

**MINUTES OF BOARD OF COMMISSIONERS
WORK SESSION AND REGULAR MEETING
AUGUST 12, 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

Engineer Robert's Report also included discussion on surface options for the Oak Avenue and Goldbeaten Alley projects which are currently out for bid.

WORK SESSION

OLD BUSINESS

Low Income Residents:

Nothing new to report.

COVID-19 - Coronavirus Discussion:

Mayor Sabo stated that the County continues to monitor the daily COVID cases. Mayor Sabo mentioned that the Farmers' Market has had great compliance with the mask requirements and mentioned the change in venue for the Tomato and Lima Bean Festivals. Additionally, Mayor Sabo stated that she is open to suggestions on how to improve compliance and awareness within the community.

Review of Borough Code Sections 27-27.1 and 27-27.3 – Garages/Front Yards:

Solicitor Gillin-Schwartz reviewed the proposed Ordinance to add clarification that the Ordinance refers to both attached and detached garages. Engineer Roberts agreed that the language provides the necessary clarification as previously discussed.

NEW BUSINESS

750 Park Boulevard – Right-of-Way Driveway Surface:

John Kornick, Engineer for Applicant – Application approved by PZB for subdivision, condition of approval was for Commissioners to approve driveway apron due to extended right-of-way in area, due to historic railroad. Mr. Kornick provided plans for review by all members, showing the proposed 10' deep concrete driveway apron which would be 19' wide. Mr. Kornick stated that the Ordinance requirement is for a 15' wide apron and explained that a 19' wide apron would accommodate a flared section to protect pavement and driveway.

Engineer Roberts stated that the idea of the concrete apron is for endurance and to keep stone in the driveway rather than into the street. Mr. Roberts stated that the two points for the Commissioners to is to allow the concrete apron to go 10' back, rather than an additional 20'+ concrete length and the additional width of the apron to match existing grade. Mr. Roberts stated that he did not see a major issue with the tapering from the 15' to 19'.

Solicitor Gillin-Schwartz will prepare a resolution for the next meeting to memorialize the approval.

RSIS/Borough Parking Requirements:

Solicitor Gillin-Schwartz summarized that the Borough's Code regarding parking requirements/regulations for residential properties is not in compliance with the RSIS and that the RSIS supersedes local Code. Mayor Sabo believes that tying parking to bedrooms is comparing apples and oranges. Solicitor Gillin-Schwartz stated that an applicant can still come before the Planning Zoning Board and apply for a variance for parking requirements. Engineer Roberts stated that the Planning Zoning Board can grant approval for less parking spaces but cannot require more parking spaces. Engineer Roberts referenced an email from Solicitor Gillin-Schwartz from July 20th, stating that the R-1 Zone is not in compliance and differs from the other residential zones. Solicitor Gillin-Schwartz will prepare an amending Ordinance for review at the next meeting.

Borough Code Revisions – Maintenance of Trees within the Right-of-Way:

Solicitor Gillin-Schwartz stated that Title 40 allows municipalities to require a property owner to maintain right-of-way areas, including trees. Solicitor Gillin-Schwartz stated that the authority is there to require the maintenance and the Ordinance amendment will clarify such requirement and property owner responsibility. The amendment will be made to Section 17 of the Borough Code where it also states that sidewalks are the responsibility of the abutting property owner for maintenance. Solicitor Gillin-Schwartz mentioned that Section 17 will be tied into Section 30 which would still require an application be filed should a property owner wish to remove the tree in the right-of-way. Mayor Sabo questioned whether Title 40 had to be referenced in the Ordinance. Clerk Schumann stated that Chapter 40 is referenced in the beginning of the Resolution, although it does not affect the enforcement.

