

**MINUTES OF BOARD OF COMMISSIONERS
WORK SESSION AND REGULAR MEETING
FEBRUARY 22, 2023**

The Work Session of the Board of Commissioners of the Borough of West Cape May was called to order by Mayor Sabo at 7:09 p.m. The Open Public Meetings Statement was read by Mayor Sabo, who then led those present in the flag salute. Mayor Sabo, Deputy Mayor Crawford, and Commissioner Dick answered roll call. Also in attendance: Municipal Clerk Theresa Entead, Solicitor Frank Corrado and associate Erika Lezama, Engineer Anthony Chadwell, and Finance Assistant/Purchasing Agent Lauren Vitelli.

OLD BUSINESS

Swimming Pool Ordinance

The Commissioners discussed and agreed to introduce Ordinance No. 621-23 “Amending Chapter 27 of the West Cape May Borough Code Regarding Swimming Pools”, as amended to remove section “n” which states:

- n. No more than eight (8) trees shall be removed for the construction of a swimming pool.
 - 1. In the event trees may be replanted in other areas of the property, and fewer than eight (8) trees are removed, then the construction of the pool shall not be prohibited.

Pesticides and Chemicals – Possible Limitations:

Mayor Sabo said review and discussion continue on this topic. The Environmental Commission (EC) shared its recommendations and the Commissioners would like more time to review those documents.

Deputy Mayor Crawford said a key point of the EC’s recommendations is a Borough-wide ban on individual-use of organophosphate and neonicotinoid pesticides, with an exception for farms. The other main point is an increase of the buffer size where pesticides may be used.

Solicitor Lezama will incorporate the recommendations from the EC into a draft ordinance.

Sewer on Second Avenue

Mayor Sabo said the Commissioners are still gathering information and discussing the possibility of an assessment ordinance.

Planet Networks Proposal for Fiber Optic Internet

After some discussion, the Commissioners agreed to table Resolution No. 54-23 “Approving Planet Networks Proposal to Provide Fiber Optic Internet in the Borough of West Cape May”. Mayor Sabo would like to know why the company decided to move to West Cape May from North Jersey. Solicitor Lezama will gather more information. In response to Mayor Sabo’s question about the Borough not being able to say no to their request, Solicitor Corrado confirmed the request could not be denied. Solicitor Corrado also said there was no need to rush into approval of a resolution. He said he would reach out to the Egg Harbor Township and Absecon solicitors for information about the arrangements they have made with Planet

Networks. Commissioner Dick expressed his concern that allowing Planet Networks to attach wires to the utility poles could possibly preclude another, perhaps more desirable company, from doing the same. He said according to the Planet Network representative's presentation at a prior meeting, "usable" space on the poles is limited.

At this time, Mayor Sabo asked Solicitor Corrado to provide an update on the initiative petition and its proposed amendment to the West Cape May Ordinance No. 603-21 "Permitting the Operation of Certain Cannabis Businesses in West Cape May". Solicitor Corrado said parties have agreed that the petition is invalid as a matter of law because it would constitute an impermissible amendment to the zoning ordinance by initiative; the Municipal Land Use Law forbids this. Accordingly, the parties stipulated to the dismissal of the lawsuit with an express acknowledgement that the petition was invalid as a matter of law. The matter is concluded.

NEW BUSINESS

CMC ARPA Infrastructure Grant

Mayor Sabo said the County Commissioners, at the Mayor's Roundtable Discussion on February 3, 2023, advised attendees of a new Cape May County American Rescue Plan Act (ARPA) Infrastructure Grant opportunity. She said the County will be granting up to \$400,000 to each municipality. She said municipalities can split the funds across more than one project and the funds can be used for projects already initiated as well as those not yet proposed. The Commissioners will identify a project, or projects, that will benefit the community. The application submission deadline is March 9, 2023.

Sale of Refuse Truck to Cape May Point

Mayor Sabo said there is a resolution to approve the sale of a Borough owned truck on the consent agenda. Solicitor Corrado added that a Bill of Sale will be attached to the resolution, which obligates the Borough of Cape May Point to complete the transfer work for the certificate of title.

PUBLIC PORTION

At this time, Mayor Sabo officially opened the meeting for Public Portion.

