

**MINUTES OF BOARD OF COMMISSIONERS
WORK SESSION AND REGULAR MEETING
JULY 22, 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.

WORK SESSION
OLD BUSINESS

Low Income Residents:

Commissioner Francis spoke with Mayor Lear in Cape May who expressed interest in the program and would like to speak with Cape May Point's Mayor as well. Commissioner Francis asked if Mayor Sabo would still be interested in joining this network and Mayor Sabo responded that she would be interested and asked Commissioner Francis to provide the contact information that is needed.

COVID-19 - Coronavirus Discussion:

Mayor Sabo stated that the necessary precautions are being taken in Borough Hall and with employees and asked if anyone has any suggestions to make it safer, please reach out to our staff. Mayor Sabo mentioned the Farmers' Market being halfway through the season and most attendees are in compliance with regulations which are required to be followed.

Request for Street Opening Hardship – 200 Morrison Avenue:

Marcello Mogavero, property owner, and Barry Moss, property purchaser, appeared before the Board of Commissioners. Mr. Mogavero stated that he would like to hire a contractor to mole under the street to connect the electric and that the water hookup is in the right-of-way and does not require the street to be cut. Mr. Mogavero believes that this would be a less intrusive manner to connect to electric, but still requires a street opening permit and approval from the Commissioners due to the summer moratorium. Mr. Mogavero explained the process of moling and that it would take less than 3 hours to complete.

Mr. Moss explained his lack of knowledge on the process and expected this request to be a done deal at the previous meeting, to then find out that the request was denied. Mr. Moss explained that due to COVID-19 his personal business closed and he was forced to use personal funds to cover business expenses, leaving an adjustment to his original plans on financing this new property. Mr. Moss stated that his bank has provided a 60-day rate lock which expires on July 27th. Mr. Moss explained that he originally expected to own the property in early July and be able to rent out for a few weeks to offset some of the costs and now leaves a question as to whether the financing will be extended beyond July 27th.

Clerk Schumann asked Mr. Mogavero if the street opening is the only item left in order to obtain a Certificate of Occupancy for the project. Mr. Mogavero stated that there is a checklist of items including inspections. Mayor Sabo asked for the status of the grading plan and Mr. Mogavero stated that plan has not yet been submitted and Mayor Sabo stated that the grading plan is a big item to still not have completed.

Mayor Sabo asked Engineer Roberts for any potential problems which could arise by moling under the street. Mr. Roberts stated that there is a possibility of a snag happening or equipment breaking which would require the street to be opened. Mr. Roberts stated that pits have to be drilled on both sides of the street and then filled in on the street. Mr. Roberts stated that he has not yet received grading plans.

Deputy Mayor Burke asked for a timeline on obtaining a Certificate of Occupancy. Engineer Roberts stated that the grading plans can take up to two weeks to review and approve; however, if there are changes which need to be made, the approval could take an additional two to four weeks. Mr. Mogavero stated that an original grading plan was not submitted because there were concerns relative to the septic placement and the tree which was mistakenly taken down. Mr. Mogavero stated that he has commissioned K2 Engineering to do the grading plan, anticipates that it could be submitted within a day and stated that in the past, Mr. Roberts has approved grading plans in less than two weeks. Mayor Sabo stated that a grading permit would have been required with or without a tree and Mr. Mogavero replied that it was depending on whether the tree could be saved with a different placement of the septic. Mayor Sabo confirmed that the tree was taken down several weeks ago and a grading plan has not yet been submitted.

Mayor Sabo stated to Mr. Moss that the purchase of second home is not considered a hardship by the Borough's Commission. Mayor Sabo further reminded everyone that the permit was originally issued in December and lapsed. Deputy Mayor Burke commented that the only reason there is a hardship is because there has been a buyer since Memorial Day and that Memorial Day weekend is when the summer moratorium goes into effect.

