

BOROUGH OF CAPE MAY POINT

Planning Board

Meeting Minutes

Wednesday, May 15, 2019 at 7:00 pm

Cape May Point Fire Hall

Pledge of Allegiance

Opening

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

Roll Call

Present: Mr. Greenberg, Mr. Keosky, Comm. vanHeeswyk, Mr. Fraatz, Mr. Casey, Mr. Hood, Mrs. Busch, Mrs. Leming, Mr. Murphy
Absent: Mrs. Gibson, Mr. Yunghans
Also Present: Rhiannon Worthington, Secretary; Mr. Nathan Van Embden, Esq., Attorney

Minutes

The minutes from the March 20, 2019 meeting were approved as corrected on a motion by Mrs. Busch and second by Mr. Keosky. All present voted aye except for Mr. Greenberg and Mr. Murphy who abstained.

Review of the minutes from the April 17, 2019 meeting was postponed until the next scheduled meeting.

Mr. Greenberg spoke regarding conversations he has had with Mrs. Worthington about the need for minutes to be issued with more time for review prior to the meeting, as well as expedition of availability of approved minutes for the public. Mrs. Worthington stated that she did not disagree. Mr. Greenberg noted that if there was any support she needed from him or the Board to make this happen, to let him know.

Business

1. Resolution for Application PB2019-02 – 413 Princeton Avenue, Block 26, Lot 18
 - a. Comm. vanHeeswyk and Mrs. Worthington asked about how Board members were to vote considering the four votes were consolidated into one resolution.
 - i. Mr. Van Embden offered options to Comm. vanHeeswyk but she offered to abstain for simplicity.
 - ii. Mr. Van Embden advised Mrs. Worthington that anyone who voted in the affirmative for any one of the four votes regarding the application could vote for or against the resolution.
 - b. The resolution was approved as amended on a motion by Mr. Greenberg and second by Mr. Fraatz. Mrs. Busch, Mr. Greenberg, Fraatz, Mr. Hood, Mr. Casey and Mr. Keosky voted aye; Comm. vanHeeswyk abstained.
 - c. Mr. Van Embden advised the Board that Mr. Toates had contacted Mrs. Worthington requesting language be provided for the deed restriction. He indicated he would respond that Mr. Toates should provide a drawing with the affected porches identified and language to that effect.
2. Historic Preservation Subcommittee Update.
 - a. Mr. Greenberg advised the Board that Mr. Hood would provide the subcommittee update in the absence of Mr. Yunghans.
 - i. Mr. Greenberg provided information during minutes review regarding the Planning Board's ability to recommend a review and public notification process prior to demolition of historic structures.

- ii. Mr. Hood distributed a copy of the proclamation issued by the Governor naming May as Historic Preservation month in New Jersey.
- iii. Since the last meeting, the subcommittee reviewed commission formation requirements, supplied by the State. Based on community size, there would be five members with specific class designations. Correct formation is important for recognition by the State as a Commission, making the borough eligible for state resources and grant funding. The subcommittee intends to determine the requirements and recommend to the Board for approval. The Board can then move to recommend formation of the Commission per State guidelines to Council.
 - i. Mrs. Busch asked about how members were appointed to the Commission and if there were any restrictions regarding resident participation in multiple boards. Mr. Hood and Mr. Van Embden responded that Council would appoint the members. Mr. Hood said he could not quote the guidelines; however he did know that there were Class 1 and Class 4 requirements, with one member having historic knowledge of the borough and one member having knowledge of building and construction. Mr. Hood indicated he thought all members had to be residents but Mr. Greenberg stated one member could be a non-resident if needed to fill historical position. Mr. Hood could not confirm about limitations for members serving on the Commission and Planning Board, however, Mr. Van Embden noted that if there were more than 3 members of the Planning Board on the Commission, each meeting would essentially constitute a quorum of the Planning Board.
 - ii. The Board members agreed these were details that could be worked out at the time the Board was ready to make recommendations.
 - iii. Mr. Greenberg advised the Board members that the subcommittee was working closely with the State Commission to determine answers to many of these questions, which they do not know presently.
- iv. The subcommittee established a resident survey would be best way to assess what the community wants from a Historic Preservation Commission.
 - i. Mr. Greenberg advised that the survey is expected to be distributed in the next few weeks. He noted that the subcommittee members are actively working on this to prevent forward movement on this subject taking longer than necessary.
 - ii. Mr. Casey asked how the survey would be distributed. Mr. Hood indicated that Mr. Yunghans had access to the residents "mail addresses" however, Mr. Greenberg clarified that Mr. Yunghans was able to obtain the mailing addresses of all property owners through the Municipal Clerk's office for "snail mail" distribution.
 - iii. Mrs. Busch asked were there funds to cover the cost associated with mailing. Comm. vanHeeswyk indicated that funds are allocated for board mailing within the budget to cover expense.
 - 1. Mr. Greenberg asked about the Planning Board budget for covering costs that may be associated with subcommittees and reviews completed by the Planning Board. Comm. vanHeeswyk assured that the budget was adequate for earmarked and some unexpected expenses. She confirmed that a large unexpected expected expense could be managed if needed.
 - 2. Comm. vanHeeswyk provided additional information regarding previous experience with property surveys that will be required in order to determine if properties and/or structures are historic and the associated funding. She stated that the survey has been completed twice before, and the last time was shortly after she was elected at a cost approximately \$40,000. She assumes a new survey will be needed but assured the Board that there are methods and means to deal with the associated expense.
 - i. Mr. Greenberg advised that it has not been confirmed if a new survey is needed, as the subcommittee is trying to operate within a modest cost structure, however if it is determined to be necessary the subcommittee will certainly follow up with Comm. vanHeeswyk for funding assistance.
 - iv. Mrs. Busch commended the subcommittee's efforts to obtain a survey from the property owners directly to guide the Board's actions.

