be built as discussed last year? The Board responded the funding was not available in the budget this year; other projects such as the beach project took priority, but it will be revisited next year.

Mark and Lisa Lazar asked for regulations to be created regarding security cameras. Mr. Lazar stated he has a problem with the proliferation of cameras all over people’s houses. He understands cameras being on traffic lights for police and security, but why are they allowed to be put and point anywhere without restrictions or inspections; most are wireless cameras that can be hacked. Chief Burnaford said he spoke with Mrs. Lazar regarding this issue and stated there is no law preventing people having security cameras on their house, there is nothing to enforce, and not much police can do. The Mayor suggested it could be a civil

issue between neighbors, but asked the Chief to look further into the law.

Wendy McBair wanted to follow up on the past meetings regarding the signage on Block 1 Lot 1. The Mayor stated he asked the owner to change the signs to be more attractive; the owner said he was not going to do that, but if the neighbors wanted to make them look nicer that would be fine as long as certain wording remained. A brief discussion amongst the public took place regarding the history of the property.

Susan Carril stated she spoke with the Taxpayers Association President Mike Songer (regarding Block 1 Lot 1) and asked the Mayor if he has reached out to him. The Mayor has not spoken to him, but will be with him on the 24th for a school meeting. Ms. Carril stated Mr. Songer was very supportive of any process the Borough needed to take over the property. Bob Danna, on behalf of the Association, stated that he believes the Association is supportive of the homeowners to basically form an association to purchase the property, they are not supportive of the town purchasing it only because it is uncertain what advantage it serves to the entire town. A brief discussion amongst the public took place; a suggestion was made that if the entire island uses the property, perhaps the whole island should purchase it. Commissioner Gerken stated it would be a valid (Harvey Cedars) purchase with Open Space funds from a willing seller, it is the only wetlands left and it is a living shoreline.

David Deakne stated Woods Island should be saved; the Mayor stated he is working on it. Mr. Deakne said that because of the beach project taking place during the season, he asked if relief could be given to parking regulations for those who can't use their beach and need to park on another street. The Chief did not have a problem with the relief. The Mayor asked the Chief to remind him to have the contractor shuttle employees to the beach worksite in order to have more parking on streets.

Motion to adjourn: Commissioner Gerken
Second: Commissioner Garofalo

Meeting adjourned at 5:25pm.

ORDINANCE NO. 2018-11

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” AS IT PERTAINS TO THE DEFINITIONS OF SMOKING

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HARVEY CEDARS Section 3-14 of the Revised General Ordinances of the Borough of Harvey Cedars entitled “Smoking Prohibited” is amended as follows:

Section 1. Subsection 3-14.2 entitled “Definitions” is hereby amended by deleting the definitions “Smoke” and “Smoking” in their entirety and supplementing the following:

“Smoke” and “Smoking” shall mean the act of inhaling, exhaling, burning, carrying or using any electronic device, lighted cigarette, cigar, pipe, weed, plant or other combustible substance in any manner or in any form.

Section 2. The introductory sentence of Subsection 3-14.3 entitled “Restricted Areas” is hereby amended in its entirety to read “Smoking is prohibited in the following areas:”

Section 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 4. 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 5. This ordinance shall take effect after public reading and publication as required by 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 **July 13, 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 **August 3, 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 #2018-078

GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT

WHEREAS NJSA 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 2017 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to NJSA 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS RS 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS the Local Finance Board has promulgated NJAC 5:30-6.5, 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, as a minimum, the sections of the annual audit entitled "Comments and Recommendations"; and

WHEREAS the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations", as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to NJAC 5:30-6.5; 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 regulations 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 RS 52:27BB-52, to wit:

RS 52:27BB-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 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 shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Borough of Harvey Cedars hereby states that it has complied with NJAC 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

PASSED ON: July 13, 2018

RESOLUTION #2018-079

**APPROVAL OF CORRECTIVE ACTION PLAN FOR
THE 2017 AUDIT**

WHEREAS the NJ Division of Local Government Services has promulgated requirements regarding the Annual Audit procedures which include that a Corrective Action Plan must be prepared and submitted within 60 days of the governing body's receiving said audit; and

WHEREAS the Chief Financial Officer of the Borough of Harvey Cedars has prepared the Corrective Action Plan addressing the findings and recommendations in the 2017 audit report.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Harvey Cedars that the aforementioned Corrective Action Plan for the 2017 Audit (annexed hereto) be and hereby is approved and adopted this 13th day of July 2018.

PASSED ON: July 13, 2018

Corrective Action Plan

Borough of Harvey Cedars
County of Ocean
Audit Report Year: 2017

Finance Office
Laura E. Cohen
Finance Officer

Finding #2017-1

Borough Bank Reconciliations need to be performed timely.

Recommendation:

In order to improve controls, it is recommended that the Bank Reconciliations are performed monthly.

