

**MINUTES OF BOARD OF COMMISSIONERS
WORK SESSION AND REGULAR MEETING
JUNE 22, 2016**

The Work Session of the Board of Commissioners of the Borough of West Cape May was called to order by Mayor Kaithern at 7:00 PM. The Open Public Meetings Statement was read by Mayor Kaithern who then led those present in the flag salute. Mayor Pamela Kaithern, Deputy Mayor Peter Burke, and Commissioner Carol Sabo answered roll call. Also in attendance: Borough Clerk Elaine Wallace, Deputy Clerk Theresa Entead, and Solicitor Frank Corrado.

WORK SESSION

OLD BUSINESS

NFIP Community Rating System: Nothing new to report

Naming Street in Honor of Mayor Jack Vasser: Nothing new to report

Property Maintenance Regulations: The Solicitor is working on a draft ordinance.

Food Truck Regulations: The Solicitor is working on a draft ordinance.

Construction Office Options: This discussion was tabled at this time.

NEW BUSINESS: None

Mayor Kaithern reviewed the Consent Agenda. The Work Session portion of the meeting was adjourned at 7:16 PM and the Regular Meeting convened at 7:16 PM.

CONSENT AGENDA: On motion of Commissioner Sabo, seconded by Deputy Mayor Burke, the following Consent Agenda was unanimously approved on roll call vote.

Minutes: June 8, 2016 Work Session and Regular Meeting

Ordinances for Introduction and Publication: None

Resolutions:

102-16 Insertion of Special Item of Revenue Pursuant to N.J.S.A. 40A:4-87, Chapter 159 – NJ State Community Forestry, Volunteer Fire Assistance \$3,775

103-16 Release of Unexpended Escrow Fees – Bernard Dera Jr.

104-16 Insertion of Special Item of Revenue Pursuant to N.J.S.A. 40A:4-87, Chapter 159 – Alcohol Education Fund \$423.04

105-16 Bill Payment

106-16 Closed Session: Pending Litigation – Affordable Housing

NON-CONSENT AGENDA

ORDINANCES FOR SECOND READING AND PUBLIC HEARING:

510-16 An Ordinance Amending the West Cape May Zoning Ordinance Regarding Front Porches

Mayor Kaithern opened the public hearing. When no one wished to speak, the public hearing was closed and Deputy Mayor Burke made a motion, seconded by Commissioner Sabo, to adopt Ordinance 510-16. The motion was carried unanimously on roll call vote.

511-16 Refunding Bond Ordinance Providing for the Funding of an Emergency Appropriation to Provide for the Funding of a Litigation Settlement of the Borough of West Cape May, in the County of Cape May, New Jersey, Appropriating \$300,000 Therefor and Authorizing the Issuance of \$300,000 Refunding Bonds or Notes of the Borough for Financing the Cost Thereof

Mayor Kaithern opened the public hearing.

David Cicchitti, Berlin PA, asked for background information on what transpired with the case. Solicitor Corrado gave a brief overview of the case, but explained the Borough would not re-litigate the case at this time. Mr. Cicchitti, as a West Cape May farm owner, felt he was being mistreated.

Gene Dempsey, 421 Fourth Avenue, asked if the Borough could have offered a tax reduction for the farm instead of having to bond for a settlement. Carol Sabo stated the Borough suggested that option, but it was rejected by the plaintiff.

Gary Hawthorn, 433 Third Avenue, wanted to know if the citizens would be paying for the settlement. Mayor Kaithern explained that was the purpose of the bond. Mr. Hawthorn wanted to know who made the decision to deny the winery due process. Solicitor Corrado explained the case did not go to trial and the settlement was reached without any finding of liability for either party. Mr. Hawthorn asked how the Borough could safeguard against something like this happening in the future, stating something serious must have been done to award a settlement of \$550,000. Deputy Mayor Burke explained suit was filed for \$1.9 million in damages and if the case went to court and even \$1 was awarded in damages, the Borough would have to pay all legal costs and fees which would surely have exceeded the amount of the settlement. Mr. Hawthorn wondered if having to pay the settlement would prevent the Borough from being able to afford necessary projects. Mayor Kaithern explained most project are done using grant funding, rather than through local taxes. Lastly, he asked if taxpayers would be able to recognize the portion of the settlement they

must pay. Mayor Kaithern explained the Borough is hoping to pay the bond over 5 years, with the average homeowner paying roughly \$61.78 in the first year.