- v. Comm. vanHeeswyk asked who would be writing the questions. Mr. Greenberg responded that Mr. Hood and Mr. Yunghans would write the questions. Mr. Hood confirmed that the questions had been drafted and provided to Mr. Yunghans for review. He noted there was an explanation of the purpose of the survey, 5 questions and a space for “positive comments”.
 - 1. Comm. vanHeeswyk noted that for the 1998 survey, the Board was lucky to have a member who owned a company who did surveys for large companies.. Unlike the previous survey from the 1980s, the questions were not weighted. She advised the board that neither survey, neutral or weighted, had positive results.
 - i. Mr. Greenberg agreed that this topic has often not been well received within the Borough but perhaps, at the very least; steps can be taken to protect the Borough to a point that is reasonable. He also noted that at this time property owners may be more receptive to the subject; however, he states something more than nothing can certainly be done.
- vi. Mr. Casey asked if it was prudent to hire a consultant to write the survey to ensure that the survey meets the purpose. Comm. vanHeeswyk advised that although those types of consultants are available, the Borough could not have afforded the Board member had he not volunteered his services. Mr. Casey indicated he understood that but thought it worth the inquiry into cost and availability of these professionals.
 - 1. Mr. Greenberg said he would review the request to secure a professional for survey creation with Mr. Yunghans and decide how the subcommittee will proceed.
- vii. Mr. Murphy asked if there were any state resources available to assist with the survey creation, even though the Commission has not yet been formed. Mr. Greenberg noted that only a first pass has been made at the questions at this time but they could informally inquire with the State Commission about resources for the survey. He stated that all aspects of the survey would be dealt with appropriately.
 - 1. Mr. Casey asked if “appropriately” meant the entire Board or the subcommittee would create and manage the survey. Mr. Greenberg responded that the subcommittee would oversee the survey.
- viii. Mr. Casey asked if the questions would be approved by the Board members prior to distribution. Board discussion indicated they would not be, although there seemed to be some discontent among members regarding that conclusion.
 - 1. Mr. Van Emden responded that it was the job of the subcommittee to do this leg work on behalf of the Planning Board so approval of its methods was not required. He noted that the discussions occurring presently were micro-management of the subcommittee. The subcommittee should report back to the Board at the conclusion of their assessment, identifying their recommendations, as well as means and methodologies, at that time. Recommendations being made to Council required approval by the Planning Board prior to the action being taken.
 - 2. Mr. Casey requested it be noted in the minutes that he does not agree with that course of action.

3. Grading and Drainage Discussion

- a. In response to the Board’s request at the March meeting, Mrs. Worthington provided the following documents to the Board members for review:
 - i. August 2018 letter to Municipal Clerk confirming Board’s position regarding the proposed ordinance, pending resolution adoption at the September meeting.
 - ii. Resolution SR PB2018-10, adopted at September 2018 meeting.
 - iii. August 2018 meeting minutes.
 - iv. Mr. Keosky correspondence with Comm. vanHeeswyk in January 2019.
 - v. Mr. Van Embden correspondence with Council in March 2019.
- b. Mr. Greenberg summarized that the Commissioners had presented an ordinance in an attempt to address drainage concerns within the Borough. The subcommittee, and ultimately the Planning Board via resolution, found that the proposed ordinance was inconsistent with the Master Plan as it was only applicable to properties exceeding 1 acre. The Commissioners did not adopt the resolution but at this time there appears to be still be confusion among the community regarding the status of amendments to the existing ordinance. He

