

The regular meeting of the Board of Commissioners of the Borough of Harvey Cedars, NJ was called to order by Mayor Oldham at 3:55pm. Commissioners Gerkens and Garofalo were present. The meeting was called to order early during the Commissioner’s worksession in order to accommodate the Mayor to be able to give appropriate time to hear the surfing community’s presentation for surfing outside of the flags (SOTF). The Mayor had to leave at 4:40pm. The regular meeting agenda was scheduled to begin at 4:30pm.

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 in the Beach Haven Times on December 15, 2016 and the Asbury Park Press on December 10, 2016.

**Motion** to approve the minutes of the previous meeting, September 19, 2017, was made by Commissioner Gerkens, seconded by Commissioner Garofalo.

The Mayor gave the floor to the surfer’s presentation.

James Whitesell distributed to the Board copies of the written presentation. Although some sections were not verbatim and some were adlibbed, attached hereto and made part of these minutes is the presentation as read aloud by James Whitesell, 11 East 84<sup>th</sup> Street, Mike Kramer, 72 Maiden Lane, and Casey Deacon, Tuckerton (Attachment #1).

At 4:30pm, Mayor Oldham began the regular meeting.

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

**ORDINANCE #2017-27 FIRST READING**

**AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY, NEW JERSEY AMENDING CHAPTER XIII ENTITLED “ZONING” AS IT PERTAINS TO OCEANFRONT IMPERVIOUS COVERAGE**

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 #2017-26 SECOND READING**

**AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER 10 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HARVEY CEDARS, 1975, ENTITLED “WATERFRONT REGULATIONS” AS IT PERTAINS TO AUTHORIZED VEHICLES ON THE BEACH**

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, Garofalo, Gerkens

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 #2017-099:**

**BOROUGH OF HARVEY CEDARS PROCLAIMING OCTOBER 15-21, 2017 AS NATIONAL FRIENDS OF LIBRARIES WEEK**

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

**RESOLUTION #2017-100:**

**THE BOROUGH OF HARVEY CEDARS PROCLAIMING OCTOBER 10, 2017 AS "PUT THE BRAKES ON FATALITIES DAY®"**

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

**RESOLUTION #2017-101:**

**CHAPTER 159 ITEM OF REVENUE INSERTION IN THE SUM OF \$1,223.11 – 2017 BODY ARMOR REPLACEMENT FUND PROGRAM (BARF)**

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

**RESOLUTION #2017-102:**

**AUTHORIZE APPLICATION TO NJDOT LOCAL AID PROGRAM FOR 2018 ROAD RECONSTRUCTION IMPROVEMENT PROJECT FOR A TOTAL OF \$158,872.50**

(Portion of Holly Ave.)

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

**RESOLUTION #2017-103:**

**CONTRACT AWARD TO SHORE CONNECTION, INC. FOR THE 2017 ROAD RECONSTRUCTION PROJECT IN THE AMOUNT OF \$246,473.00**

(85<sup>th</sup> & 86<sup>th</sup> Street Improvements)

Motion to adopt: Commissioner Gerkens

Second: Commissioner Garofalo

**RESOLUTION #2017-104: Bills**

Motion to adopt: Commissioner Garofalo

Second: Commissioner Gerkens

**TOPICS OF INTEREST –**

Mayor Oldham said there have been conversations regarding the (regional) school funding and the feasibility study, and he met with the County and the State about the beach project; the beach project should be completed by May.

**PRIVILEGE OF THE FLOOR –**

Barbara Lehman, 6303 Long Beach Blvd., asked what the 2 ordinances pertain to. The Mayor explained the first ordinance is about restricting the amount of land that can be included in the impervious coverage calculation for oceanfronts; currently oceanfront properties can use their land east of the building line for the calculation in the size of their house, but this (introduced ordinance) will not allow the land east of the building line to be used for impervious coverage (pavers). Commissioner Garofalo explained the other ordinance is to increase the horsepower limit to 2 for electric wheelchairs on the beach. Ms. Lehman mentioned that some of her neighbors who have used the transport service to the beach would like to have the hours extended to 4pm instead of stopping at 3pm. Commissioner Garofalo said the hours will be adjusted to mirror the lifeguard hours.

Bettie Greber, 5 East 80<sup>th</sup> Street, stated the minutes have been updated on the website, but the ordinances and the materials pertaining to the meeting and agenda are not posted. The Clerk stated the ordinances and resolutions are posted within the minutes. Agendas have not been posted, they are a work in progress, but the Clerk will begin to post draft agendas.

At 4:40pm Mayor Oldham left the meeting to attend a wedding. Deputy Mayor/Commissioner Gerkens presided over the meeting and stated the surfing presentation can continue but must conclude before the 5:30pm Open Space meeting.

