

**MINUTES OF BOARD OF COMMISSIONERS
WORK SESSION AND REGULAR MEETING
May 10, 2023**

The Work Session of the Board of Commissioners of the Borough of West Cape May was called to order by Mayor Sabo at 6:00 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, Deputy Clerk Erin Seer, Affordable Housing Planner Susan Gruel, Affordable Housing Counsel Erik Nolan, Solicitor Frank Corrado and associate Erika Lezama, Finance Assistant/Purchasing Agent Lauren Vitelli, and Engineer Anthony Chadwell and his associate Lia Domico.

OLD BUSINESS

Sewer on Second Avenue

Mayor Sabo said the Commission is still reviewing all the information.

Planet Networks Proposal for Fiber Optic Internet

Solicitor Corrado is still waiting on information from Mr. Haase. Nothing new to report.

NEW BUSINESS

COAH Obligations

Erik C. Nolan, Esq., Borough Affordable Housing Counsel, provided a brief history of his firm, Surenian, Edwards, Buzak, & Nolan LLC and said his firm specializes in Mt. Laurel Law.

Mr. Nolan discussed the 1975 Mt. Laurel case and the ruling that all municipalities in NJ have a constitutional obligation to deliver their fair share of low- and moderate-income housing. He said that little was done by the municipalities and in 1983 the Supreme Court issued a second decision and created what is called a "Builder's Remedy." Mr. Nolan spoke of the resulting lawsuits against municipalities throughout the state and the extremely dense inclusionary projects that were being submitted by developers, which led to a court decision to quantify the requirements. He discussed the enactment, in 1986, of the Fair Housing Act and the subsequent formation of the Council on Affordable Housing (COAH). He explained the COAH rounds of regulations and briefly described Sixth Street Partners "builders' remedy" lawsuit against the Borough.

Mr. Nolan said that in 2015, the Supreme Court abolished COAH, and directed the judiciary to supervise Mount Laurel compliance by municipalities. Mr. Nolan said West Cape May filed a declaratory judgement action in July 2015, and that in March 2018, after a properly noticed Fairness Hearing was held, the court approved West Cape May's Housing Element and Fair Share Plan. After the adoption of the plan there was a properly noticed Compliance Hearing. At the Compliance Hearing West Cape May's plan was approved by the Court and a conditional Judgement of Compliance and Repose was issued on August 31, 2018, and an Order was entered by the Court in in November 2018 that finalized the Borough's Judgement of Compliance and Repose.

Mr. Nolan spoke about the Borough's compliance, including the group home that was built and the accessory apartment program. He said in July 2020 the Borough did what is called a mid-point review. He said the Borough's still obligated under its compliance agreement to add two units of affordable housing by 2025.

Susan Gruel, Borough Affordable Housing Planner and Administrator, discussed the two-unit requirement. She said the Borough created a Mt. Laurel subcommittee in 2021 to review and discuss options to address the two-unit gap. She said the Borough re-marketed and advertised the accessory apartment program, but there was no interest. Ms. Gruel said there is a traditional option, known as an inclusionary development, where the town creates affordable units along with market units that subsidize the affordable ones. She said it was agreed that this was not a reasonable approach for West Cape May. She said the Borough wanted to create two units that would have the least impact on the surrounding area. The subcommittee discussed a partnership with Habitat for Humanity. Based on her experience in other towns that she represents, Ms. Gruel said Habitat for Humanity creates small units, single and duplex units, and could be a great option for a small number, like the two-unit gap in West Cape May.

On the borough's behalf, Ms. Gruel prepared a vacant land assessment to determine the Borough's Realistic Development Potential, or RPD, of 10. Ms. Gruel also did a separate analysis to ascertain where there were sites that could potentially be developed for affordable housing. She said the Willow Avenue property known as block 21.02, lot 27, best satisfied the Mount Laurel criteria: it is a vacant site, just under an acre, that could be developed for single family homes under the existing zoning.

Ms. Gruel said tonight's meeting is a first step in informing the public that a partnership with Habitat for Humanity is a possibility. If the Commissioners decide to move forward with the Willow Avenue property, there will be many more steps and requirements before the site is judicially approved for development. Ms. Gruel commended the Commissioners for providing this open public meeting and discussion.

