

**MINUTES OF BOARD OF COMMISSIONERS
WORK SESSION AND REGULAR MEETING
April 12, 2023**

The Work Session of the Board of Commissioners of the Borough of West Cape May was called to order by Mayor Sabo at 7:00 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 Enteadó, Solicitor Frank Corrado and associate Erika Lezama, as well as Engineer Anthony Chadwell.

ENGINEER REPORT

Anthony Chadwell reviewed the monthly engineer report (attached).

OLD BUSINESS

Pesticides and Chemicals – Possible Limitations:

Deputy Mayor Crawford said the Environmental Commission would like to continue conversations with the Commissioners. He said the State of New Jersey has adopted a new law that will take effect in October, and that will ban the use of neonicotinoid pesticides. Deputy Mayor Crawford recommended the Commissioners wait until the State law is effective before they consider passing local regulations regarding the banning of pesticides.

Sewer on Second Avenue

Mayor Sabo said there will be a special meeting to discuss sewer installation on Second Avenue. The meeting will take place at 732 Borough Hall on Monday, April 24, 2023 at 6:00 pm. This meeting is open to the public, and residents who would be affected have been notified.

Planet Networks Proposal for Fiber Optic Internet

Joseph Haase, of Planet Networks, introduced himself and provided a brief history of the company as well as the company's request for the use of the right-of-way in the Borough of West Cape May. Mayor Sabo asked what cost benefit Planet Networks provides. Mr. Haase said the cost is comparable to cable internet, however the service from Planet Networks is fifty times better.

Commissioner Dick said Fios is the same product, just a larger company, and asked Mr. Haase why Planet Networks chose West Cape May. Mr. Haase said West Cape May is part of a much bigger plan. He said Planet Networks offers products that Verizon and Comcast cannot, such as dedicated fiber, ALPR (automatic license plate recognition) systems for police departments, and a city-wide camera system. Mr. Haase went on to explain how having the right-of-way agreement from the Borough ahead of time is beneficial to his company's planning process.

Mayor Sabo asked how many other Cape May County Municipalities Planet Networks is seeking approval from. Mr. Haase said Ocean City and Corbin City.

Commissioner Dick asked about the timing from the approval to use the right-of-way to actual introduction of the product to consumers. Mr. Haase said he could not provide a time.

Solicitor Corrado asked Mr. Haase how many other Cape May County approvals they are seeking, pointing out that Corbin City is in Atlantic County. Mr. Haase said they are looking at Wildwood as well as Ocean City and West Cape May. Mr. Haase said Planet Networks has consent from Egg Harbor Township and Northfield.

The Commissioners expressed concern that giving approval to Planet Networks could possibly prevent competitors with less expensive options. Mr. Haase said technically Planet Networks request could not be denied. Mayor Sabo feels the approval could wait until Planet Networks is ready to move forward. Mr. Haase discussed a 60-day and 90-day timeline requirement in the statutes, and he offered to provide that section of the law to Clerk Enteadó.

Solicitor Corrado said the Borough is required by law, to provide Planet Networks with right-of-way access. He said the Borough can place reasonable conditions and restrictions on the approval but it cannot be denied.

NEW BUSINESS

Re-designation of Public Agency Compliance Officer (PACO)

Clerk Enteadó explained that although a resolution was recently approved designating a PACO for the Borough, knowledge of the requirements for that position, have made it necessary to designate another individual. Solicitor Corrado said the PACO must have certain financial authority. Mayor Sabo said a resolution is on the agenda for consideration.

MAC Garden Tour Stop at Wilbraham Park – Fee Waiver Request

Mayor Sabo said this is not an unusual request and insurance obligations and indemnifications would still be required. The Commissioners expressed they would be in favor of waiving the fee. The event is a walking tour of gardens in the community. A resolution will be on the agenda at the next commissioners meeting.

STC Request to Amend Ordinance 593-21 RE: Significant Specimen Tree

Wayne Hoffman, Shade Tree Commission Chairman, would like the code to more specifically state that the arborist shall determine if a tree is a significant specimen tree, based on the diameter and type of tree. Solicitor Corrado confirmed this would be an amendment to chapter 30 of the Borough code. He said he provided Mr. Hoffman with some language to consider. Mr. Hoffman added that there is a list of approved trees, however, no list of diameter requirements. The Shade Tree Commission would like the code to state that the arborist will make the determination based on various criteria. Solicitor Corrado will have an ordinance prepared for introduction at the next meeting.

Amending Chapter 9 of Borough Code to Designate Restricted Areas, Limited to Authorized Employees Only

Solicitor Corrado said to protect areas that may contain confidential records, the Borough must make it clear in its ordinance, which areas of the building are open to the public and which areas are not open to the public. He has drafted an ordinance, like one recently adopted by the City of Cape May, which lists a number of areas in the municipal building that will not be open to the public. Solicitor Corrado said the ordinance is only meant to prevent automatic access to the restricted areas, if granted authority, the public may still be given access to those areas.