Attached hereto and made a part of these minutes is the continuation of the presentation (Attachment #2). After the presentation concluded, Commissioner Garofalo commended

Mike, Jamie and Casey on their presentation; he said it was done very well. He opened up the floor for comments. The following is a summary of public comments:

- John Weber, Surfrider Foundation, agrees with everything presented. If the Borough is the only town on the Island that doesn't allow SOTF, then the Borough should explain why. He said the safety issues are at Hudson beach and traversing the Boulevard. His family rents an oceanfront in Beach Haven; a selling point is surfing in front of the rental and not having to travel to a surfing beach. He stated he is an elected official in his town. He understands this is the Board's decision to make, and this is an easy one; he said it would benefit the town, decrease the safety issues and it will not increase the workload for lifeguards.
- John Imperiale, 8 East 82<sup>nd</sup> Street, stated no one in his family is a surfer, the swimming area is pretty far down from his street, and it would be wonderful to watch the surfers at his beach. He sees no reason at all for not allowing this. He said the survey should not be sent out as written, it is misleading and it should not be rushed to send it out.
- Robert Rue, 8202 Bay Terrace, stated he's not a surfer but is a body surfer, and he embraces the idea of surfers being out there to help others in rough surf and rips; they respond much quicker than a lifeguard. He said is looking forward to this going through, and if not, then why? He said the surfers might generate revenue with beach badges.
- Tim Tyler, Loveladies previously from Essex Ave., stated his nephews love to surf but can't surf and be with their friends in Harvey Cedars.
- Bob Ciccotti, 5 East Essex Ave., stated he would love to teach his granddaughter how to surf. He was concerned about what the Commissioner (Garofalo) said about the survey seeming slanted and even if the majority came back in favor of the slanted survey, the Commissioner would have to re-think his thought process.
- Greg Gutchigian, 8 East 76<sup>th</sup> Street, stated he supports trying this.
- Barbara Lehman questioned why it would cost Harvey Cedars more money if it didn't cost more in other towns.
- Jamie Whitesell stated he did research on revenues; surfers are a revenue source. He said the Ship Bottom lifeguard budget was \$410k and badge revenue was \$750k; Surf City's was the same or bit less than Ship Bottom; Harvey Cedars is upside down – the budget is larger than the badge revenue, the only town on the island that has that situation; truly this is an opportunity for more revenue. He stated that as a lifeguard in the 90's, SOTF was allowed and there were no issues.
- Casey Deacon mentioned that a surfer coming to town will spend on average \$70; they bring money into town, getting gas, badges, lunch.
- Bettie Greber stated she has worked with George Gallop for several years doing polls; it's very important to ask each question 3 different ways throughout the survey; you are misled if you rely on one answer. It's important to fashion the survey in an unbiased way, and often it's an outsider that reads the survey to determine if it's biased or not.
- Mike Kramer stated he is a geologist and the topography in Harvey Cedars is not any different from the rest of the Island. He asked to have the Harvey Cedars Captain talk to the other Captains.
- Mike Kramer spoke about lifeguard responsibility. He has a 25 year veteran from the Los Angeles fire and lifeguard squad visit him every summer. His guest complimented Harvey Cedars' beach layout and towers. Mike said that this isn't an actual fact, but Santa Monica, Manhattan Beach guard towers are the same spacing as Harvey Cedars stands and the flags are the same; the difference is there are hundreds of people on their beach, 1 guard on each tower and every 5<sup>th</sup> tower they have 2 guards, so they have less guards than we have for more swimmers and they have SOTF. No reason to add any more lifeguards just for the trial.

Commissioner Gerkens and Garofalo responded to the comments as follows:

- Budget – It is just one Governing Body’s opinion that more lifeguards would be needed and there would be increased costs. When preparing the budget one thing considered is anticipated badge sales; it is not just salaries & wages and OE (other expenses) compared to (badge) sales in running the beaches; the Public Works aspect is not figured in, such as grooming the beaches, and the lifeguard season is extended in Harvey Cedars (June & September). The data is correct as far as the budget and revenue but there are other components; Harvey Cedars’ revenues fell short as far as badge sales for whatever dynamic Harvey Cedars is going through.
- The topography issue is a concern of our safety expert, the Lifeguard Captain, who is one of the best Captains around; the Borough supports its employees.
- Survey – When Commissioner Garofalo received the petition from Mike Kramer he reached out to the Lifeguard Captain and Police Chief for their opinions; that is the Board’s practice. Also part of the practice in Harvey Cedars is to reach out to the public; in this case the Commissioners came up with the idea of a non-binding survey, it was not rushed, this has been discussed all summer long; there was some verbiage from both parties to arrive at this (final survey). Commissioner Garofalo, speaking only for himself, said he personally sees a problem with a couple of the survey questions, and might need to revisit it to make it fair. He also stated that it is a non-binding survey and does not expect to see a great return on it; as an elected official it is very important for him to get the pulse of constituents but he doesn’t know how many people will take the time to send the survey back. Ultimately, it will be his decision as Public Safety Commissioner.

Commissioner Garofalo concluded by stating the presenters did an outstanding job. He commended everybody in the room for being polite and respectful and for listening to the Board members. A decision will not be made tonight. The process will be to look at and discuss the data presented, take into consideration all the factors and have a consensus of what’s fair.

Commissioner Garofalo thanked all for coming.

**Motion** to adjourn: Commissioner Garofalo  
Second: Commissioner Gerkens

Meeting adjourned at 5:20pm.