Fred Fellmeth, 437 Third Avenue, asked if the sewer installation is for Second Avenue only. He was advised it started with Second Avenue only but has been proposed to include McCullough Alley, Goldbeaten Alley, Morrison Avenue, and Third Avenue as well. He also asked for a list of properties that would be included.

Paula Rosenzweig, 415 Second Avenue, asked if the County infrastructure grant that was just discussed, could be applied toward the sewer installation. Mayor Sabo said grant money is usually applied toward capital improvements that benefit the entire community rather than only a portion of the community.

John Tahan, 412 Second Avenue, asked about timing of the sewer installation, whether it be by assessment or otherwise. Mayor Sabo said the topic is still in the research and discussion phase.

Solicitor Corrado said it would be difficult to assign an exact timeframe. He said an assessment would require introduction of a bond ordinance and that alone would take at least a month.

Wayne Hoffman, 408 Fourth Avenue, asked if section “n” and “n-1” will be stricken from the swimming pool ordinance before it is introduced. He also asked if additional information should be added. He was told section “n” would be removed and the additional information was not required.

Margaret Oleksiak, 828 Broadway, asked if the ARPA infrastructure grant funds could be used to offset water bills for residents. She was told that would not be allowed.

Paige Cunningham, 134 Third Avenue, asked if the ARPA infrastructure grant funds could be used for sidewalk reconstruction. She pointed out that only portions of Third Avenue were paved. Engineer Chadwell spoke about the Second Avenue project, which is currently in the construction phase, saying certain areas will not be paved to preserve trees. He offered to look at her property on Third Avenue to see if that was the case for her area as well.

Pam Kaithern, 207 Stevens Street, asked if the truck that was sold will be replaced. She was advised a new truck was purchased. She also asked about the direction of the proposed sewer line for Second Avenue.

When no one else expressed a desire to speak, the Work Session was concluded at 7:45pm.

REGULAR MEETING

Mayor Sabo opened the regular meeting and asked for a motion to remove Resolution No. 54-23 “Approving Planet Networks Proposal to Provide Fiber Optic Internet in the Borough of West Cape May” from the consent agenda.

On motion of Deputy Mayor Crawford, seconded by Commissioner Dick, and unanimously approved on roll call vote, Resolution No. 54-23 was tabled.

Mayor Sabo asked for a motion to amend Ordinance No. 621-23 “Amending Chapter 27 of the WCM Borough Code Regarding Swimming Pools” by removing section “n”.

On motion of Deputy Mayor Crawford, seconded by Commissioner Dick, the aforementioned motion was approved unanimously on roll call vote.

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

CONSENT AGENDA

Minutes:

February 8, 2023 – Work Session and Regular Meeting

February 8, 2023 – Closed Session

Ordinances for Introduction and Publication:

621-23 Amending Chapter 27 of the WCM Borough Code Regarding Swimming Pools
As Amended

622-23 Amending Chapter 19 of the WCM Borough Code Regarding Fess for Water Connection

Resolutions:

49-23 Authorizing a Special Event Permit to WCM Business Association – Wilbraham Park

50-23 Authorizing a Special Event Permit to Good Day for A Run LLC – Run the Vineyards
Willow Creek 8K

51-23 Authorizing the Sale of a Refuse Truck from the Borough of West Cape May to the Borough
of Cape May Point

52-23 Approving Water Adjustment Catastrophic Leak – 111 Yorke Avenue, Block 5 Lot 3

53-23 Appointing Membership to WCM VFC – Robert Lee Huish

55-23 Authorizing FMLA Payment Plan

56-23 Approving Bill Payment

NON-CONSENT AGENDA

Ordinances:

None

Resolutions:

None

COMMISSIONER REPORTS

Deputy Mayor Crawford had nothing new to report.

Commissioner Dick had nothing new to report.

Mayor Sabo thanked Borough Staff for their hard work.

PUBLIC PORTION

Mayor Sabo opened the meeting for public portion.

When no one expressed a desire to speak, Mayor Sabo closed the public portion.

The meeting was adjourned at 7:51pm on motion of Deputy Mayor Crawford, seconded by
Commissioner Dick.

Respectfully submitted,

Theresa Enteadó
Municipal Clerk