Deputy Mayor Burke questioned whether language needed to be added to clarify the dividing line or measurement in an alley or right-of-way area. Deputy Mayor Burke gave a hypothetical scenario whereas a question as to who would be responsible for asking to remove a tree. Solicitor Gillin-Schwartz discussed the petition for a tree removal which should be the responsibility of the person who owns or maintains the tree. Clerk Schumann stated that the application asks for the property owners name, as well as signature stating that the information on the application is accurate. Clerk Schumann further stated that when the Zoning Office receives the application, Norm can verify that the owner information is accurate. There was discussion as to the dividing point in the middle of an alley or right-of-way to determine the responsible property owner and it was suggested that language be added to the Ordinance to clearly define the dividing point to avoid any potential confusion or questions.

Bill Oetinger, Shade Tree Commission Member, asked for clarification on trees, specifically within the right-of-way of Borough Hall Alley, and questioned the liability aspect in the event of injury or damage. Solicitor Gillin-Schwartz spoke of the immunities available for both the Borough and property owners in the event of a lawsuit. Deputy Mayor Burke stated that there would be minimal chances due to lack of access to the alley area. Mr. Oetinger also questioned the liability aspect of doing work to trees while on Borough property, right-of-way. Solicitor Gillin-Schwartz

suggested consulting with personal legal counsel for any questions on potential liability. Deputy Mayor Burke said that doing maintenance work to trees within the alley or right-of-way would be the same as walking on the sidewalk or down the street within the right-of-way.

Wayne Hoffman, Shade Tree Commission Chairperson, questioned wording "... in the sidewalk", suggested wording to read "... in the right of way". Mr. Hoffman also questioned the wording in Section 17-2.5, suggested adding "... and tree care assessment" to the sidewalk wording. Mr. Hoffman further suggested having money set aside in the budget for tree maintenance within the Borough, in light of an upcoming project which will include a full tree inventory and the enormous amount of tree work which needs to be completed in the Borough. Clerk Schumann stated creating a priority list of work which needs to be done and mentioned that \$50,000 as an added line item in the budget is unrealistic. Solicitor Gillin-Schwartz suggested this topic being discussed during next years budget

PUBLIC PORTION

Wayne Hoffmann, commended the Borough's Prosecutor, Stephen Barry, for work done in a recent municipal court matter.

The Work Session concluded at 8:36pm.

REGULAR MEETING

CONSENT AGENDA

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

Minutes:

July 22, 2020 - Work Session and Regular Meeting

July 22, 2020 – Closed Session

Ordinances for Introduction and Publication:

NONE

Resolutions:

- 110-20 Accepting the Corrective Action Plan
- 111-20 Refund of Property Tax Overpayment - 302 Atlantic Avenue; Block 40, Lot 1.02
- 112-20 Application for FY2021 Drug Enforcement and Demand Reduction (DEDR)
Grant Funds
- 113-20 Authorizing Notice to Bidders for Solid Waste and Recyclable Materials
Collection Services
- 114-20 Bill Payment

NON-CONSENT AGENDA

Ordinances for Second Reading and Public Hearing:

NONE

Resolutions:

NONE

COMMISSIONER REPORTS

Mayor Sabo offered Condolences to former Commissioner Lare and his family, after Commissioner Lare's son, Luke, recently passed away in a tragic drowning accident.

Mayor Sabo announced the cancellation of the 2020 West Cape May Community Christmas Parade. Mayor Sabo mentioned that it would be impossible to ask for donations from business who have been financially impacted by the pandemic, along with the other regulations and restrictions and the consideration of the community's health and wellness.

Commissioner Francis commended the Public Works Department for their work done after the recent storm.

Deputy Mayor Burke stated that the blood drive exceeded their goal, mentioned the upcoming Community Shred Day scheduled for August 22nd from 10:00am until 2:00pm. Deputy Mayor Burke also mentioned the loss of Banquet Hall rentals at the Volunteer Fire Company and suggested making any donations possible.

Mayor Sabo stated that the Volunteer Fire Company responded to 37 calls during the day of the storm and strongly encourages donations to be made.

PUBLIC PORTION

NONE

The meeting was adjourned at 8:43pm on motion of Commissioner Francis, seconded by Deputy Mayor Burke.

Respectfully submitted,

Suzanne M. Schumann, RMC
Municipal Clerk