Sarah Matthews, Executive Director of Habitat for Humanity Cape May County, Inc., presented a background on Habitat for Humanity and its mission. She said Habitat for Humanity is not a give-away program; those who purchase a home must obtain a third-party mortgage, provide a nominal down-payment, and pay property taxes and insurance. Ms. Matthews said applicants are carefully vetted. She said Habitat for Humanity, although founded by members of churches, is not a religious organization or entity. Habitat for Humanity does not engage in any religious activities, and they are registered with the IRS as a 501(c)(3) public charity.

Ms. Matthews said Habitat for Humanity is currently building affordable housing in Upper Township. She thoroughly explained the eligibility of applicants, cost of construction, loss per house, donation process, and construction process. Ms. Matthews said Habitat for Humanity believes that everyone should have a safe affordable place to call home. She presented a slide show of homes built in Cape May County.

Mr. Nolan reminded the public this was the first meeting and there will be many other opportunities for the public to listen and comment.

PUBLIC PORTION

At this time, Mayor Sabo opened the meeting for public comment.

Bob Callender, 1 Willow Avenue, full time resident since 2019. Mr. Callender would like to know what other sites are being considered. He feels there are other sites that are comparable to the Willow site.

Mr. Callender said there is currently already one moderate to low-income home on Willow Avenue, and he believes the low-income homes should be integrated throughout the community and not concentrated in one area.

Robert Gaskill, 703 Willow, said the Willow property was up for public auction a while back. He said bids were rejected and wanted to know why. He does not agree with affordable homes at this location.

Sarah Bernstein, 145 Stimpson Lane, said she grew up in West Cape May and the home she lives in was purchased by her parents for approximately \$80,000. She said West Cape May's roots are founded in black history. She would like to see local, working residents be able to afford to live in the community that they grew up in.

TJ Belasco, 297 Fifth Avenue, thanked Sarah Matthews for her presentation. He said he lives next to a low-income home and the group home is very close to his home as well. Mr. Belasco said he enjoys his neighbors and likes seeing his neighborhood opened up to more people. Mr. Belasco said he is on the school board in West Cape May and has witnessed too many children leave the school because their parents couldn't afford to stay or because the owner of their rental property decided they wanted to do seasonal rentals instead of a year-round rental. Mr. Belasco would like to see teachers, and managers in the service industry, be able to afford a home in West Cape May and he applauds the attempt to allow people to live in this community.

Cape May City Police Chief Dekon Fashaw, speaking as an individual, said he grew up in West Cape May and attended the local elementary school. He would like to see the word low-income housing replaced with affordable housing because of the negative stigma attached to the words "low-income". Chief Fashaw said this proposed project will address an affordable housing need, and provide people with the opportunity to live in a beautiful community. He said he was raised on Myrtle Avenue by his single mother because the owner of the home made the rent affordable. He believes residents should be proud to live next to these homes, no matter what street they are built on. Chief Fashaw reiterated that these are his opinions as a former resident of West Cape May, and not those of the Police Department.

Brian Lincicome, 19 Willow Avenue, said his property is directly across the street from the proposed site. He said his issue with this location has to do with the small, narrow, dead-end street. He said when cars are parked on the street, he can't exit his driveway. It is his belief that

two more homes will only exacerbate this situation. Mr. Lincicome thinks the Borough should find a more suitable site for the affordable homes.

Barbara Hoopp, 509 Fourth Avenue, said she bought her home 25 years ago and paid \$135,000 for it on her salary as a social worker. She would never be able to afford a home in West Cape May today. She thinks a Habitat for Humanity home in West Cape May could mean a family and children in the neighborhood, something she would love to see. Ms. Hoopp said there is already affordable housing on Pearl and Fifth Avenues and they are a part of West Cape May. She is in favor of the partnership with Habitat for Humanity.

Michael Riccio, spoke on behalf of his parents at 722 Maple Avenue. He has been reading minutes from the meetings and has noticed mention of flooding issues at almost every meeting since 2018. He isn't against creating affordable housing, but he believes the location should be re-considered. He said his father and mother were very concerned about the Burgin development and voiced their concerns about tree removal and flooding back then.

Mayor Sabo said the property will not be completely cleared of trees and the Borough has a Shade Tree Commission and a tree ordinance.

Mr. Riccio said replacement trees are never as large as those removed, and he is concerned for the birds that live in the trees on that property. He isn't against affordable housing, but he is not in favor of developing that lot.