Jane Robinson, 1318 Alderton Ln Silverton MD, asked how mediation worked. Solicitor Corrado explained the purpose is to negotiate a settlement and avoid going to trial. Ms. Robinson asked if there was any other way to finance the settlement, possibly through the sale of public land or some other solution. Mayor Kaithern explained the Borough is always looking for ways to keep taxes down and the Borough will look for other ways to avoid having to bond for the entire amount. Deputy Mayor Burke also mentioned the possibility of selling the remaining liquor license. Lastly, Ms. Robinson asked for an explanation of how bonding works.

DeeDee McMahon, 310 Pacific Ave, asked what the interest rate will be on the bond. The Borough won't know until it goes out to bid, but normally they are extremely low. She was advised to contact the clerk's office for the most recent bond rate because that information wasn't on hand.

John Francis 314 Sixth Avenue, applauded the Board on settling the matter, even though neither party is ever happy with a settlement. He again asked the impact on the taxpayers. He also asked how much the Borough's insurance company paid. They are paying \$275,000 of the settlement, plus they've paid the Borough legal counsel.

Hillary Pritchard, 144 Stevens Street, expressed sadness that the matter had to come to this and the entire community has to bear the cost of one person's actions. She felt the Board has done a lot to keep the rural quality of the community.

Chris Isenhardt, 139 Stimpson Lane, shared the frustration of suit and the settlement.

Barbara Hoepf, 509 Fourth Ave, Unit 2, has lived in West Cape May since 1988 and expressed appreciation for the work the Board has done over the years.

Jim Labrusciano, 127 Myrtle Avenue, asked what the consequences of the settlement will be. Deputy Mayor Burke recapped that the cost would be roughly \$61.78 per year per property over five years.

Janet Payne, 202 Atlantic Avenue, asked with settlement is part of it that they can't come back and sue the Borough again.

Jim Malley, 325 Fourth Avenue, asked questions about how much the winery pays in taxes and how many people it employees, but the Borough did not have firm figures for him. Mr. Malley felt the Borough should be encouraging businesses to come to West Cape May and expects other wineries to be opened. He also asked the Borough to investigate the construction permitting process to make sure that everything is being done properly, since that was one of the main claims of the litigation.

Kevin Celli, 148 Briarwood, North Cape May, was pleased to see so many people attending the meeting. As the farm director, viticulturist and winemaker at Willow Creek Winery, he spoke on the difficulty the litigation has been for the winery and how misinformation turned people against it and caused investigations by various state agencies. He argued the details of the easement agreement and the rights that Barbara Wilde has to use her property. He asserted that the wine is grown, processed and sold on the property making it an agricultural business. He invited everyone to come see the beautiful, successful business the winery is. He hopes the settlement puts an end to the trouble and difficulties.

Lucille Romano Hawthorn, 433 Third Avenue, asked what the interest rate will be on the bonds. Mayor Kaithern explained that won't be know for sure until they go out to bid, but they are usually extremely low. She invited her to call the Clerk's Office to find out what the most recent rate was.

When no one else wished to speak, the public hearing was closed and Commissioner Sabo made a motion, seconded by Deputy Mayor Burke, to adopt Ordinance 511-16. The ordinances was approved on roll call vote with Mayor Kaithern abstaining.

512-16 An Ordinance Amending the West Cape May Zoning Ordinance to Regulate Signs

Mayor Kaithern opened the public hearing. When no one wished to speak, the public hearing was closed and Deputy Mayor Burke made a motion, seconded by Commissioner Sabo, to adopt Ordinance 512-16. The motion was carried unanimously on roll call vote.

513-16 Ordinance Re-appropriating \$26,367.50 from Ordinance 374-06 in Order to Provide for the Acquisition of a New Tractor for Public Works by the Borough of West Cape May, in the County of Cape May, New Jersey

Mayor Kaithern opened the public hearing. When no one wished to speak, the public hearing was closed and Commissioner Sabo made a motion, seconded by Deputy Mayor Burke, to adopt Ordinance 513-16. The motion was carried unanimously on roll call vote.

COMMISSIONER REPORTS

Commissioner Sabo thanked Public Works and the Volunteer Fire Company for the fabulous job they did keeping the town clean and safe during the recent storm.

Deputy Mayor Burke also thanked Public Works, Police, Emergency Management and the Volunteer Fire Company. Mr. Burke reminded everyone of the Red Cross Blood Drive scheduled for July 14th from noon to 5 pm.

Mayor Kaithern announced the Farmers Market begins next Tuesday, June 28th.

PUBLIC PORTION: No comment

When no one wished to speak, the meeting was recessed into closed session at 8:35 pm and reconvened at 8:44 pm on motion of Deputy Mayor Burke, seconded by Commissioner Sabo.

There being no further business, the meeting was adjourned at 8:44 pm on motion of Deputy Mayor Burke, seconded by Commissioner Sabo.

Respectfully submitted,

Elaine L. Wallace, RMC, CMR
Municipal Clerk