**ORDINANCE NO. 2017-27**

**AN ORDINANCE OF THE BOROUGH OF HARVEY CEDARS, OCEAN COUNTY,  
NEW JERSEY AMENDING CHAPTER XIII ENTITLED “ZONING”  
AS IT PERTAINS TO OCEANFRONT IMPERVIOUS COVERAGE**

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

- Section 1. Section 13-7.3 entitled “Coverages” paragraph c. is hereby amended as follows:
- c. The ratio of the impervious coverage area to the upland lot area shall not exceed seventy-five (75%) percent. For oceanfront lots, the 75% calculation shall be made only on that area of the lot lying generally westward of the oceanfront building line. For the purposes of calculating impervious lot coverage, no portion of the lot which is mapped as wetlands, vehicular easements and no portion which is riparian shall be included in the calculation of determining permissible impervious lot coverage.
- 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 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 **October 6, 2017**. 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 **November 3, 2017** 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.

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Daina Dale, Municipal Clerk

**RESOLUTION #2017-099**

**BOROUGH OF HARVEY CEDARS  
PROCLAIMING OCTOBER 15-21, 2017 AS  
NATIONAL FRIENDS OF LIBRARIES WEEK**

**WHEREAS** the Friends of the Island Library raise money that enables our library to move from good to great -- providing the resources for additional programming, much needed equipment, support for children's summer reading, and special events throughout the year; and

**WHEREAS** the work of the Friends highlights on an on-going basis the fact that our library is the cornerstone of the community providing opportunities for all to engage in the joy of life-long learning, and connect with the thoughts and ideas of others from ages past to the present; and

**WHEREAS** the Friends understand the critical importance of well-funded libraries, and advocate to ensure that our library gets the resources it needs to provide a wide variety of services to all ages, including access to print and electronic materials, along with expert assistance in research, readers' advisory, and children's services; and

**WHEREAS** the Friends' gift of their time and commitment to the library sets an example for all in how volunteerism leads to positive civic engagement and the betterment of our community.

**NOW, THEREFORE, BE IT RESOLVED** that Board of Commissioners of the Borough of Harvey Cedars proclaims October 15-21, 2017, as *Friends of Libraries Week* in the Borough of Harvey Cedars, and urges everyone to join the Friends of the Island Library, and thank them for all they do to make our library and community so much better.

PASSED ON: October 6, 2017

**RESOLUTION #2017-100**

**THE BOROUGH OF HARVEY CEDARS PROCLAIMING  
OCTOBER 10, 2017 AS  
“PUT THE BRAKES ON FATALITIES DAY®”**

**WHEREAS** across the nation, traffic crashes caused 35,092 fatalities in 2015, and are the leading cause of death for young people ages 15 to 34; and

**WHEREAS** in New Jersey, 603 individuals lost their lives in traffic crashes in 2016; and

**WHEREAS** Pedestrian-related crashes accounted for 27.5 percent of the State’s traffic fatalities, while 19 percent of all fatal crashes involved a distracted driver; and

**WHEREAS** motorcyclists, bicycle riders and pedestrians face increased risks on New Jersey’s roadways, as people opt for alternative modes of transportation; and

**WHEREAS** 66 motorcyclists, 18 bicyclists and 166 pedestrians were killed in New Jersey in traffic-related crashes in 2016; and

**WHEREAS** safer driving behaviors such as buckling up every ride; obeying posted speed limits; stopping for pedestrians in crosswalks and using crosswalks when walking; avoiding aggressive driving behaviors; never driving impaired; wearing proper safety gear while riding a motorcycle or bicycle; and focusing solely on driving by avoiding distractions, can dramatically reduce the number of traffic-related injuries and deaths.

**NOW, THEREFORE,** the Board of Commissioners of the Borough of Harvey Cedars, County of Ocean, State of New Jersey, does hereby proclaim October 10, 2017 as **Put the Brakes on Fatalities Day®**, and call upon everyone to put these lifesaving behaviors into practice to improve safety on the roadways in our community and throughout the State.

PASSED ON: October 6, 2017

**RESOLUTION #2017-101**

**CHAPTER 159 ITEM OF REVENUE INSERTION IN THE SUM OF \$1,223.11 –  
2017 BODY ARMOR REPLACEMENT FUND PROGRAM (BARF)**

**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 2017 in the sum of \$1,223.11, which is now available from the New Jersey State Department of Law and Public Safety for “2017 Body Armor Replacement Fund Program”.

**BE IT FURTHER RESOLVED** that the sum of \$1,223.11 is hereby appropriated under the caption: 8. General Appropriations (A) Operations excluded from “CAPS” Public and Private Programs offset by Revenues: Body Armor Replacement Fund Program.

**BE IT FURTHER RESOLVED** that the above is a result of State funds obtained through the New Jersey Division of Criminal Justice.

PASSED ON: October 6, 2017



**RESOLUTION #2017-102**

**AUTHORIZE APPLICATION TO NJDOT LOCAL AID PROGRAM FOR  
2018 ROAD RECONSTRUCTION IMPROVEMENT PROJECT  
FOR A TOTAL OF \$158,872.50**

**WHEREAS** the Borough of Harvey Cedars desires to apply to the New Jersey Department of Transportation for assistance from the Transportation Trust Fund for the 2018 Road Reconstruction/Improvement Project.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Commissioners of the Borough of Harvey Cedars, County of Ocean, hereby authorize application to NJDOT Local Aid Program for the 2018 Road Reconstruction/Improvement Project for a total of \$158,872.50 to include:

Holly Avenue (Salem Ave. to Cumberland Ave.)

