

**MINUTES OF BOARD OF COMMISSIONERS  
WORK SESSION AND REGULAR MEETING  
JULY 8, 2020**

The Work Session of the Board of Commissioners of the Borough of West Cape May was called to order by Mayor Sabo at 7:00pm. The Open Public Meetings Statement was read by Mayor Sabo who then led those present in the flag salute. Mayor Sabo, Deputy Mayor Burke and Commissioner Francis answered roll call. Also in attendance: Municipal Clerk Suzanne Schumann, Solicitor Gillin-Schwartz and Engineer Ray Roberts.

**ENGINEER'S REPORT**

**WORK SESSION**

**OLD BUSINESS**

**LOSAP:**

Ordinance 584-20 being introduced and will be added as a referendum on the November General Election ballot.

**Low Income Residents:**

Commissioner Francis indicated that the Stockton, California program has expanded to eleven (11) additional cities throughout the United States. Solicitor Gillin-Schwartz stated that Newark is working on a PILOT program where they are offering \$250/month to 500 randomly selection residents. Solicitor Gillin-Schwartz mentioned that this type of program is less of a legal matter and more of the ability of the municipality with the goals of the program being considered.

Deputy Mayor asked if this program was being implemented by larger municipalities and Commissioner Francis replied saying yes. Commissioner Francis indicated that there is a network of mayors who are seeing funding and was hoping that West Cape May would be a part of that network. Mayor Sabo stated that she is happy to participate in any way possible.

**COVID-19 - Coronavirus Discussion:**

Mayor Sabo spoke of the technology issues with Zoom and that she is happy to be back to in-person meetings, with the help of the small and mighty group. Clerk Schumann provided an update on Borough Hall operations, including the proactive measures being taken with cleaning and sanitizing between meetings, daily operations and events. Mayor Sabo mentioned the lack of news coverage at this meeting due to concerns and stated that a meeting recording can be provided if requested.

**Request for Vehicle Storage – 258 Sixth Avenue:**

Solicitor Gillin-Schwartz reviewed Resolution 96-20 which is on the agenda for approval.

## **NEW BUSINESS**

### Request for Street Opening Hardship – 200 Morrison Avenue:

Marcello Mogavero came before the Commissioners to request to open Morrison Avenue during the summer moratorium to connect utilities for a home which he built and has under contract for sale. Mr. Mogavero read a letter from the potential buyers and stated that he would like to proceed as soon as possible, should the request be approved. Mr. Mogavero stated that there were scheduling conflicts in December when the original permit was issued which is why there is now a hardship request, as there is no overhead electric hookup available, so the street is needed to be opened to connect to this utility. Mr. Mogavero indicated that the opening would be approximately 30' across and 2-4' wide and that no traffic disruption was anticipated.

Clerk Schumann questioned whether this utility opening would be for electric connection only or if water connection would be done as well. Engineer Roberts stated that if the same contractor was doing the work for both connections, then a revised application would have to be submitted.

Mayor Sabo questioned whether there was a permit for a street opening approved in December 2019. Mr. Mogavero stated that there was a permit issued and due to scheduling conflicts, the work was not completed. Deputy Mayor Burke stated that he does not believe that an inconvenience is considered a hardship. Solicitor Gillin-Schwartz explained the process of hardship requests and that each request is reviewed and discussed on a case-by-case basis and also provided example hardship scenarios. Solicitor Gillin-Schwartz also stated that should new information become available, then the request can be presented again for consideration. Commissioner Francis questioned the several excuses being presented as hardships and Mayor Sabo commented that dropping the ball is not considered a hardship.

Commissioner Francis asked if there was an impact on the potential buyer. Mr. Mogavero indicated that the buyer would not be able to purchase until after Labor Day and that he is unsure as to the buyer's financial status and indicated that the property would not be able to sell until the utilities are connected and a CO is issued to the property. Deputy Mayor Burke further questioned the scheduling of the contractor and why the utilities were not connected when applied for in December and Mr. Mogavero was unsure as to the contractor's schedule and why the work was not completed. There was question as to whether COVID had an impact on the work not being completed and it was discussed that there was no impact on this work being done, other than maybe a couple of weeks.

Norm Roach, Zoning Officer, reminded the Commissioners of a previous discussion regarding whether street openings would be considered beyond Memorial Day due to COVID-19. Mr. Roach stated that there was no delay in processing applications during the pandemic.

The Board of Commissioners took a verbal vote on whether to approve the hardship request: Deputy Mayor Burke voted NO, Commissioner Francis voted NO, Mayor Sabo voted NO

Mr. Mogavero stated that he believes the decision is biased based on Mr. Roach's comments and recent circumstances.

Drainage Concerns – 312 Sixth Avenue:

Sharyn Mead spoke of her concerns with drainage and flooding, which she also referenced in an email to the Municipal Clerk dated June 14, 2020. Ms. Mead spoke of work which had to be done to her property to help prevent flooding on her property. Engineer Roberts stated that he went to the site and suggested the installation of curbing to direct excess water flow to an area that is less prone to puddling. Mr. Roberts indicated that there are several factors involved and that it will not be an easy fix. It was stated that if the drainage systems are not working due to high water, it is not something that can be fixed and if its clogged with branches and silt, then the system would have to be reconstructed to allow water to recharge. Engineer Roberts also suggested that the Public Works Director borrow a camera from another municipality to view the drainage and determine whether there is a clog in the drainage system. Engineer Roberts indicated that he would follow up with the Borough's Public Works Director to schedule this so that a further determination can be made on how to proceed.

