

November 3, 2021

A regular meeting of the Board of Commissioners of the Borough of Deal, New Jersey was held on November 3, 2021 at 9:00 A.M. This meeting was conducted via Teleconference with the Board of Commissioners only meeting in person.

Mayor Cohen led the salute to the flag.

It was stated that in conjunction with the "Open Public Meeting Law", p.l. 1975 ch. 231, a notice required by this statute has been satisfied as per a resolution passed on December 9, 1997 at 5:05 P.M. at Borough Hall at a regular meeting of the Board of Commissioners, Borough of Deal, and Monmouth County, New Jersey.

MaryAnne Cronheim, 88 Monmouth Drive, stated that the agenda was not available this morning on the website and the meeting was not properly noticed. Paul Fernicola, Borough Attorney, stated the meeting was noticed at the beginning of the year and the meeting was properly noticed. A copy of the agenda was shared via zoom to all participants. Isaac Dweck, 21 Poplar Avenue stated the Agenda was available last night and he obtained a copy.

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

It was moved by Commissioner Simhon, seconded by Commissioner Ades and carried that the minutes of the previous meeting held on October 1, 2021 be approved as recorded.

Ordinance 1242 to adopt new Employee Personnel Practices was introduced on October 1, 2021 and the public hearing is scheduled for today, November 3, 2021. Mayor Cohen moved to open the meeting to public comment on Ordinance #1242, seconded by Commissioner Simhon and approved. The Mayor invited public comment. There were no comments from the public and the public session was closed by the same vote.

ORDINANCE #1242

An Ordinance Establishing Procedures to Adopt Personnel Practices and authorizing the Borough Administrator to implement Said Practices with all Officials, Appointees, Employees, Prospective Employees, Volunteers, and Independent Contractors of the Borough of Deal

Commissioner Ades moved to adopt Ordinance 1242, seconded by Commissioner Simhon. Roll Call: Ayes 3; Cohen, Ades & Simhon.

Ordinance 1243 to amend Chapter X Traffic Regulation was introduced by Commissioner Ades, seconded by Commissioner Simhon. Roll Call: Ayes 3; Cohen, Ades & Simhon.

Public Hearing for this ordinance will be given on December 1, 2021 at 9:00 A.M.

ORDINANCE 1243

**AN ORDINANCE AMENDING CHAPTER X OF
"REVISED GENERAL ORDINANCES OF
THE BOROUGH OF DEAL, 1982"
Vehicles and Traffic**

**THE BOARD OF COMMISSIONERS OF THE BOROUGH OF DEAL
HEREBY ORDAIN:**

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Section 1. That Chapter X, Vehicles and Traffic, of the "Revised General Ordinance of the Borough of Deal, 1982 be and it hereby is amended in the following particulars:

Section 2. Subsection 10-14 **Parking Prohibited at All Times on Certain Streets** is amended to read as follows:

<u>Name of Street</u>	<u>Sides</u>	<u>Location</u>
Alleyway and (1 st west of Route NJ 71 (Norwood Avenue))	West	Between Brighton Avenue and Campbell Court.
	East	From the northerly curb line of Brighton Avenue to a point 50 feet northerly therefrom.

Section 3. This Ordinance shall take effect upon passage and publication according to law.

The following Resolutions were discussed and enacted:

Commissioner Ades offers the following Resolution:

Resolution 21-126

A RESOLUTION WITH REGARD TO CANCELING CAPITAL ORDINANCES

WHEREAS, certain General Capital Improvement appropriation balances remain dedicated to projects now completed: and

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balances may be credited to Capital Fund Balance, and unused debt authorizations may be canceled:

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Borough of Deal that the following unexpended and dedicated balances of General Capital Appropriations be cancelled:

ORD No.	DATE AUTH.	PROJECT DESCRIPTION	AMOUNT CANCELLED FUNDED	AMOUNT CANCELLED UNFUNDED
1115	5/08/15	Various Improvements to Brighton Avenue Drainage		\$285,432.56

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Ades offers the following Resolution:

Resolution 21-127

AUTHORIZING THE FINANCE OFFICER TO CANCEL GRANT APPROPRIATION RESERVES AGAINST GRANTS RECEIVABLE, SURPLUS AND SUCH OTHER ACCOUNTS AS APPROPRIATE

WHEREAS, the Chief Finance Officer has informed the Borough Committee of the need to cancel grant appropriations prior to year-end, and

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WHEREAS, the following grants are complete and the appropriation balances no longer needed to be maintained on the books and records of the Borough of Deal, and,

WHEREAS, the Chief Finance Officer recommends that the following adjustments to the books and records of the Borough be made.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Deal, that the adjustments, appearing below, being a permanent part hereto, are hereby made.