**BE IT FURTHER RESOLVED** that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as

MA-2018-Holly Avenue-00550

to the New Jersey Department of Transportation on behalf of the Borough of Harvey Cedars.

**BE IT FURTHER RESOLVED** that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Harvey Cedars and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

MOTION: Commissioner Garofalo

SECOND: Commissioner Gerkens

ROLL CALL VOTE: Ayes – Oldham, Garofalo, Gerkens

PASSED ON: October 6, 2017

**RESOLUTION #2017-103**

**CONTRACT AWARD TO SHORE CONNECTION, INC. FOR THE  
2017 ROAD RECONSTRUCTION PROJECT IN THE AMOUNT OF \$246,473.00  
(85<sup>th</sup> & 86<sup>th</sup> Street Improvements)**

**WHEREAS** the Borough of Harvey Cedars has applied to New Jersey Department of Transportation for Assistance from the Transportation Trust Fund for the 2017 Road Reconstruction/Improvement Project; and

**WHEREAS** the New Jersey Department of Transportation approved the application for assistance; and

**WHEREAS** the Borough of Harvey Cedars solicited bids for the 2017 Road Reconstruction/Improvement Project; and

**WHEREAS** said bids were opened as advertised on October 5, 2017 and the Borough Engineer and Borough Solicitor have recommended the award of a contract to Shore Connection, Inc. as the lowest responsible bidder in accordance with the bid specifications, said bid being \$246,473.00; and

**WHEREAS** the Finance Officer has certified the availability of funds for this contract.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Commissioners of the Borough of Harvey Cedars, County of Ocean, hereby award a contract in the amount of One Hundred Forty Three Thousand Three Hundred Twelve Dollars and 12 Cents (\$246,473.00) to:

Shore Connection, Inc.  
304 Forge Road – Unit 10  
West Creek, NJ 08092

for the 2017 Road Reconstruction/Improvement Project, contingent upon final review and approval by NJDOT.

**MOTION:** Commissioner Gerkens

**SECOND:** Commissioner Garofalo

**ROLL CALL VOTE:** Ayes – Oldham, Garofalo, Gerkens

**DATED:** October 6, 2017

**ATTACHMENT #1**  
**October 6, 2017 Minutes**

**2018 Surfing Outside the Flags (SOTF) Proposal Presentation**

Harvey Cedars Commissioner Board Meeting  
Borough Hall, 7606 Long Beach Blvd, Harvey Cedars, NJ October 6, 2017

Presented by:  
Mike Kramer, James Whitesell, Casey Deacon

**James (Jamie) Whitesell:**

Hello, my name is Jamie Whitesell. I'm a Harvey Cedars homeowner, a former Harvey Cedars lifeguard, and have been surfing in Harvey Cedars for over 40 years. I've spent every summer of my life here, and consider myself fortunate to have grown up in this town, and now be in a position to raise a family here. Surfing has played an important part in my life; one that's encouraged extensive travel and allowed for a first-hand education of Harvey Cedars beaches in context to other parts of our island, and beaches and ocean conditions around the world. Mike Kramer will be talking in greater detail about our beaches from a geological perspective later in this presentation.

In short, our group appreciates everyone's time here today to talk about a proposed trial which contemplates allowing surfing outside of Harvey Cedars' lifeguard flags in 2018 by way of a buffer zone on each side of lifeguard stands to keep swimmers and surfers separate. To keep the presentation on track and everyone awake, there will be several of us presenting different areas. In short, we've met and discussed the Surfing Outside the Flags (SOTF) proposed trial with township officials over the past several months, our group spoke at the annual Harvey Cedars Taxpayer Association meeting in late August, and most recently we made efforts with the township administration to produce a non-binding voting flyer to be sent to township taxpayers.

During our discussions with the Harvey Cedars administration, they voiced opposition on Surfing Outside the Flags (SOTF) based on the premise it will invite safety issues, increase township liability, increase lifeguard distraction, create parking problems for residents, the township may be required to raise badge prices to hire more lifeguards, and bottom contours and currents in Harvey Cedars are different than other island townships. We will address these issues, and point out there are no actual facts or observational data that support the concerns to the level it justifies restricting HC's taxpayers and visitors surfing access to the ocean. Our position is supported by the island wide adoption of SOTF, in addition to our township's own safety data that the administration provided to us.

Harvey Cedars is a beach town. The ocean is our main attraction, and the reason why many Harvey Cedars residents and visitors choose to be here. Right now we have 12 beaches whose respective swimming areas comprise approx. 200 feet wide each, which equates to about 20% of the oceanfront. Our issue is relative to how the 80% of Harvey Cedars' oceanfront not being utilized for swimming could be opened up for greater taxpayer and visitor access for surfing or other recreational activities during the summer. In the past before the beach replenishment projects, this would have presented a challenge since jetties acted as borders between the swimming beaches. With jetties now effectively buried by sand, we have wide open continuous, uninterrupted beachfront potentially lending itself to a number of recreational opportunities not possible in the past.