PUBLIC PORTION

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

Jane Robinson, 438 Third Avenue, would like to know why the Commissioners would decide to wait to ban the use of neonicotinoid pesticides until October. Solicitor Corrado said any ordinance the Borough would pass to ban neonicotinoids would be preempted by state law in a matter of months. Mayor Sabo said this state law will limit what stores can sell regarding pesticides. Ms. Robinson said communication to residents is important. Deputy Mayor Crawford agreed and said the Environmental Commission plans to keep up with its education programs.

Linda Barr, 322 Fourth Avenue, would like the Borough to consider banning the drainage of swimming pools into the streets and therefore, into the meadows. Deputy Mayor Crawford said the Commission engaged in extensive discussions on the matter with professionals, EC members, and other outside parties. One determination from those discussions was that pools are rarely drained, and when they are, the chemicals in pools are nullified by sunlight after a certain number of days of use.

John Tahan, 412 Second Avenue, thanked the Commission for the notice letter that was sent to the owners of properties that would be affected by the sewer installation assessment. He said the letter stated that there are no safety concerns. He requested that the Commission stop stating there are no safety concerns due to leaking septic systems. He said he called the Health Department and was directed to the EPA website regarding health affects of failed septic systems. Mayor Sabo said she and Borough employees met with a representative of the Health Department, and the representative said there were no records of failing septic systems in the Borough, only maintenance and repair records, and therefore no health or safety concerns.

Mr. Tahan asked if the engineer would have cost estimates in time for the meeting on April 24, 2023. Engineer Chadwell said yes. Mayor Sabo said finance professionals would be at the meeting as well.

Paula Rosenzweig, 415 Second Avenue, said she did not receive a copy of the notice letter. Clerk Enteadó said letters were mailed to everyone on the list, by regular postage as well as by certified-return receipt postage.

When no one else expressed a desire to speak, the Work Session was concluded at 7:50pm.

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:

March 22, 2023 – Work Session and Regular Meeting

March 22, 2023 – Closed Session

Proclamations:

Arbor Day Proclamation

Loyalty Day Proclamation

Wear Purple Day Proclamation

Ordinances for Introduction and Publication:

626-23 An Ordinance Amending the West Cape May Borough Code to Establish Section 9-1.9 Entitled “Municipal Buildings, Restricted Areas to Safeguard Records”

Resolutions:

72-23 Designating the Month of May as Litter Free NJ Month

73-23 Designation of Public Agency Compliance Officer- PACO

74-23 Authorizing Special Event Permit to G4 Productions for the Ride to Defeat ALS

75-23 Authorizing a One-time Approval to Exit Zero Filling Station to Extend Hours of Operations – Jazz Festival

76-23 Approving Bill Payment

77-23 Closed Session

Solicitor Corrado announced the purpose of the closed session is to update the Borough on the notice of violation that the Borough received, because the marriage license application on the website did not contain a check-off box for non-binary or transgender applicants. He said he does not expect any official action to be taken.

NON-CONSENT AGENDA

Ordinances:

624-23 Amending Chapter 30 of the WCM Borough Code RE Tree Removal Fee

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. 624-23. The motion was carried unanimously on roll call vote.

625-23 Amending Ordinance 603-21, Section 11 RE Local Cannabis Tax

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. 625-23. The motion was carried unanimously on roll call vote.

Resolutions:

None

COMMISSIONER REPORTS

Deputy Mayor Crawford had nothing to report.

Commissioner Dick said the Shade Tree Commission will be giving away tree saplings in honor of Arbor Day, starting on April 19th from 9:00 am to 2:00 pm. He said letters were sent regarding tree plantings, that the STC received grant money and will be planting trees throughout the Borough. He also said the STC and the Friends of Wilbraham Park will be participating in the MAC garden tour on June 17th.

Mayor Sabo said on June 3rd the Strawberry Festival will be returning to Wilbraham Park and the Farm Market will begin on June 20th.

PUBLIC PORTION

Mayor Sabo opened the meeting for public portion.

Pam Kaithern, 207 Stevens Street, wanted to acknowledge and thank Clerk Theresa Enteadó for her hard work achieving the Registered Municipal Clerk Certificate.

Sean Scott, 313 Fow Avenue, spoke in opposition to the approval of extension of hours for Exit Zero. The Commission explained that this was for one night only, for one hour, with the condition that all activity remain inside. Mr. Scott was satisfied with the explanation.

Wayne Hoffman, 408 Fourth Avenue, said the dates for the sapling give-away were published incorrectly in the Herald and wanted to confirm the dates are April 19th to April 21st.

Bill Brady, 433 Sunset Boulevard, asked about the survey markings on Sunset Boulevard. Clerk Enteadó said she would contact the County Engineer for details.

When no one else expressed a desire to speak, Mayor Sabo closed the public portion and the meeting was moved to a closed session at 8:09pm.

On motion of Deputy Mayor Crawford, seconded by Commissioner Dick, and approved unanimously on roll call vote, the Commission returned from closed session to the regular meeting at 8:17pm.

Solicitor Corrado said he provided updated information and the Borough Commission has authorized him to contact the Division of Civil Rights and discuss steps the Borough can take to alleviate the violation and possibly reduce or eliminate the penalty.

The meeting was adjourned at 8:18pm on motion of Deputy Mayor Crawford, seconded by Commissioner Dick.

Respectfully submitted,

Theresa Enteadó
Municipal Clerk