2021
CANCELING GRANTS

<u>NAME OF GRANT</u>	<u>APPROPRIATION</u>	<u>CANCEL TO OPERATIONS</u>
Over the Limit	3,204.80	3,204.80
Distracted Driver	5,500.00	5,500.00
TOTAL	8,704.80	8,704.80

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

Resolution 21-128

WHEREAS, The Uniform Shared Services and Consolidation Act (C.40A:565-1, et seq.), authorizes local units of this State to enter into a contract with any other local unit(s) for the joint provision within their several jurisdictions of any service, which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, the Borough is to provide for the preparation of yearly revisions to the tax map under New Jersey State law N.J.A.C. 18:23A-1.1.

WHEREAS, each physical description of a parcel of land drives the mass-appraisal calculation of the land portion of its property tax assessment, and land data inaccuracies and errors lead to poor distribution of the annual tax levy, potentially resulting in years of tax bill overpayments and underpayments; and

WHEREAS, a County-to-Municipality shared services program would provide map conversion and maintenance services, ushering in the transition from analog to a Countywide standard of state-certified digital tax maps for all 53 municipalities; and

WHEREAS, the intent of the digital tax map shared services program is to reduce municipality costs in complying with the law and provide for the most up-to-date GIS parcel layer and tax map data for public and government stakeholders; and

WHEREAS, this service provides the Borough with numerous benefits, including: anticipated cost-savings through economies-of-scale; reduce cost to comply with state regulations and standards; transition from analog to state-certified digital maps; streamlined editing and ongoing maintenance procedures; more consistent and accurate municipal and County-wide information; unprecedented assemblage of data made available to taxpayers,

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municipalities and the County; and seamless flow of tax information into GIS and additional information systems.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Deal, that the Borough of Deal does hereby join with County of Monmouth in the iTaxMap / Collaboration Center System; and

BE IT FURTHER RESOLVED by the Board of Commissioners of the Borough of Deal, that authorization is granted for the Mayor and Borough Administrator to sign the shared service agreement.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

Resolution 21-129

WHEREAS, The Borough of Deal has recorded a Conservation Restriction / Easement with the Monmouth County Clerk's Office on March 9, 2021 as Instrument Number 2021036861 in Deed book OR-9488, pages 7629, total pages 24; and

WHEREAS, The Borough of Deal along with the NJ Department of Environmental Protection wishes to amend this easement; and

WHEREAS, the Municipal Attorney and members of the NJ DEP have worked on the amendment and come to an agreement on the amended Conservation Restriction / Easement; and

WHEREAS, the amended Conservation Restriction / Easement must be recorded with the Monmouth County Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Deal, that the Amended Conservation Restriction / Easement be approved; and

BE IT FURTHER RESOLVED by the Board of Commissioners of the Borough of Deal, that authorization is granted for the Mayor to sign the Conservation Restriction / Easement and file the amended document with the Monmouth County Clerk's Office.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

Resolution 21-130

WHEREAS, the State's CY 2021 / SFY 2022 Best Practices Inventory Questionnaire is required to receive the Municipality's final 5% of State funding; and

WHEREAS, the Borough Administrator and Chief Financial Officer have completed the Inventory and have provided the Board of Commissioners with a copy of said document; and

WHEREAS, a review of this Inventory has been discussed at the regular meeting of the Board of Commissioners on November 3, 2021.

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NOW, THEREFORE BE IT RESOLVED BY THE Board of Commissioners that the Best Practice Inventory results were discussed and be filed as required with the State of New Jersey.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Ades offers the following Resolution:

Resolution 21-131

WHEREAS, it is the policy of the Borough of Deal to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations including, but not limited to Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, the Age Discrimination in Employment Act, the Equal Pay for Equal Work Act, the Fair Labor Standards Act, the New Jersey Law Against Discrimination, the Americans with Disabilities Act, the Family and Medical Leave Act, the Conscientious Employee Protection Act, the Public Employee Occupational Safety and Health Act, (the New Jersey Civil Service Act,) (the New Jersey Attorney General's guidelines with respect to Police Department personnel matters,) the New Jersey Workers Compensation Act, the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) and the Open Public Meeting Act; and

WHEREAS, the Board of Commissioners has determined that there is a need for personnel policies and procedures to ensure that employees and prospective employees are treated in a manner consistent with these laws and regulations.