Lynn Cutler, 720 Maple Avenue, said she bought her home in 2001 because of the privacy of the area. She was not happy with the Burgin development and feels the only tree protection left will be gone if homes are built on the Willow Avenue property. Ms. Cutler said she runs a non-profit organization and is aware of the need for diversity and affordable housing but she does not think Willow Avenue is the right place. Ms. Cutler asked the Commissioners to look at other properties or to possibly consider a duplex, not two single-family homes. She is also opposed to any further development in this area for any future affordable housing obligations.

David Hammond, 509 Fourth Avenue, said he is a construction volunteer for Habitat for Humanity as well as the President of the Board, and he is also a member of the West Cape May Shade Tree Commission. Mr. Hammond said, as a member of the Shade Tree Commission he helped draft the tree ordinance. He said the Shade Tree Commission members make every effort to save every tree possible. The ordinance now requires an arborist to inspect the property and approve trees that can be removed and trees that must be saved. He said there is also a requirement to protect the trees, and root systems of the trees, that will remain during construction. Mr. Hammond said he will be pleased, as a West Cape May resident, to help build affordable housing for this community.

Tom Sermarini, 711 Willow, said he lives 25 feet from the lot that the Commissioners are considering for development. Mr. Sermarini said the property is big enough to subdivide into three lots and he is concerned that a third home will be built for the next phase of obligations.

Mr. Sermarini asked if the Borough was being reimbursed for the property or if it was being given to Habitat for Humanity. Solicitor Corrado said if the property were conveyed, it would be conveyed for a nominal consideration. Mr. Sermarini suggested that the Borough sell the property to a builder. He said other sites should be considered. Mr. Sermarini expressed his concerns that property values could decrease and referenced a property on Fifth Avenue.

Mr. Sermarini asked Ms. Matthews how soon a homeowner could sell the property. Ms. Matthews responded that there is a thirty-year deed restriction. She added that Habitat for Humanity contracts include a first right of refusal clause.

Mr. Sermarini would like the Borough to consider other options regarding the location.

Scott Wolf, 277 Fifth Avenue, said it seems clear that the Borough must comply with the obligations. He believes one could argue pros and cons for any location. In his opinion, Habitat for Humanity would screen better than a mortgage company, and partnership with them is a good option for the Borough.

Linda Delgott, 246 Central Avenue, said she understands the obligations, but she does not understand how this location was chosen. In her opinion, the location may meet some criteria and check-off certain boxes but the changes to that area over the years should be considered. Ms. Delgott said she and others were under the impression the property would never be developed. She believes no one should be deprived of home ownership and applauds the effort to create affordable housing, however she does not think it should be concentrated in one area. She asked that the commissioners consider another location.

Myra Belasco, 297 Fifth Avenue, said she lives next to a low-income home and on the same street as the group home. When she purchased her home thirty years ago, there were only five other homes and an abundance of trees and now there are twenty homes and not many trees left. Ms. Belasco expressed her strong disagreement with the notion that her property has decreased in value because of the affordable housing on her block.

Linda Riccio, 722 Maple Avenue, said she does not oppose affordable housing, but she is opposed to the development of the Willow Avenue property. She said she was promised the lot would never be developed. She is very concerned about the preservation of the property.

Barry Brait, a friend of Lynn Cutler, owner of 720 Maple, expressed his concerns for the wild life, flora and fauna of West Cape May.

Paige Cunningham, 134 Third Avenue, is in favor of affordable housing in West Cape May. She wondered about the property at the West Cape May Elementary School.

Katherine Creenan, 635 Fourth Avenue, spoke in favor of the partnership with Habitat for Humanity. She believes the partnership will give the commissioners the opportunity to make a much-needed change in the community.

Clarence White, 732 Willow Avenue, said he has owned property in West Cape May for over 55 years. He asked that the Borough keep part-time property owners informed. He said he hopes the commissioners will do what is right.

Bob Hickey, 743 Maple Avenue, asked about the vacant land analysis and calculations, and how lots were excluded. Mr. Nolan responded and said the number of units wouldn't be challenged.

Carol Salinsky, 12 Willow Avenue, admitted she was shocked to hear that she was the low-income home on the street. She said she applied for the small cities grant to build a back porch. She said prior to the Burgin development those lots were a beautiful wildlife sanctuary that she enjoyed. She is in favor of a partnership with Habitat for Humanity. Ms. Salinsky shared her concerns regarding the narrow street.

Mayor Sabo closed public portion at 8:03 PM and announced that a five-minute break would be observed.

At 8:07 PM, on motion of Deputy Mayor Crawford, seconded by Commissioner Dick, the meeting returned to open session and continued with the New Business topics on the work session.