Explanation and Corrective Action: The finance office is usually staffed by the CFO and a part time assistant. In March of 2017, the assistant had a heart attack and was out for a month. Upon her return she worked sporadically and eventually quit with no notice. It was some time before another person was hired which caused the CFO to have to perform all of those functions plus those of the assistant for some time. The Current Fund bank reconciliation fell behind and was not caught up until later in the year. The bank reconciliations are being kept current now.

Implementation Date: Immediately

RESOLUTION #2018-080

**APPOINTMENT OF MUNICIPAL JUDGE FOR THE
BOROUGH OF HARVEY CEDARS**

WHEREAS the Borough of Harvey Cedars appointed the Honorable Frank Salzer as Municipal Judge for a 3 year term commencing January 1, 2017 through December 31, 2019; and

WHEREAS on May 14, 2018 Judge Salzer tendered his retirement effective June 1, 2018; and

WHEREAS it is the desire of the Borough to appoint a Municipal Judge to fulfill the unexpired term; and

WHEREAS Stacey Kerr, Esq. served as a temporary Municipal Judge for the Borough for June and July.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Harvey Cedars that Stacey Kerr, Esq. is hereby appointed Municipal Judge for the Borough of Harvey Cedars for the unexpired term commencing August 1, 2018 through December 31, 2019.

BE IT FURTHER RESOLVED that certified copies of this resolution shall be forwarded to the Harvey Cedars Court Administrator and Police Chief.

PASSED ON: July 13, 2018

RESOLUTION #2018-081

**AUTHORIZING CHANGE ORDER #3 FOR THE
HAZARD MITIGATION PROJECT AT 80TH STREET WATER PLANT**

WHEREAS a contract was previously awarded to Alpine East Electric, LLC for the furnishing and installation of an emergency generator and the elevation of the electrical equipment at the 80th Street Avenue Water Plant; and

WHEREAS the original contract for said work was in an amount of \$332,000.00; and

WHEREAS Change Order #1 was authorized by Resolution #2018-044 on April 17, 2018 for additional electrical and mechanical work in the amount of \$42,306.29; and

WHEREAS Change Order #2 was authorized by Resolution #2018-070 on June 21, 2018 for custom ductwork and additional work required by NJNG in the amount of \$10,140.00; and

WHEREAS the Engineer has determined that modifications were necessary for the installation a new soft start controller for the high service pump for a total amount of \$7,399.00 as per the attached form; and

WHEREAS the total change orders amount to a total of less than twenty (20%) percent of the original contract awarded to the Contractor.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Harvey Cedars that Change Order #3 is hereby approved in the amount of \$7,399.00 for a total contract amount of \$391,845.29.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute this change order.

PASSED ON: July 13, 2018

RESOLUTION #2018-082

**AUTHORIZING LEASE AGREEMENT WITH T-MOBILE FOR
COMMUNICATION FACILITIES ON THE BOROUGH'S WATER TOWER**

WHEREAS a lease agreement for communication facilities was executed on May 22, 1998 with Omnipoint Communications, Inc. for an initial five (5) year term renewable for three (3) successive five (5) year periods, expiring June 2018; and

WHEREAS the Borough solicited bids by auction method for the leasing of a portion of the water tower, currently occupied by Omnipoint Communications (now known as T-Mobile), which were opened publicly on June 18, 2018 at 11:00am; and

WHEREAS the sole bidder T-Mobile Northeast LLC (previously known as Omnipoint) submitted a bid for a lease amount payable to the Borough in the amount of \$30,000.00 for the first year with 3% annual increases; and

WHEREAS the Borough Engineer and Borough Solicitor have reviewed said bid and it is the desire of the Borough to accept said bid and authorize the execution of a new lease agreement subject to the bidder complying with the Engineer's and Solicitor's recommendations and approvals.

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

1. The bid lease amount of \$30,000.00 with annual increases of 3% is hereby accepted from T-Mobile Northeast LLC (aka T-Mobile) to operate communication facilities on the Borough Water Tower as per the bid documents submitted and subject to the bidder complying with the Borough Solicitor's review letter, copies of which are on file in the Municipal Clerk's office.
2. The Mayor and Municipal Clerk are hereby authorized to execute the lease agreement.

PASSED ON: July 13, 2018

RESOLUTION #2018-083

AUTHORIZING LEASE AGREEMENT WITH AT&T FOR COMMUNICATION FACILITIES ON THE BOROUGH'S WATER TOWER

WHEREAS a lease agreement for communication facilities was executed on June 11, 1998 with Ocean County Cellular Telephone Company for an initial five (5) year term renewable for three (3) successive five (5) year periods, expiring June 2018; and

WHEREAS the Borough solicited bids by auction method for the leasing of a portion of the water tower, currently occupied by Ocean County Cellular Telephone Company (now known as AT&T), which were opened publicly on June 18, 2018 at 11:00am; and

WHEREAS the sole bidder New Cingular Wireless PCS, LLC (previously known as Ocean County Cellular Telephone Company) submitted a bid for a lease amount payable to the Borough in the amount of \$30,000.00 for the first year with 3% annual increases; and

WHEREAS the Borough Engineer and Borough Solicitor have reviewed said bid and it is the desire of the Borough to accept said bid and authorize the execution of a new lease agreement subject to the bidder complying with the Engineer's and Solicitor's recommendations and approvals.