NOW, THEREBY, BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that the Personnel Policies and Procedures Manual attached hereto is hereby adopted.

BE IT FURTHER RESOLVED that these personnel policies and procedures shall apply to all Borough of Deal officials, appointees, employees, volunteers and independent contractors. In the event there is a conflict between these rules and any collective bargaining agreement, personnel services contract or Federal or State law, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail.

BE IT FURTHER RESOLVED that this manual is intended to provide guidelines covering public service by the Borough of Deal employees and is not a contract. The provisions of this manual may be amended and supplemented from time to time without notice and at the sole discretion of the Board of Commissioners.

BE IT FURTHER RESOLVED that to the maximum extent permitted by law, employment practices for the Borough of Deal shall operate under the legal doctrine known as "employment at will."

BE IT FURTHER RESOLVED that the Borough Administrator and all managerial/supervisory personnel are responsible for these employment practices. The Municipal Attorney shall assist the Borough Administrator in the implementation of the policies and procedures in this manual.

Seconded by Commissioner Simhon

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Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

Resolution 21-132

WHEREAS, the Borough of Deal, it's residence and guests enjoys the Beaches along the Atlantic Ocean; and

WHEREAS, the Army Corps of Engineers and the New Jersey Department of Environmental Protection entered into an Interlocal Agreement to provide for a beach replenishment program to maintain a level of protection; and

WHEREAS, The Borough of Deal last underwent beach replenishment by the Army Corps of Engineers in 2015; and

WHEREAS, the 2015 project, entitled " SANDY HOOK TO BARNEGAT INLET SECTION I – SEA BRIGHT TO OCEAN TOWNSHIP, ELBERON TO LOCH ARBOUR REACH, NEW JERSEY HURRICANE AND STORM REDUCTION PROJECT NUMBER 6072-I" was a joint partnership by the Army Corps of Engineers, New Jersey Department of Environmental Protection, and the Borough of Deal; and

WHEREAS, the beach replenishment in 2015 helped to restore the condition of the beach and provided a level of protection, has suffered a series of significant storm events that have eroded the beaches; and

WHEREAS, the Board of Commissioners has decided that construction of the Project, in conjunction with the NJ DEP, is in the best interest of the municipality and the property and citizens thereof; and

WHEREAS, the NJ DEP, requires that the Municipality enter into a State Aid Agreement for construction of the Project; and

WHEREAS, the passage of a resolution authorizes the Mayor, Borough Administrator and Municipal Attorney negotiate and execute a State Aid Agreement which would enable the Project to proceed without dealt in the Borough.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal, that it hereby requests that the Army Corps of Engineers hereby undertake a beach replenishment project for the Deal Beaches to restore the level of protection, and preserve and protect the upland residents and infrastructure of the Borough of Deal; and

BE IT FURTHER RESOLVED by the Board of Commissioners that the Mayor is hereby authorized to execute a State Aid Agreement once reviewed by the Municipal Attorney between the State of New Jersey and the Borough of Deal.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Simhon offers the following Resolution:

Resolution 21-133

WHEREAS, the Borough of Deal is required to provide animal control services to the residents of the Borough; and

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WHEREAS, there is no one qualified neither in the Borough's employment nor is there any way to handle these animals; and

WHEREAS, the Borough of Deal wishes to enter into a shared service agreement with the Monmouth County SPCA per N.J.S.A. 40A:65-1 et seq which authorizes the Borough of Deal to enter into a contract for the provision of certain governmental services; and

WHEREAS, the Borough and Monmouth County SPCA recognize that a sharing of said services would result in a cost savings for the Borough of Deal.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Deal, that the Mayor is hereby authorized by the governing body of the Borough to execute a Shared Service Agreement for 2022 with the Monmouth County SPCA for the purpose of Animal Control and the Borough Clerk to attest to the Agreement.

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon

Commissioner Ades offers the following Resolution:

Resolution 21-134

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

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

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that payroll and associated deductions for the period ending November 30, 2021 be approved in the amount not to exceed \$300,000.00; and

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

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

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

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

A report of the disbursement checks for the Municipal Court for the month of October was received from Krystal Reiner.

A notice of survey work was received from JCP&L for the Allenhurst – Elberon Reliability Project beginning around November 1, 2021.

A notice of public hearing was received from JCP&L for approval of an advanced Metering Infrastructure and to establish a new rate component of its Rider RRC.

A letter was received from NJNG advising of the update to their customer Bill of Rights.