Change Order Request - McCullough Alley Drainage Improvements Project

Engineer Chadwell said the change order request is due to the requirement of an unidentified pipe.

R&V Engineering Services Proposal – Reconstruction of Fifth Avenue

Engineer Chadwell said this proposal is for engineering and construction services, including the arborist assessment, along Fifth Avenue from Bayshore to approximately 339 Fifth Avenue. The proposal includes grant funding in the amount of \$187,000 and \$400,000.

ENGINEER REPORT

Anthony Chadwell reviewed the monthly engineer report (attached).

PUBLIC PORTION

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

Pam Kaithern, 207 Stevens Street, asked about the Mt. Laurel subcommittee. She asked about the change order and the amount. She also mentioned an issue that occurred at Bayshore and Second Avenue after the water main flushing.

Giacomo Antonicello, 165 Leaming Avenue, asked about a possible demolition on Grand Street. Mayor Sabo said she will look into the matter.

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

REGULAR MEETING

CONSENT AGENDA

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

Minutes:

April 24, 2023 – Special Meeting – Sewer Assessment

April 26, 2023 – Work Session and Regular Meeting

Ordinances for Introduction and Publication:

None

Resolutions:

85-23 Approving Contract for Engineering and Construction Related Activities for the Reconstruction of Fifth Avenue (From Bayshore Road to 339 Fifth Avenue)

86-23 Authorizing Change Order # 1 for McCullough Alley Drainage Improvements at South Bayshore Road

87-23 Release of Unexpended Escrow Fees – Michael Tramutolo

88-23 Approving Bill Payment

NON-CONSENT AGENDA

Ordinances for Second Reading & Public Hearing:

627-23 An Ordinance Amending Chapter 30 of the Borough of West Cape May Code Regarding Specimen Trees

Mayor Sabo opened the public hearing.

When no one expressed a desire to speak, the public hearing was closed and Deputy Mayor Crawford made a motion, seconded by Commissioner Dick, to adopt Ordinance No. 627-23. The motion was carried unanimously on roll call vote.

628-23 An Ordinance Amending the Borough of West Cape May's Salary Ordinance (No. 360-06)

Mayor Sabo opened the public hearing.

When no one expressed a desire to speak, the public hearing was closed and Deputy Mayor Crawford made a motion, seconded by Commissioner Dick, to adopt Ordinance No. 628-23. The motion was carried unanimously on roll call vote.

Resolutions:

None

Proclamations:

June as Pride Month

COMMISSIONER REPORTS

Deputy Mayor Crawford said the World Series of Birding is happening on Saturday from midnight to midnight.

Commissioner Dick thanked the residents for their participation. He said the Shade Tree Commission planted about half of the trees that were purchased through a grant. This grant also provides three years of service to water and care for the trees to ensure their growth. Commissioner Dick mentioned the playground dedication and said the water flushing will continue until Saturday. He reminded everyone about the Borough-wide yard sale on Saturday and the Bulk Trash pickup for next Wednesday. Commissioner Dick said there will be Shred Day Event on Saturday May 20, 2023 from 9 am to 12 pm.

Mayor Sabo reminded the public that the Strawberry Festival will be held at Wilbraham Park on June 3, 2023. She also said the Farm Market starts on Tuesday June 20th.

PUBLIC PORTION

Mayor Sabo opened the meeting for public portion.

Linda Barr, 322 Fourth Avenue, was impressed with the turn-out for the meeting. She expressed her continued concerns regarding over-development and the preservation of the environment. She is not opposed to affordable housing. She asked that the commission look into purchasing a new sound system.

Paula Rosenzweig, 415 Second Avenue, asked if she missed any discussion regarding the Sewer installation for Second Avenue. Mayor Sabo said there was no discussion. Ms. Rosenzweig asked if the timeline for a decision is still the same. Mayor Sabo said they are carefully reviewing all of the information. Commissioner Dick agreed there is a lot of information to review and they do not want to rush to a decision. Ms. Rosenzweig asked about the 2015 Master Plan Review and questioned the relevance today.

Jerry Alloco, 318 Third Avenue, wanted the commissioners to know that the municipality is responsible for the collection of the cannabis tax. He asked that the ordinance be amended to provide detail surrounding the collection of the tax. Commissioner Dick said he is looking into the matter and the commission will address it.

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

The meeting was adjourned at 8:42pm on motion of Deputy Mayor Crawford, seconded by Commissioner Dick.

Respectfully submitted,

Theresa Enteadó
Municipal Clerk