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

1. The bid lease amount of \$30,000.00 with annual increases of 3% is hereby accepted from New Cingular Wireless PCS, LLC (aka AT&T) to operate communication facilities on the Borough Water Tower as per the bid documents submitted and subject to the bidder complying with the Borough Solicitor's review letter, copies of which are on file in the Municipal Clerk's office.
2. The Mayor and Municipal Clerk are hereby authorized to execute the lease agreement.

PASSED ON: July 13, 2018

RESOLUTION #2018-084

**AMENDING SHARED SERVICES AGREEMENT FOR CONSTRUCTION CODE
ENFORCEMENT SERVICES "SCHEDULE C"**

WHEREAS the Borough of Harvey Cedars entered into a Shared Services Agreement with the Boroughs of Beach Haven, Barnegat Light and Surf City for the provision of Construction Code Enforcement Services; and

WHEREAS certain amendments to Schedule C of this agreement have been agreed upon by representatives of a majority of the participating municipalities.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Harvey Cedars that the attached Schedule C is hereby approved, effective July 1, 2018.

BE IT FURTHER RESOLVED that copies of this resolution with the schedule referred to above shall be sent to the Boroughs of Beach Haven, Barnegat Light and Surf City. Copies of this amendment shall be available for public inspection in the Office of the Municipal Clerk during normal business hours.

PASSED ON: July 13, 2018

SCHEDULE C – 7/1/2018

1. Sean MacCotter

	Annual	Hourly
Wages*	\$77,250.00	\$37.14
Health Insurance	\$26,111.18	\$12.55
Pension	\$2,085.75	\$1.00
Social Security	\$6,643.50	\$3.19
Vehicle Lease	\$4,620.00	\$2.22
Auto Insurance	\$1,250.00	\$0.60
Gas & Maintenance	\$3,900.00	\$1.88
Totals	\$121,860.43	\$58.59

*Based on 40 hours per week

2. Ed Navitsky

Wages*	\$49,920.00	\$30.00
Health Insurance	\$10,528.50	\$6.33
Pension	\$1,347.84	\$0.81
Social Security	\$4,293.12	\$2.58
Vehicle Lease	\$4,620.00	\$2.78
Auto Insurance	\$1,250.00	\$0.75
Gas & Maintenance	\$3,900.00	\$2.34
Totals	\$75,859.46	\$45.59

3. Monica Johnson

	Annual	Hourly
Wages*	\$34,000.00	\$18.68
Health Insurance	\$10,940.96	\$6.01
Pension	\$ 918.00	\$0.50
Social Security/ER Taxes	\$ 2,924.00	\$1.61
Totals	\$48,782.96	26.80

*Based on 35 HR work week

4. Misc. Clerical

\$12.00 - \$15.50 per hour, available as needed.

The wages and benefits set forth in this schedule are specific to the individuals named herein.

Wages and benefits for any new hires are subject to negotiation at the time of hire.

RESOLUTION #2018-085

**RESOLUTION OF THE BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN,
SUPPORTING PARTICIPATION IN THE
RESILIENT NJ GRANT PROGRAM OPPORTUNITY**

WHEREAS the United States Department of Housing and Urban Development (HUD) awarded New Jersey with a grant to advance regional planning initiatives in the nine counties designated Most Impacted and Distressed from Hurricane Sandy by HUD; and

WHEREAS through the Resilient NJ program, the New Jersey Department of Environmental Protection (DEP) will fund Regional Teams, Consultant Teams, and Non-Governmental Organizations to participate in a comprehensive planning process. The process will result in the development of Regional Resilience and Adaptation Action Plans (Action Plans) and in Regional Teams implementing selected actions from these plans. Resilient NJ will bring together collaborative teams of municipalities and local stakeholders (Regional Teams) with dynamic multi-disciplinary teams of planners, engineers, ecologists, designers, and other experts (Consultant Teams) to address flood-related hazards at a regional scale in both riverine and coastal communities. DEP will pair the Regional Teams with Consultant Teams to assist in the planning and implementation of the Action Plans. Up to 5 Regional Teams will be funded under this grant program. Grants will be between \$100,000 and \$200,000; the award amount to be based on the proposed budget submitted with the application; and

WHEREAS all Island municipalities are willing to join as a region, with Long Beach Township acting as the prime applicant; and

WHEREAS the first requirement of the application is for each municipality in the region to submit a Letter of Intent to Participate.

NOW, THEREFORE, BE IT RESOLVED the Board of Commissioners of the Borough of Harvey Cedars hereby authorizes the Mayor to execute a Letter of Intent to participate in the Resilient NJ Grant Program.

PASSED ON: July 13, 2018