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A letter was received from the District 11 Assembly representatives congratulating the Borough on being approved for beach restoration.

A letter was received from the NJ Department of Transportation advising the Borough was approved to receive funding from FY 2022 Municipal Aid Program for Improvements to Brighton Avenue in the amount of \$271,200.00

A letter was received from Monmouth Custom Builders requesting permission to demolish the residence at 18 Sydney Avenue and construct a new single family residence.

Commissioner Ades offers the following Resolution:

BE IT RESOLVED, by the Board of Commissioners of the Borough of Deal, New Jersey that the following bills reported by the finance committee be ordered paid and vouchers drawn for same as listed on page 21-11 of the Warrant Register in the amount of \$549,291.81.

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

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

No communications were received 24 hours prior to the meeting to be read during the public comment.

Barbara Coffey, 85 Norwood Avenue, asked the Board of Commissioners about the beach replenishment, Mayor Cohen stated the Borough is receiving replenishment from the Army Corp, there will be meetings shortly on the particulars but should be starting shortly. Ms. Coffey also asked about the equipment in the Conover Lot, she was advised it is possibly for the beach replenishment but we are attempting to find out. Ms. Coffey asked on the update on the Pier and the Deal Casino, Mayor Cohen stated that he has not looked into the pier lately due to working on the Deal Casino, which is moving along and responses to NJDEP are being sent. Ms. Coffey asked about the sale of the properties, Paul Fernicola, Borough Attorney, stated that he will be updating the Commissioners in closed session but there may be a possible settlement.

MaryAnne Cronheim, 88 Monmouth Drive, asked the Board of Commissioners if the settlement agreement will become public. Mr. Fernicola stated that once finalized the agreement will become public.

Katie Williams, Wanamassa, asked the Board of Commissioners if there were any parking changes for the 2022 Deal Casino season. Mayor Cohen stated there were no changes. Mrs. Williams asked if there were any uses of the pool, Mayor Cohen stated the Barracudas and was not aware of any others at this time.

Richard Dweck, 21 Poplar, stated that there is a shed located on Borough property next to his residence. Mr. Dweck was advised that the Borough would look into it and take care of it.

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

The following resolution was discussed and enacted:

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Commissioner Ades offers the following Resolution:

Resolution 21-135

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

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

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

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

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

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

The Board of Commissioners entered into closed session to discuss potential litigation a personnel matter at 9:38 A.M.

The Commissioners returned to open session at 10:10 A.M.

The following Resolutions were discussed and enacted:

Commissioner Ades offers the following Resolution:

Resolution 21-136

WHEREAS, the Borough of Deal has been involved in an extensive litigation with the Littoral Society which litigation has venue in the Superior Court of New Jersey, Law Division, Monmouth County; and

WHEREAS, the aforementioned litigation primarily involves property owned by the Borough of Deal at Neptune Avenue; and

WHEREAS, after extensive discussions and negotiations by and between the parties a Settlement Agreement has been reached which will provide for the termination of litigation and therefore a termination of litigation expenses; and

WHEREAS, the Borough believes that the Settlement Agreement is in the best interest of the taxpayers of the Borough.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that the Borough accepts and approves the Settlement Agreement as presented by the Borough Attorney; and

BE IT FURTHER RESOLVED that the Borough authorizes and directs the Mayor, Borough Administrator and other listed employees to execute any and all necessary documents in order to implement the intent of this resolution.

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

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Commissioner Ades offers the following Resolution:

Resolution 21-137

WHEREAS, Joseph Santorelli, was appointed Superintendent of Public Works on December 1, 2016; and

WHEREAS, the Borough of Deal has received a letter of resignation from Joseph Santorelli on November 3, 2021; and

WHEREAS, the Board of Commissioners and the Borough Attorney has reviewed the resignation letter.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Deal that the Borough accepts the resignation letter and approves the resignation of Joseph Santorelli effective immediately.

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades & Simhon

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

MaryAnne Cronheim, 88 Monmouth Drive, asked about the specifics of the settlement agreement. Paul Fericola, Borough Attorney read the settlement agreement. Commissioner Ades also stated the payment that would be received and new access stairs would be paid for by the homeowner, Mr. Chera.

It was announced that the next meeting of the Board of Commissioners, which will be on Wednesday, December 1, 2021 at 9:00 A.M.

There being no further business or comments, it was moved by Mayor Cohen and seconded by Commissioner Simhon that the meeting be adjourned at 10:15 A.M.

SC _____

MA _____

DS _____

Clerk