Every town on Long Beach Island allows Surfing Outside the Flags except Harvey Cedars. Ship Bottom has allowed it for over 10 years, Barnegat Light has practiced it for many years, Long Beach Township opened all beaches to surfing and other recreational activities in 2017 after a graduated implementation beginning in 2008, and most recently Surf City opened their beaches for surfing this past summer. The Mayors, chiefs of police, and captains of every lifeguard unit on the island have adopted and support SOTF in their townships, and we're not aware of any reportable issues. We know this because our group reached out and spoke to many senior officials in almost every town, and we've been witness to many positive SOTF articles in the local press. Common sense also tells us that the mayors and lifeguard administrations would have ended these programs immediately if they weren't safe, or if other issues existed. These senior officials and administrations owe surfers nothing, but many have demonstrated a willingness and understanding to work with their communities who asked for expanding recreational areas beyond the swimming zones on their beaches.

We believe our taxpayer dollars should continue to ensure recreational opportunities are available to

all Harvey Cedars taxpayers, their children, grandchildren, and future generations to come. Surfing is a Harvey Cedars tradition that instills many positive attributes: self-reliance, respect for nature, and a life-long attachment to our town. In this day and age, our kids deserve opportunities, not restrictions.

Right now kids are called out of the water at 10am on small wave days which are perfect for their level of ability. Many are left with no other option than to get on their bikes and ride down our crowded Boulevard with their surfboards. As we all know, our boulevard is not a safe place, and while it's absolutely not the administration's intention, a collateral effect of the current remote and limited surfing areas, is our town's children exposure to travel on a dangerous boulevard with their surfboards. This is not only a dangerous situation for our town's kids, but also vehicle drivers, pedestrians, and other bicyclists, etc. I personally fear the boulevard with regard to my own kid's safety, and signed the 3 in HC petition several years ago.

Additionally, the dedicated surfing beach at Hudson Avenue is not a safe environment for families learning to surf. We recognize the township does not endorse or promote surflife.com's live webcam or the Hudson Avenue surf report, but the website does attract surfers to Hudson Avenue heightening the surfing level to be unsuitable for beginners and families looking to teach their kids how to surf, and it creates a crowded surfing environment for taxpayer local surfers who'd be much happier with their families and friends in their own neighborhoods.

So far as other surfing areas available at Maris Stella, and respective borders of town, without buffer flags outside the swimming areas, swimmers unable to deal with currents sometimes land close to "surfing areas", and surfers typically find themselves taking heat from lifeguards for simply existing.

Surfing is an extremely safe, healthy and family-oriented sport that should be promoted, not restricted. We'd like to see a situation where a family goes up to the beach in the morning with friends, guests, umbrellas, beach chairs, and surfboards...and has access to the waves at any time of day as appropriate conditions present themselves. We're trying to keep families and friends surfing together in their neighborhoods ...and ask *who better to ensure their safety than their own families and friends?* Surfing with same crew conveniently, and on a regular basis, gets kids excited to surf and promotes bonds that last a lifetime. We don't believe regulation should deny a parent from pushing their child into a two foot wave a hundred yards away from swimmers, or restrict experienced tax-paying surfers who in many cases are former lifeguards who actually increase the level of water safety to swimmers in distress. In short, we're simply asking for the same access to our ocean that's currently enjoyed by every other town on Long Beach Island.

**Mike Kramer:**

Hi, my name is Mike Kramer. I'm a Harvey Cedars homeowner, author of the Petition, and have been surfing in Harvey Cedars since 1966...and over the last 20 years, I've surfed every summer swell within 3 blocks of Borough Hall. I raised two kids that surf here, so I'm personally well aware of safety issues that affect teaching our kids how to surf.

Earlier this summer, I started a petition to request HC consider outside the flag surfing. We received one thousand signatures the first day, another thousand the next day, and now we're up to 3000. That's 3000 signatures, nothing to discount. The vast majority of signers are Harvey Cedars taxpayers, their families, renters, and visitors who care about the town....all people asking HC to open up ocean access, and can't understand why we're the only town on LBI restricting it. Many signers believed their words would resonate with the administration and make a difference to the current status quo. Our surfing group has tried to represent this population in a respectful, pragmatic way to the Harvey Cedars administration, recognizing a due process exists in this town which must be met; however, I sincerely believe these voices will not be going away anytime soon, and may only be amplified with more visible public support beginning next summer, if the initiative falls flat today. This is a hypothetical, of which I'll refrain from any further, but rather redirect your attention to relevant survey comments made by local taxpayers who support surfing.

*Mike Kramer read the following quotes:*

Robert Rue – Harvey Cedars

“My family has owned a home in Harvey Cedars since 1956, and I've spent every summer of my life in the ocean there. There's no good reason that I've heard why surfing outside the flags should not be allowed. It's time we join the rest of the island and allow this practice, to enhance the safety for those swimming in our town.”

Robert Raimo – Harvey Cedars

“...I was involved in the rescue of an epileptic young man who would have died if not for a local surfer reaching him before the lifeguard. So my opinion is that surfing in the spaces

between the swimming areas would likely improve the safety of the Borough, not detract from it.”

Bob Gilpen –

“As a Harvey Cedars homeowner and long-time surfer, I would like the option to surf during the day close to my residence. Plus, it will spread the group out on good days making it safer for everyone.”

Karen Stollen – Harvey Cedars

“I live on 82nd St, and I would like to see the surfing restriction lifted. I think the surfing outside the flags is reasonable.”