Solicitor Gillin-Schwartz summarized the process of a hardship which was discussed during the July 8th meeting, including the review on a case-by-case basis and involves looking at planning, timeline, reasonable alternatives and the consideration of the hardship. Mr. Gillin-Schwartz reviewed the new information presented at this meeting: new way of connection involving not cutting the street open and connecting water within the Borough's right-of-way, together with Mr. Moss's financial situation in regards to this purchase.

Mr. Mogavero explained that this request is being made on one of the quietest streets in West Cape May and most likely will not even have to open the street or disrupt traffic. Mayor Sabo stated that there are no street exceptions. Deputy Mayor explained that the request for change of opening the street is different than the financial and emotional hardship which Mr. Moss is experiencing. Mr. Mogavero mentioned the financial hardship on him and his family as a developer, as this is his way of being paid.

Mr. Mogavero referenced a conversation which he had with the Borough's Zoning Officer, Norm Roach, relative to relocating the septic system to save the tree. Mr. Mogavero stated that Mr. Roach did a tremendous amount of work but that Mr. Mogavero did not have intentions on paying additional funds for engineering a new septic design. Solicitor Gillin-Schwartz stated that the tree matter is a matter for the Shade Tree Commission, but the grading plan is part of the Certificate of Occupancy process which has an effect on this hardship request.

Mayor Sabo asked Zoning Officer Norm Roach to provide input on the timeline for obtaining a Certificate of Occupancy. Mr. Roach stated that the grading plan needs to be submitted to the Zoning Office for processing before being forwarded to the Engineer for review and then is returned back to the Zoning Office for final processing, which could take at least two weeks. Mr. Roberts stated that an "as built" is also required for review and approval.

Commissioner Francis stated that Mr. Mogavero always seems to be "dropping the ball" as this is the third attempt for an approval. There was discussion relative to the tree coming down on the property with Mr. Mogavero stating he was on-site that morning but was not at the property when the tree was taken down.

Solicitor Gillin-Schwartz recapped the conversation stating that the situation involving the tree is not part of this hardship request and that the factors being considered should be the planning, timeline, reasonable alternatives and impact of the hardship presented.

Commissioner Francis asked for confirmation that the new way for connecting utilities does not include opening the street. Mr. Mogavero stated that the opening for water will be in the right-of-way and the opening for electric would be under the street.

Clerk Schumann reminded Mr. Mogavero that two new street opening permits have to be submitted, along with the necessary fees for same, which then are required to be reviewed by the Engineer before the permits are issued.

Mr. Mogavero reiterated his request that his situation is different as it is a lower impact geographically which should be taken into consideration.

Mayor Sabo mentioned that the permit was issued in December, work was not complete and no motion was taken to extend the permit.

A verbal vote to approve the hardship request: Deputy Mayor Burke voted NO, Commissioner Francis voted YES and Mayor Sabo voted NO. During the vote, Commissioner Francis made comments that Mr. Mogavero dropped the ball on many issues but if the street is not going to be opened, then he would allow for it to happen.

NEW BUSINESS

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

Engineer Roberts reviewed two sections of the Borough Code which may require additional definition to be clarified so that the intent of the sections are clear to the general public. Engineer

Roberts suggested a 20' setback from detached garages with the exception of a corner lot which has access from a secondary street. Solicitor Gillin-Schwartz agreed with Mr. Roberts that there is not a conflict in the sections but that it could be made clearer to read that accessory structures and garages both have a 20' setback to any property line. Zoning Officer Norm Roach questioned if the property adjoins to an alley and Engineer Roberts stated that since they are considered a Borough right-of-way then the setback rule should apply. Solicitor Gillin-Schwartz stated that he will draft a revised Ordinance to include clearer language for clarification purposes.

PUBLIC PORTION

Sam Francis, 314 Sixth Avenue, West Cape May requested Black Lives Matter signage out front of Borough Hall and Wilbraham Park, based on the history of West Cape May and the previous large population of the black community. Mr. Francis believes that silence is equal to being against the support.

Mark Heany, 318 Jefferson Avenue, Cape May, proposed placement of the sign at the entrance of Borough Hall and one in Wilbraham Park. Mr. Heany stated that he concurs with the comments made by Mr. Francis.

