

**MINUTES OF BOARD OF COMMISSIONERS  
WORK SESSION AND REGULAR MEETING  
MARCH 10, 2021**

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 Frank Corrado, Chief Dekon Fashaw and Engineer Jim Oris.

**ENGINEER'S REPORT**

**WORK SESSION**

**OLD BUSINESS**

COVID-19 - Coronavirus Discussion:

Mayor Sabo mentioned the Board of Health meeting held earlier in the evening, as well as the improving vaccination efforts. Mayor Sabo gave a reminder that masks and hand sanitizer are available in the Borough Hall Lobby for anyone who may need the supplies. Commissioner Francis mentioned community members who are helping with those who need assistance with getting vaccination appointments. Deputy Mayor Burke reminded everyone to protect yourself and others.

Amending Noise Regulations:

Solicitor Corrado prepared a draft Ordinance which would penalize landlords who continually rent to disruptive tenants. Mr. Corrado stated that if a landlord receives 3 violations within a 24-month period, they are subject to a hearing and could have their mercantile license suspended or be required to post a bond to cover municipal costs for enforcement and violations. This Ordinance will be scheduled for introduction on March 24<sup>th</sup>.

Zoning Ordinance Amendment – Principal Uses:

Solicitor Corrado reviewed concerns from Planning/Zoning Board Solicitor Rich King about when a site plan review would be required. Solicitor Corrado believes that the Ordinance, as written, provides adequate protection for the Borough. Mr. Corrado stated that the Ordinance can be amended in the future, if needed.

Legalization of Marijuana:

Solicitor Corrado provided the Commissioners with a memo from the League of Municipalities which indicated that each municipality has the ability to limit or opt-out of five of the six categories. Delivery cannot be regulated by the municipality, as that category will be regulated by the State. The municipality has the option to review zoning regulations relative to areas, hours of operation, and the number of facilities. Mr. Corrado indicated that the State is giving municipalities until August 22, 2021 to adopt an Ordinance, otherwise the next amendment period will not be for five (5) years. If an Ordinance is not adopted, then

automatically the activities would be permitted in industrial zones and retail would be conditionally approved in commercial zones. Solicitor Corrado suggested that the Commissioners start to consider the terms they would like to include in the Borough's Ordinance, including what they wish to allow versus not allow and where they would like to allow said activities. Solicitor Corrado confirmed that these activities, such as retail, would be for those who have obtained a license from the State of New Jersey.

Mayor Sabo spoke of the need for a "cultivator" to have property to cultivate on and the need for the Ordinance to regulate the size of a property for cultivating. Mayor Sabo asked who is regulating the property size requirements: state or municipality? Mr. Corrado indicated that there has been no guideline from the State on that yet. Mr. Corrado asked that the Commissioners decide on which of the five (5) categories they wish to allow, as a first step of the process, then which districts in the Borough the activities can take place in. Mr. Corrado expects more directive to be available in the upcoming months.

Mayor Sabo discussed the potential tax revenue which would be available for West Cape May to collect on some of the categories if permitted within the municipality. Ms. Sabo stated that there is no source of revenue in West Cape May other than property taxes and is thinking that this could be a source of revenue for the Borough to consider.

#### January 2021 Cape May City Water Bill:

Solicitor Corrado stated that he has not received an update on this matter. Mayor Sabo stated that the City of Cape May has yet to acknowledge the correspondence which was sent to them regarding the matter.

#### **NEW BUSINESS**

##### Request from WCME PTO – Food Truck Festival Fee:

The Commissioners reviewed the request presented by the PTO. The Commissioners took into the consideration that a previous request for a fee waiver by a local church was denied and Solicitor Corrado stated that this would be a "slippery slope" if approved, after previously denying another. Clerk Schumann mentioned the revenue aspect of these fees which help in covering park maintenance and if one organization is granted a fee waiver, the others will follow with requests. The Commissioners agreed to deny the request for the fee to be waived.