During our discussions with the Township, we were asked by the Commissioner of Public Safety why surfers aren't satisfied with the current situation of being allowed to surf before 10am and after 5pm, or at designated surfing areas during the day. Our answer was that it's not about advanced surfers. Advanced surfers can surf 3 or 4 days a summer, when the waves are large and beaches are red flagged. This is primarily about promoting neighborhood surfing for our kids, and keeping families together and off the boulevard. For the benefit of non-Surfers in the room so you can appreciate why before 10am and after 5pm is not good enough...NJ summertime waves are fleeting and we rarely get swell. When we do, the tide has to be right, so 50% of the day does not work. Young surfers generally need a low tide with waves rolling across a shallow sandbar. So there's just a handful of times a summer where conditions are decent for any given level of surfer. Those fleeting moments are often between 10am and 5pm, and as many parents know, it's difficult to get young kids to the beach before 10am. There were a couple of summers when I was teaching my daughter to surf, and there were literally only four or five days where we had an hour or two session appropriate for her surfing level.

To this effect, let's say you're a homeowner or renter, and are here for your one week vacation. High tide conditions can plague any opportunity to catch surf for most of your one week vacation if it occurs before 10am. After paying thousands in taxes or rent, you'll be required by township rules to pack up your kids, leave your neighbors, guests and family, and go to Hudson Avenue. I personally have not surfed at Hudson since 1982, and I never let my kids surf at Hudson.

Before I go through the issues the town has put forth, I wanted to discuss the due diligence and fact-finding that went into in our presentation.

For that I'm going to turn to Casey.

**Casey Deacon:**

Thanks Mike.

One a beautiful day in June, in Surf City, I was spending the day at the beach with my family, the waves were pretty good that day, so my husband left our street and drove down to the surfing beach. I thought, how ridiculous it was that our family was broken apart for the day, and also how much my family and I would have enjoyed watching him surf in the vast unused spaces in-between the swimming flags. SO that night I started a petition which gained instant momentum and we had a thousand signatures in about a week. I invited a fellow surfer to partner with me, Frank Troy, in researching and presenting our data to the Surf City Mayor and Council. I have an insurance background so I covered liability and safety and my partner has a sales background and he covered the socioeconomics of surfers and the financial impact surfers have on communities. We spent 2 weeks researching, gathering data and speaking to townspeople and lifeguards across the island. We presented to the council in July and we were approved unanimously. I was happy to share all that research with Mike and Jamie. Since July we have had a successful trial in Surf City, all the townspeople, including the surfers and their families, are enjoying the beach in harmony, and I am here today to support Mike and Jamie in making that a reality in Harvey Cedars.

Thomas Smith, Sr. Lieutenant of the Ship Bottom Beach Patrol, was kind enough to take the time to explain how the flag buffer system works in their township for our presentation. We believe their program would be a great fit for the beaches in Harvey Cedars, along with increasing safety levels and potentially beach badge revenues.

Per Tom below:

“In Ship Bottom we use a 2 flag system. We have swimming between the green flags, and surfing between the yellow flags. On each beach, the lifeguards are equipped with two green and two yellow flags. When they set up their beach, the swimming area is designated between the green flags that they set up, then there is about 20 yard buffer

zone, and a yellow flag is placed. The buffer zone is there to keep the swimmers and the surfers away from each other on the boundary line. Between the yellow flags people can surf, skim, kayak, and fish. No one in the buffer zone.”

“In Ship Bottom, the surfers know the rules and they stay out of the swimming areas. They at times help us direct the swimmers back into the swim areas, when the swimmers swim out of, or drift out, of the swim area. Lifeguards spend more time directing swimmers to stay in their area.”

“We have had situations where swimmers needed help and could not get back in because a rip had formed with the tide change. Surfers have paddled to the swimmer in distress and held them until the lifeguard made it out to them to bring them in. A lot of the surfers who surf in Ship Bottom are local people and respect the lifeguards.”

“Prior to this, we had a surfing beach on 9th street (between 8th and 11th streets). We had many instances where the surfing beach was very crowded. Lifeguards had to help surfers who were getting injured by other surfers from running over them due to the number of people. Opening all beaches definitely solved that issue.”

“I have spoken to many people who have spent their days on other beaches, and after we have allowed surfing in Ship Bottom they have decided to come to Ship Bottom. This has affected badge sales due to more people wanting to come to Ship Bottom and spend the day with their families on the beach and surf.”

**Mike Kramer:**

I'm going to start with safety because it is clearly the most important issue. As I said at the beginning, if there were any significant safety issues related to these programs up and down the island, the mayors and lifeguard administrations of these towns would have ended SOTF immediately.

I'd like to cite quotes from senior guards from two LBI towns.

Sr. Lieutenant Tom Smith of Ship Bottom lifeguards said "*We allow surfing outside the swimming areas on our beaches and have done so for over 10 years with no problems*".

Captain Mark Dileo of the Surf City Beach Patrol said "*the surfers have been very cooperative with staying out of the swimming zones*" and "*it has worked out exceedingly well*".

Long Beach Township's website had this to say regarding their 2017 realization of opening all township beaches to surfing and other recreational activities outside the lifeguard flags.