Purdue Bankruptcy:

Solicitor Gillin-Schwartz stated that this would be a light lift to file a consolidated claim in the Purdue Pharma Bankruptcy case. Solicitor Gillin-Schwartz gave an overview of the background of this case and the impact of opioids in our community. Commissioner Francis inquired as to what the money could be used for, should a monetary award be granted. Solicitor Gillin-Schwartz indicated that the money would be a revenue to the Borough and can be used as deemed appropriate. Mayor Sabo suggested developing a program for prevention. The Commissioners agreed for the Solicitor to complete and file claim by July 15, 2020.

**PUBLIC PORTION**

Susan Hoffmann, Shade Tree Commission Secretary, spoke regarding a 70' Oak tree on Morrison Avenue which was approximately 100 years old and was removed about a week ago without approval. Ms. Hoffman inquired about the procedure and course of action for the violation of the tree removal. Mayor Sabo stated that there will be consequences for the loss of the tree, including court summonses issued to the contractor and property owner. Mayor Sabo encouraged Shade Tree members to attend the court hearing to emphasize the importance and value of the tree to the community. Mayor Sabo spoke of the Zoning Officer's involvement in the beginning stages of this home building project to save the tree.

Mayor Sabo stated that she would like to see stronger consequences for the individuals who do not follow the guidelines for tree removal and understands and shares the frustrations involved when this type of situation occurs. Mayor Sabo mentioned that she is open to suggestions for enforcement and consequences to matters being handled with total disregard.

Solicitor Gillin-Schwartz reminded the Commissioners and public that any person who owns property or wishes to purchase property can review the Borough Code. It was further stated that the fines in our Code are the maximum fines allowed, pursuant to Title 40.

Susan Hoffman stated that the Shade Tree Commission has a sub-committee who is reviewing the Ordinance for changes to add more teeth, including options other than fines which could be

an impact to the community. Ms. Hoffman mentioned that she plans to present to the Commissioners next month for review with the input on the Solicitor requested as well.

Wayne Hoffman, Shade Tree Commission Chairperson, stated that according to the formula in the Ordinance, the value of the tree is approximately \$11,000 and questioned the maximum fines being \$2,000 in Court. Mr. Hoffman questioned who decides on the amount of the fine. Solicitor Gillin-Schwartz stated that the Judge has the option to review the facts to determine the appropriate fine and possible jail time.

Mr. Hoffmann mentioned that the Shade Tree Commission is considering a “three strikes your out” policy where there are fines involved before prohibiting a company to do work in the Borough. Solicitor Gillin-Schwartz stated that it is something that would have to be reviewed further. Solicitor Gillin-Schwartz discussed the potential of other options which can be used in a case such as this.

Mayor Sabo questioned the legality of being able to prohibit businesses who disregard the local code and stated that business is encouraged, but with responsible and ethical development without willful disregard of the restraints in place.

Norm Roach, Zoning Officer, questioned if the contractor taking down the tree should have been a licensed for tree removal through the state, or since it was a construction project could it have been a contractor who is not licensed. Solicitor Gillin-Schwartz stated that the Zoning Officer has the discretion to determine whether the contractor is sufficient for the project and has the authority to ask for references or determine that a tree removal application needs to be submitted.

The Work Session concluded at 8:52pm.

## **REGULAR MEETING**

### **CONSENT AGENDA**

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

#### Minutes:

June 24, 2020 - Work Session and Regular Meeting

#### Ordinances for Introduction and Publication:

584-20            An Ordinance Authorizing a Length of Service Award Program (LOSAP) in the Borough of West Cape May and Providing for a Public Question Concerning the LOSAP Program to be Placed Upon the Ballot of the Next General Election on the Borough of West Cape May, County of Cape May

Resolutions:

- 96-20 Approving Application for Permission to Store Vehicles Pursuant to Section 3-7.6 with Conditions
- 97-20 Reaffirming the Borough of West Cape May's Civil Rights Policy with Respect to all Officials, Appointees, Employees, Prospective Employees, Volunteers, Independent Contractors, and Members of the Public that come into Contact with Municipal Employees, Officials and Volunteers
- 98-20 Release of Unexpended Escrow Fees – Francis Walls
- 99-20 Release of Unexpended Escrow Fees – Kim Russell
- 100-20 Release of Unexpended Escrow Fees – Eileen McDonald
- 101-20 Closed Session – Potential Litigation
- 102-20 Bill Payment

**NON-CONSENT AGENDA**

Ordinances for Second Reading and Public Hearing:

NONE

Resolutions:

NONE

**COMMISSIONER REPORTS**

Commissioner Francis had nothing to report and had no update on the E-Waste event

Deputy Mayor Burke mentioned the Shade Tree Commission meeting on July 7<sup>th</sup> and a hope that it is the last meeting which has to be held via Zoom. Deputy Mayor Burke mentioned the Red Cross Blood Drive scheduled for July 16<sup>th</sup> from 12:00pm – 5:00pm at the Fire Hall.

Mayor Sabo had nothing to report.

**PUBLIC PORTION**

NONE

On motion by Commissioner Francis, seconded by Deputy Mayor Burke, the meeting entered into Closed Session at 8:59pm.

On motion by Commissioner Francis, seconded by Deputy Mayor Burke, the meeting returned to an Open Meeting at 9:36pm.

The meeting was adjourned at 9:37pm on motion of Commissioner Francis, seconded by Deputy Mayor Burke.

Respectfully submitted,

Suzanne M. Schumann, RMC  
Municipal Clerk