Deputy Mayor Burke stated that the signage request for Wilbraham Park is the purview of the Shade Tree Commission.

Mayor Sabo mentioned the issues are about relationship building and that she is personally very forthright about her feelings on these. Mayor Sabo referenced the Oath of Office which all Commissioners took to abide by the Constitution of the United States and of the State of New Jersey. She believes the conversation is bigger than allowing signage and has been encouraged by the works which have been done and believes the conversation is getting louder and should be getting louder. Mayor Sabo stated that although the governing body 110% supports the message, she does not believe that the placement of the sign is appropriate on government owned property. Mayor Sabo would like to see an action plan for the message behind the sign and is willing to partake in moving the message forward.

Mr. Heany stated that he does not believe that West Cape May is against the Black Lives Matter movement. Mr. Heany discussed his personal connection to the movement and the request for a statement in the way of a small sign to know what is stood for in the community. Mr. Francis stated that he does not believe that the request is a political issue, but an issue within the society. Mr. Francis stated that he is happy that the conversation has started with local government.

Commissioner Francis stated that he is very proud of his son to make this request and that the request is about human rights and not politics. Deputy Mayor Burke agreed that it is a good discussion and that more people can be brought into the conversation. Deputy Mayor Burke questioned the legality of signage on Borough property.

Solicitor Gillin-Schwartz spoke about content regulation and the need for government to avoid any potential conflict. Solicitor Gillin-Schwartz mentioned the right of individuals to stand on public property and the difference of placing and leaving a sign. It was further stated that it is a matter of policy for the Borough, even though the message is support by the Commissioners.

Mr. Heany spoke of the ability for individuals to place signs on their property and was hoping for more of a community movement. Zoning Officer Norm Roach spoke of the Code relative to temporary signs including placement, sizing and sign prohibitions.

Mayor Sabo concluded the conversation stating that she wishes for this conversation to continue and spoke of recent demonstrations which have taken place in our community which the police have also been involved in.

Ray Roberts, as a member of the public, stated that the movement needs to be conversed about, in order to explain the Black Lives Matter for individuals who do not understand or know the meaning, which would provide more information than a sign would do. Mr. Roberts discussed his lack of knowledge of the movement as he has never felt or experienced what the black community has.

The Work Session concluded at 9:00pm.

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:

July 8, 2020 - Work Session and Regular Meeting

July 8, 2020 – Closed Session

Ordinances for Introduction and Publication:

NONE

Resolutions:

103-20 Authorization to Accept the Audit Report for 2019

104-20 Authorizing a Grant Agreement between West Cape May Shade Tree Commission and the State of New Jersey by and for the Department of Environmental Protection

105-20 Authorizing Consolidated Claim Filing in Purdue Pharma Bankruptcy Litigation

106-20 Extending Grace Period for Interest Payment on Tax Bills

107-20 Closed Session – Potential Litigation

108-20 Social Affairs Permit - WCMVFC

109-20 Bill Payment

NON-CONSENT AGENDA

Ordinances for Second Reading and Public Hearing:

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 NONE

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 584-20. The motion was carried unanimously on roll call vote.

Resolutions:

NONE

COMMISSIONER REPORTS

Commissioner Francis commended the Public Works Department on clearing the brush on Sixth Avenue and cleaning out the storm drain at 312 Sixth Avenue.

Deputy Mayor Burke stated that the blood drive exceeded their goal and spoke about the Fall Tree Planting being offered by the Shade Tree Commission.

Mayor Sabo requested that the Clerk provide a copy of the meeting recordings to the Cape May Star & Wave.

PUBLIC PORTION

NONE

On motion by Commissioner Francis, seconded by Deputy Mayor Burke, the meeting entered into Closed Session at 9:13pm.

On motion by Commissioner Francis, seconded by Deputy Mayor Burke, the meeting returned to an Open Meeting at 9:50pm.

The meeting was adjourned at 9:51pm on motion of Commissioner Francis, seconded by Deputy Mayor Burke.

Respectfully submitted,

Suzanne M. Schumann, RMC
Municipal Clerk