*"...since 2008, the Board of Commissioners have worked together with our Community to improve our beaches and ensure the public's enjoyment of all the unique activities our island offers.....Mayor Mancini, Commissioner Bayard and Commissioner Lattanzi understand listening and working together with residents, visitors, all citizens towards common goals is how ideas become reality."*

In addition to the calls made to all the guard squads on the island, Chief Burnaford has made his own calls and also found that there's really no issues to speak of.

These testimonials are powerful and should be all we need to say to support the fact that a SOTF trial would be completely safe in HC. After all, the rules of the universe are no different in HC than in any other town on LBI.

There were three sources of data for our analysis.

First, Casey mentioned data we collected from other LBI town's outside the flag surfing programs.

The second source of data is from HC's own SOTF experience at Bergen, Maris Stella and 86th St. As follow-up to our request, Harvey Cedars's Lifeguard Captain provided us with safety information regarding HC's SOTF surfing and any related items. The feedback data showed there were zero issues at the existing SOTF areas. There was no supportable data regarding surfers hitting swimmers, no surfers leashes wrapped around swimmers necks, no lifeguard rescues of surfers recorded, and there were no significant safety issues whatsoever.

The third source of data is from the surfers in this room that represent 200 years of surfing experience. I've got 50 years, Jamie has 40 years, Walt has 40 years, Gary has 20 years, and I can look at 5 other guys, and pretty soon you're up to 200 years.

I want to ask these guys a question.

*Have you ever been rescued by a lifeguard while you were surfing, or witnessed a lifeguard saving a surfer on our beaches?*

*Have you ever hit a swimmer, or witnessed a surfer hitting a swimmer?*

The last question I want to ask is, *Have you ever rescued a swimmer while surfing?*

Anyone who has surfed in this town for number decades has rescued people. Dozens of people were witness to the day where Jamie saved the life of an unconscious swimmer he found face down in the water well outside the lifeguard flags on 86th St. that required resuscitation, and ultimately was medevacked. The guy was literally on death's door and is alive only because Jamie found him while surfing during guarded hours.

Barnegat Light has recognized the importance of having more surfers in the water and is starting a program to train surfers to assist BL lifeguards. If a swimmer gets pulled out by rip current, surfers can be there first and provide a flotation device to a distressed swimmer. It gives the lifeguard a better chance to get there in time and execute the rescue. It's a brilliant program and I expect that other towns are going to adopt it.

We have done our research, and we're unable to find any data which supports the position that surfing will create a dangerous environment for swimmers. However, let's talk for a moment about a more serious safety issue confronting HC lifeguards, *bodysurfing*. In 2014, a body surfer broke his neck on 80th st while being guarded right between the flags. Between 2010 to 2014, we also had a handful of medivacs each summer due to spinal injury from body surfing. Additionally, there's the constant risk to swimmers of getting pulled out by rip currents.

As a town, we don't restrict bodysurfing or preclude people from swimming when there's rip currents, which are proven to be dangerous, so we're not clear why HC continues to restrict surfing when there's no record of any significant safety issues. HC's Lifeguard Captain was concerned beginner surfers would ultimately pose a danger to swimmers, to which we reply that the majority of beginner surfing activity (particularly with small children) will be done at low tides in relatively placid conditions; days without much current and at a generous distance away from any swimmers.

Our group would like to ask the larger question: What safety issues have arisen on our beaches before 10am and after 5pm over the 50 plus years from taxpayer and visitor surfing?

*The answer to that is we've been teaching our kids to surf for the last 50 years on these beaches with no recorded lifeguard rescues and no significant safety issues.*

If there were issues, I'm pretty sure we'd know about it as a result of our local surfers' 200 years of experience. We also surf in and amongst swimmers before 10am and after 5pm, and we don't hit them or wrap our leashes around the necks of swimmers-never. So saying this will become an issue overnight is completely unrealistic.

**Jamie Whitesell:**

One of the initial concerns the Harvey Cedars administration expressed was the potential of increased township liability. I'm obviously not a lawyer, but during our research we found ample NJ case law concerning township immunity available under the NJ Tort Claims Act as it relates to "Section 59:4-8 - Condition of unimproved public property— immunity" and "Sections 59:3-5 and 59:2-4 - Adoption or failure to adopt or enforce any law." I'll refrain from making any attempt to interpret the law or reference specific cases, but suffice to say, the NJ Supreme Court has rendered decisions which largely immunize a municipality from swimmer/surfer injuries and subsequent claims due to the ocean's natural conditions, of which the government cannot no control. Additionally, the NJ Tort Claims Act also provides immunity to a township or township employee regarding enforcement of safety ordinances and regulations. I'd add that it's difficult to ascertain our own local ordinance regarding surfing as there's really no basis to go from.

**Mike Kramer:**

To be clear we're talking about surfing at our own risk outside the flags with no lifeguards. SOTF does not require extra lifeguards, and did not require extra guards in other towns. SOTF will therefore, not incur any added costs to the town. Other town's officials have assured us that surfers are not a distraction.

Could a surfer rescue be required someday? There's a remote possibility of that, but we'd hope this wouldn't be enough justification to keep a whole town from surfing. If that were HC's inclination, we should also limit bodysurfing instantly because the probability is almost 100% that someone's going to get injured doing that.

The value of having surfers in the water as extra eyes out there to help swimmers far outweighs any theoretical and or minor distractions that the lifeguards might have to deal with.

