

# **BOROUGH OF CAPE MAY POINT**

## **Planning Board**

### **Meeting Minutes**

**Thursday, December 16, 2021, at 7:00 pm**

### **ZOOM**

#### **Pledge of Allegiance**

#### **Opening**

In compliance with the Open Public Meetings Act, adequate notice of this session has been provided by publication in the Cape May Star and Wave Newspaper and continuous posting of the scheduled meeting dates on the official Municipal Bulletin Board at 215 Lighthouse Avenue, Borough of Cape May Point, New Jersey.

#### **Roll Call**

Present: Ms. Kelly, Dr. Pfendner, Mayor Moffatt, Comm. vanHeeswyk, Mr. Sowers, Mrs. Leming, Mr. Wallace, Mr. Remy, Mr. Murphy

Absent: Ms. Bassett, Mr. Hood

Also Present: Rhiannon Worthington, Secretary; Mr. Nathan Van Embden, Esq., Attorney

#### **Minutes**

The minutes from the November 17, 2021 meeting were approved as corrected on a motion by Comm. vanHeeswyk and second by Mr. Sowers. All present voted aye except for Mr. Murphy and Mr. Remy who abstained.

#### **Business**

1. SR PB2021-08: Appointment of Past Relief Review Subcommittee.
  - a. Ms. Kelly thanked Mr. VanEmbden for providing the resolution and incorporating her review comments.
  - b. Mrs. Leming stated that she did not think there was anything constructive to be gained from reviewing the prior relief. She believes the prior planning boards reviewed the applications and felt they were doing the right thing by approving them. As these decisions cannot be changed, she believes this Board should consider requests carefully and refer to the Master Plan in order to protect the town. Mr. Remy and Comm. vanHeeswyk agreed.
  - c. Comm. vanHeeswyk expressed concerns about discussions that occurred at the November meeting, as documented in the minutes. She referenced specific items in the minutes, and stated that they are outside the scope of the Planning Board. She stated that she believed it was arrogant to question the decisions made by previous Boards. Comm. vanHeeswyk responded that there is no “management” of the Board and that many of the comments made are detrimental to the Planning Board as well as the Borough.
  - d. Dr. Pfendner left the meeting at 7:13 pm.
  - e. Mr. Wallace expressed confusion in that it sounds like we’re discussing both what was discussed in the last meeting, and also what was in the proposed resolution, as if they are the same, although they are not. He believes the nature of the proposed resolution, with a couple minor exceptions, is something we should be doing. He also stated that the Borough was changing quickly in terms of real estate and economics. Comm. vanHeeswyk agreed with Mr. Wallace’s comments regarding the changes, but stated that the Board should plan, not look back.

- f. Mr. Van Embden stated that the statute requires zoning variance history to be communicated to the Planning Board for purposes of recommendation for Master Plan amendments to the Commissioners. Even though this is a combined Board, the same process should still be applied. He stated that he does not believe there isn't enough of a sample in a given year to assess ordinance or Master Plan amendments. Mr. Van Embden said the resolution was drafted based on the discussion and he used words such as "to inform" the subcommittee to address the concerns being created by actions of the community. He said the purpose of the committee was to identify if things went off track, where it happened and any possible means to address it. He restated that the Board is not a means of enforcement, but it may be a fair thing for the Board to be aware of what relief had been granted and its effect on the community.
- g. Ms. Kelly suggested that perhaps the scope of the proposed subcommittee is not broad enough. She noted that MLUL empowers a Planning Board to assemble data as part of the ongoing planning process but does not define how. She believes that it is important for the Board to determine a way to assemble data so areas and items that are inconsistent with the Master Plan can be identified, and the Board can make recommendations to the Commissioners to modify ordinances so they support the Master Plan. Mr. Van Embden does not believe that the proposed ordinance supports the scope of the subcommittee as described by Ms. Kelly.
- h. Ms. Kelly asked about Mr. Van Embden's statement at the previous meeting about representations not specifically included in the resolution being part of the resolution. She asked how it was to be determined that conditions may be omitted from the resolution if not by looking at the complete file, and Mr. Van Embden stated it was the function of the Zoning Official to make a determination regarding a discrepancy.
- i. Ms. Kelly asked how data was to be collected if not by looking back. Mr. Van Embden responded that the data referenced was not limited to previous applications, and it should be used for the purpose of assessing what is and potentially determine what should be.
- j. Comm. vanHeeswyk stated the annual report serves the purpose of the proposed subcommittee. Ms. Kelly asked how the information can be reviewed without context, especially if the document was not available prior to 2019. Mrs. Worthington informed the Board that she created a summary report of activity from 2016-2018 for Comm. vanHeeswyk's use which could be provided to the Board members. She also stated she was working on a report covering 2011-2015. Mr. Wallace asked about the timeline for the variance information. Mrs. Worthington stated she could provide documents she had available immediately, and she would have the 2011-2015 report complete by the next meeting.
- k. Mr. Sowers suggested tabling the resolution until the documentation being discussed is available for review. Ms. Kelly agreed, stating that she does think it is important for the Board to be educated about the variances that were approved and denied.
- l. A motion was made by Mr. Sowers and second by Mr. Wallace to table proposed resolution SR PB2021-08. All present voted aye.
- m. Mr. Sowers spoke about resident concerns, suggesting that it may not be so much the variances as the existing ordinances which are producing properties that are not in line with what the community envisions for the town. He noted that there was a lot more construction occurring than variance applications over the past few years and raised the question of whether the current laws are in keeping with what people envision the Point to be like in 10 to 15 years. Mr. Wallace agreed with Mr. Sowers, adding that it may be more important to assess how the compliant construction is affecting the community, as opposed to the variances being granted. He suggested that it might be helpful to understand how much green space has been lost in the recent past and how many square feet of housing are being built each year. Mrs. Worthington indicated that prior to the consolidation, the Planning Board had created a subcommittee which reviewed the Zoning Ordinance (Chapter 150) for areas of concern, from typos to inconsistencies and ambiguity. A spreadsheet was created but no further action occurred. Per the request of Mr. Sowers and Ms. Kelly, she will distribute this spreadsheet to all the Board members for their information.

2. Discussion regarding RFP process for board professionals.
  - a. Comm. vanHeeswyk informed the Board that the formal RFP process was not required to be used. Since the Board does not reorganize until April, she suggested the Board not take any further action until after the appointment of the Borough Engineer at the Borough reorganization meeting in January. Ms. Kelly agreed. Mrs. Worthington confirmed she would have an update at the next meeting.
  - b. Mrs. Worthington explained how the solicitor position was handled in 2018 for the Board's reference, as per the state statute, the Borough was not required to follow the formal process.

**Board Information**

None

**Public Comment**

1. Public comment was opened at 7:49 pm on a motion by Mr. Sowers and second by Comm. vanHeeswyk.
2. Bob Mullock – 202 Lake Drive CMP
  - a. Mr. Mullock informed the Board that the new ownership was working with various environmental groups, colleges and universities for the preservation and use of the property.
  - b. Comm. vanHeeswyk expressed concern about the sharing of information for a private entity. Mr. Van Embden confirmed that he was not aware of any pending applications before the Board that would be jeopardized by public comments.
3. Public comment was closed at 7:53 pm on a motion by Comm. vanHeeswyk and second by Mr. Sowers.

**Adjournment**

The meeting adjourned at 7:54 pm on the motion by Comm. vanHeeswyk and second by Mr. Sowers. All present voted aye.

Respectfully Submitted by:

Rhiannon Worthington

Board Secretary

Approved by Board 1/20/2022