- feels this is largely due to continued construction practices that many feel may be contributing to the issues. Mr. Greenberg stated that per the professionals' reviews, the existing ordinance would be adequate if interpreted reasonably by those reviewing the proposed drainage on properties under construction.
- c. Mr. Greenberg suggested that he personally feels the Commissioners should hire a specialist in this area to review and suggest means of addressing the drainage issues. He noted this was his personal opinion and not representative of the Board but he wanted to take this opportunity to personally request of Comm. vanHeeswyk and the other Commissioners to revisit and address the issue.
 - i. Comm. vanHeeswyk stated she did not think that was necessary because Mr. Sullivan had been the last to review the subject in October 2018 and this is his area of expertise.
 - ii. Mr. Keosky responded that his recollection was that the proposed ordinance was created by Mr. Sullivan and was determined to not be necessary by Mr. McGraw and Mr. Graham. He noted the conclusion he provided in August was not his own but as per the comments of the professionals. Comm. vanHeeswyk agreed that these professional comments supported the existing ordinance as sufficient.
 - iii. Mr. Greenberg responded he felt it an outside opinion may be needed because he's not sure it's enough to say that there is nothing that can be done. Comm. vanHeeswyk responded that Mr. Louis Belasco, the CRS Coordinator and Flood Plain Administrator, review the proposed and existing ordinance and came to the same conclusion – the process per the existing ordinance is sufficient. She noted that she was unsure where else to go with this at this time. Mr. Greenberg responded that he would look into the issue and see if he can find another professional to work with the Borough and Board professionals to review from an outside perspective and provide the information to Comm. vanHeeswyk.
 - d. Mrs. Busch asked for someone to confirm if it had been determined what the status of this item was. She noted that she had brought up the topic at the March meeting because she was hearing at several work sessions that the Commissioners were waiting on information from the Planning Board to proceed. She said that although the final report of the subcommittee had been issued in August, there was a subsequent meeting with Mr. Sullivan in the fall that, although the original conclusions may not have changed, may have caused confusion as to the status of the review.
 - i. Mr. Greenberg agreed that the lack of communication between the Commissioners and the Planning Board has been inconsistent. He stated that if there is action to be taken by the Board per the Commissioners, someone needed to contact a representative of the Board after the meeting to indicate so. The same would go for the Board to the Commissioners. Mr. Greenberg offered for him and Mr. Keosky to meet with the Commissioners to address requests and items of concern. Mr. Greenberg stated that based on the steps that have occurred; it appears the next step would be another draft ordinance to be reviewed by the Planning Board or a request for the Planning Board to review something specific about the ordinance or Master Plan.
 - ii. Mrs. Worthington indicated she was waiting on clarification from Mr. Sullivan to determine if the Master Plan must be updated before Commissioners can present a new proposed ordinance, should they choose to do so, or if the Commissioners should act first.
 - iii. Comm. vanHeeswyk stated that she is unsure what the next action is that everyone is looking for when the professionals are saying that what exists is adequate for purposes of permitting.
 - i. Mr. Greenberg responded that whatever position the Commissioners chose to take was up to them but that response and position needed to be represented clearly to the public. The unclear position is creating uncertainty and hostility unnecessarily.
 - iv. Mrs. Busch concluded that the Planning Board's action regarding the topic at this time were complete; Mr. Greenberg confirmed.
 - e. Mrs. Busch spoke on behalf of the Environmental Commission regarding excess rainfall that has been recorded the last few years and suggested it may be beneficial for the Borough to respond coherently to these concerns. She noted that residents are looking for the Borough to address some of these issues.
 - i. Comm. vanHeeswyk agreed that the rainfall was not projected to be reduced. Accordingly the Borough is completing infrastructure projects to mediate the excess water. She noted that when a high water table gets higher, there is unfortunately nothing that can be done to make the ground absorb more water.

- f. Comm. vanHeeswyk spoke regarding lot coverage, FAR, grading, distance between structure and properties and trees and their effects on the drainage within the town and how each of these can affect the others. She reminded the Board that the Borough is waiting on the landscape ordinance that is being created by Mr. Sullivan with the Environmental Commission, in hopes this may also address some of the drainage concerns.
 - i. Mr. Greenberg asked if she felt the requirement for structures to be raised for protection from flooding is increasing the amount of properties being raised with fill as opposed to previously when the houses were constructed lower. Comm. vanHeeswyk responded that the professionals at the Coastal Coalition meetings have told her that walls do not have as significant of an impact on redirecting water flow as would be expected.
 - ii. Mrs. Busch noted that in the long term, property owners with lower lying lots will need to review their own property for other means of mediating drainage issues, such as removal of impervious surfaces and planting of landscaping to assist with water absorption.
- g. Mr. Hood asked Mr. Keosky if his interpretation of the drainage ordinance addresses new construction. He responded that new construction requires submission of a landscape plan.