The only days parking could be an issue would be on red flag days, of which the township already has historical and recent experience. As I mentioned, there were just several red flag surf days this summer. Traveling Surfers typically cross the bridge and go south to Beach Haven or Holgate during large north swells, or they may decide to land in Ship Bottom or Surf City to save drive time and patronize commercial retail (restaurants, stores) after their surfing sessions. It's less likely that average day-trippers come into Harvey Cedars, and when they do, they'll typically go to Hudson Avenue to utilize Sunset Park's parking, or Bergen Avenue, which is likely HC's busiest SOFT beach. It's even less common for visiting surfers to come into the middle of Harvey Cedars. So whatever hypothetical crowding we'd see parking-wise, would be something we're already familiar with for years without SOTF. If it was a real problem, I know our police chief would have addressed the issue. No issues were reported with regard to this concern from data given to us by the Lifeguard Captain or Chief of Police. The same argument applies to concerns with surfer misbehavior. If there were issues, we would have seen them over the years, and as far as I know, there's nothing significant that couldn't be easily controlled by our police chief, so we feel this is not an issue.

We asked HC's Lifeguard Captain about this specifically, and he has no data or safety information which can be specifically attributed to topography. I have a master's degree in geology with a focus on Coastal geology which includes much about beach topography, beach profile, sediment movement, currents, etc. and I can tell you that barrier islands are very consistent in their wave action up and down the island. The only places on the island which could have greater effects would generally be Barnegat Light or Holgate near inlet areas. There would be no way to say there's any measurable difference in safety from beach to beach otherwise. This is a non-issue also, and should not be used to scare people, particularly when surfers' boards ultimately act as floatation devices. Additionally, with the burying of our jetties due to recent replenishment projects, potential safety issues associated with the rocks are no longer relevant.

**At this point, 4:30pm, the Mayor paused the presentation to conduct the regular meeting of the Board of Commissioners.**



**ATTACHMENT #2**  
**October 6, 2017 Minutes**

**At 4:40pm after the regular meeting, Mayor Oldham excused himself and Commissioner Gerkens presided the rest of the meeting. She gave the floor back to Mike and Jamie.**

**Jamie Whitesell:**

After several mutually acceptable edits during good faith efforts between the surfing group and township administration to create a non-binding taxpayer voting flyer, the final edit by the administration introduced hypothetical situations. After our follow-up comments, we were informed the flyer would remain as-is, and be sent mid-October to taxpayers. We're hopeful the survey is adjusted as a result of today's presentation. We feel the survey's current form which includes taxpayer trigger phrases such as "*may need guarding staff to be increased leading to a budget or a badge fee increase*" and "*with the potential for more transient surfers, oceanside street parking, already at a premium, could be overburdened*" will deny any true measure of an accurate taxpayer poll if it's the basis of moving forward with a trial, as it does not provide residents context for one, when discussing the town's need to increase badge fees. Consequently, if the trial's dictated by the current survey and its results, Harvey Cedars surfing families and their friends, Petition signers and supporters from LBI and beyond, may have a difficult time accepting this ruling. Again, we're talking about unguarded areas outside the flag surfing. We asked the question of numerous towns, and no one added guards to handle this, and we shouldn't have to either.

**Mike Kramer:**

In conclusion, we're looking forward to HC approving and implementing a SOTF trial in 2018. The trial should include surfing on both sides of guard stands on multiple beaches, and be unguarded. Anything other than this would be like adding another designated surfing beach which is not what we're asking for, and would defeat the whole purpose of this exercise.

The Mayor and Commissioners have done a great job over the years running our town, and as far as I can tell, Harvey Cedars's decisions have been made based on facts and empirical data, not based on gut or arbitrary judgments. We're looking for that same level of consideration here.

As our township administration turns to the Lifeguard Captain for his views, we're hopeful the council board will hear the Lifeguard Captain agreeing with his own safety data that he provided to us (which shows surfing to be without incident), in addition to the positive safety record and lack of incident data provided from other towns, and he approves of the trial.

On the other hand, if Harvey Cedars' Lifeguard Captain remains opposed to the proposed trial, we believe it would be warranted to make the township administration, as well as taxpayers, aware of the outstanding issues, and more importantly the facts and data supporting those reservations.

If we keep the decision process based on supportable facts and empirical evidence then we will arrive at a fair resolution of this issue. This will keep the process open and honest. Anything less than that will be unfair to the thousands of taxpayer families and visitors to HC who would like to surf in proximity to their homes or rental properties. These people pay thousands in taxes and rent and simply want the same access to surfing in our ocean for their families that is enjoyed by everybody else on Long Beach Island. Additionally, SOTF has no negative impact on non-surfer taxpayers.

**Jamie Whitesell:**

We say in conclusion, our beaches have changed, surfboards have changed, and the definition of a surfer will continue to change. Harvey Cedars tax-paying surfers, their families, and friends, may cover every cross-section of profession and walk of life, but we all love Harvey Cedars and want the best for our community and our kids. The Harvey Cedars wave-riding community has been stewards of our beaches for generations. We protect it and those who visit. We respectfully ask the administration to stop regulating this aspect of our lives.

**Mike Kramer:**

We thank you all for your time and consideration, but now we'd now like to know:

*What is the decision process going forward?*