##### Flooding Concerns – Third Avenue (212 Third Avenue/Goldbeaten Alley):

Leonard McKenzie and Michael Taurisano appeared before the Commissioners relative to the concerns of the drainage on Third Avenue which they previously expressed concerns about in August 2018. They also expressed concerns with the reconstruction of Goldbeaten Alley, stating that the Alley remains flooded for an extended period of time after a rainfall. Their final concern was relative to a trench which was dug on their property by the Contractor of Goldbeaten Alley which has not been filled in and causes excess water to drain onto their property. Engineer Oris stated that the contractor has a punchlist of items to finish before the

project is complete, including remediation to the trench. Mayor Sabo stated that the reconstruction to the alley is an improvement to the previous surface which would be mud and ruts after rain. Ms. Sabo also spoke about the clover that will be planted which will also act as a pollinator. Deputy Mayor Burke mentioned the positive feedback received from other residents on the alley improvements. Engineer Oris mentioned the high-water table this time of year which causes excess flooding in many areas.

Flooding Concerns – Third Avenue (400 Block):

Gary Hawthorn and Fred Fellmeth appeared before the Commissions relative to concerns of water draining onto the back of their properties from the neighboring wetlands area. Mr. Hawthorn thanked Deputy Mayor Burke on the invite to the meeting to address his concerns, and also thanked Dave Carrick for his ongoing attention to the problem. Mr. Hawthorn asked if it was a possibility for the Borough to construct a berm to keep the water from the wetlands area away from the neighboring properties. Engineer Oris stated that a permit application would be required to be submitted to the NJDEP for the construction of the berm. Engineer Oris gave his opinion that the permit would most likely not be approved by the NJDEP.

Mayor Sabo spoke of the ongoing flooding concerns and concerns of water intrusion not only in West Cape May, but on Cape Island, global issued and property specific issued as well. Mayor Sabo stated that she hopes to have infrastructure improvements within the next five (5) years.

Mr. Fellmeth stated that he understands the long-term issues and that there is no quick or easy solution. Mr. Fellmeth recognized the efforts of everyone involved and asked the Borough to keep an open mind, in the event they would like to pursue an application to the NJDEP.

**PUBLIC PORTION**

NONE

The Work Session concluded at 8:13pm.

**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:

February 24, 2021 – Work Session and Regular Meeting

Ordinances for Introduction and Publication:

NONE

Resolutions:

- 55-21 Authorizing an Emergency Temporary Appropriation for the Operating Budget
- 56-21 Authorizing an Emergency Temporary Appropriation for the Water Sewer Budget
- 57-21 Acceptance of Burgins Lane as a Municipal Street or Right-of-Way
- 58-21 Bill Payment

**NON-CONSENT AGENDA**

Ordinances for Second Reading and Public Hearing:

- 592-21 An Ordinance Amending Section 27-36 of the Borough Code Regarding Landscaping and Vegetation

*Mayor Sabo opened the public hearing. When no one wished to speak, the public hearing was closed and Commissioner Francis made a motion, seconded by Deputy Mayor Burke, to adopt Ordinance 592-21. The motion was carried unanimously on roll call vote.*

- 593-21 An Ordinance Amending Section 30 of the Borough Code Regarding Trees

*Mayor Sabo opened the public hearing. When no one wished to speak, the public hearing was closed and Commissioner Francis made a motion, seconded by Deputy Mayor Burke, to adopt Ordinance 593-21. The motion was carried unanimously on roll call vote.*

Resolutions:

NONE

**COMMISSIONER REPORTS**

Commissioner Francis had nothing to report.

Deputy Mayor Burke mentioned two upcoming events: Shade Tree Commission's Arbor Day Tree Giveaway in May and the American Red Cross Blood Drive on March 11<sup>th</sup> from 12pm-5pm at the West Cape May Fire Hall. Mr. Burke also stated that there are spring tree plantings available.

Mayor Sabo is excited for the Christmas Parade Fundraising Season. Ms. Sabo mentioned the June 19<sup>th</sup> Barbeque Fundraiser is first on the list. Ms. Sabo mentioned the free meals available at Willow Creek Winery, pick up location at LeGates Farm Market from 4pm – 5pm on Sundays. Mayor Sabo also spoke about the budget worksession meeting and awaiting confirmation of the amount of money West Cape May will be receiving as part of the federal government's COVID Relief Stimulus Bill.

**PUBLIC PORTION**

NONE

The meeting was adjourned at 8:21pm on motion of Deputy Mayor Burke, seconded by Commissioner Francis.

Respectfully submitted,

Suzanne M. Schumann  
Municipal Clerk