Public Comment

1. Public comment was opened at 8:12 pm on a motion by Comm. vanHeeswyk and second by Mr. Casey.
2. Mr. Christopher Meyerink – 421 Cambridge Avenue CMP
 - a. Thanked Mrs. Busch and Comm. vanHeeswyk for publically acknowledging the increased rainfall.
 - b. Noted that ongoing construction adjacent to his property is already having a negative run off effect.
3. Mrs. Constance Campanella – 503 Lighthouse Avenue CMP
 - a. Stated she wanted to be accurate as she recorded the session.
 - b. Asked if the survey was to be identified as coming from the subcommittee. Mr. Hood replied yes, it would.
 - c. Asked Mr. Hood if the survey was to be anonymous. Mr. Hood replied they would not because they were being sent to a household and would be expected to be returned from the household. Several board members spoke at one time attempting to clarify the question and response, and Mr. Hood stated that it had not yet been decided.
 - i. Mr. Greenberg intervened, advising that none of these details have been decided yet but he would be happy to share that information once it is decided. He noted that Mr. Hood would not have these answers and the Subcommittee Chair is not present to respond. Mrs. Campanella agreed, stating it was okay if Mr. Hood did not have an answer, she was trying to be accurate.
 - d. Asked Mr. Hood if emails would be solicited from the respondents. Mr. Greenberg replied that those details have not yet been decided and the Subcommittee Chairperson was not present to respond. She asked if Mr. Hood was unable to answer the questions himself as he was one of the subcommittee members working on the survey. Mr. Hood responded that he was not the Subcommittee Chairperson.
 - i. Mr. Greenberg requested Mrs. Campanella follow up with the Subcommittee Chair, Mr. Yunghans, for the answers to her questions as Mr. Hood would not be solely responsible to make those decisions for the subcommittee.
 - e. Requested clarification on outcome of drainage discussion and asked Mrs. Busch if this statement was accurate: “So, the Planning Board is done with this issue unless we get another complaint”. Mrs. Busch clarified that “complaint” was incorrect; she said “a request from the Commissioners”. Mr. Greenberg further clarified that the request must be formal.
4. Public comment was closed at 8:16 pm on a motion by Comm. vanHeeswyk and second by Mr. Murphy.

Board Information

1. Mr. Keosky provided updates regarding the traffic calming study which had been completed a few years prior by the previous Planning Board. There had been little action by previous County Engineer Mr. Dale Foster regarding the Board’s recommendations for County roads. The current Engineer, Mr. Robert Church, has presented a plan for traffic calming initiatives in five areas: corner at the Red Store, corner of Pavilion Circle and Ocean Avenue, corner of Coral and Lighthouse Avenues, corner of East Lake Drive and Lighthouse Avenue, and islands at multiple locations. If the plan is approved, it is anticipated that changes will be implemented in the fall, after Labor Day. It was noted that the Commissioners endorsed the plan, per the County’s request.

2. Mr. Keosky asked about how the funds from the Exxon settlement were allocated to be spent in Cape May Point, as opposed to locations where Exxon had plants. Comm. vanHeeswyk indicated that those funds were earmarked for the Higbee Restoration Plan, which has been waiting on this settlement that has now been signed by the Governor.
3. Mr. Greenberg asked about possible upcoming movement regarding the Convent and if there was any action needed by the Planning Board for the Commissioners. Comm. vanHeeswyk replied with no comment regarding the status other than the Commissioners just voted to look into some related items. She suggested if the Planning Board was so inclined, that they could follow up with Mr. Sullivan. Mr. Keosky asked if the Planning Board should be looking at the zoning for that property; discussion revealed board members were unsure of the zoning of the lots that make up the Convent property. Comm. vanHeeswyk stated that the situation was currently under review by the Borough Solicitor and therefore comment could not be made on the subject. Mr. Greenberg stated that the Planning Board would wait for direction from the Commissioners, if anything was required of them.

Adjournment

The meeting adjourned at 8:19 pm on the motion by Mrs. Busch. All present voted aye.

Respectfully Submitted by:

Rhiannon Worthington

Board Secretary

Approved by Board 6/19/2019