

JULY 11, 2019
REGULAR MEETING MINUTES

The Regular Meeting of the Board of Commissioners of the Borough of Cape May Point was called to order by Mayor Moffat at 6:00 PM. The Open Public Meetings Statement was read by the Mayor who then led those present in the flag salute. Mayor Moffatt, Commissioner Mullock and Commissioner vanHeeswyk answered roll call. Also in attendance: Administrator Steve O'Connor, Clerk Elaine Wallace, and Solicitor Brock Russell.

COMMISSIONERS' REPORTS:

Commissioner Mullock reported the Lake Lily bulkhead project is almost complete. The next phase will be the porous concrete walkway. He also reported the Environmental Commission has agreed to partially fund the purchase of 300 recycling containers to be distributed to property owners. More will be purchased in 2020 for the remaining properties.

Commissioner vanHeeswyk reminded everyone that there are substantial changes to flood insurance and the way homes are rated coming soon. She expects this to have a big impact on property owners in Cape May Point due to proximity to the ocean.

Mayor Moffatt reported beach tags sales are very healthy this year. Also, the Beach Patrol continues to monitor the beach at Coral Avenue. Lastly, the Women's Lifeguard Challenge will take place Wednesday, July 31st at St. Pete's beach.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY:

Connie Campanella thanked the Board for adding this new opportunity for public input.

Thomas Maye asked what special event is being approved for the Friends of Lake Lily. Clerk Wallace advised they will be using the Borough Hall conference room for monthly meetings from May to October.

APPROVAL OF MINUTES:

June 11, 2019 Work Session

June 13, 2019 Regular Meeting

June 25, 2019 Work Session

Motions: vanHeeswyk, Moffatt

Roll call: all in favor

ORDINANCES FOR INTRODUCTION/PUBLICATION: None

RESOLUTIONS:

80-19 Authorizing Special Event Permit to Friends of Lake Lily, Inc.

Motions: vanHeeswyk, Moffatt

Roll call: all in favor

81-19 Payment of Bills

Motions: vanHeeswyk, Moffatt

Roll call: all in favor

ORDINANCES FOR SECOND READING AND PUBLIC HEARING:

04-2019 Amending Chapter 120 "Peace and Good Order" of the Code of the Borough of Cape May Point

Motion to open Public Hearing: vanHeeswyk, Moffatt

Roll call: all in favor

Mary Kelly appreciated the time and effort put into these ordinances but felt they won't address overuse of generators, which she feels is a significant problem.

Thomas Maye suggested leaf blowers be added to the list of items specified in paragraph (b).

Kevin Casey was prepared to address both ordinances at once. Clerk Wallace advised him he has to speak on each one during its own public hearing. He held his comments until the hearing on Ordinance 05-2019.

Beryl Rosenburg (is this name correct?) felt loud radios at construction sites need to be addressed. The police should be called to deal with that if there is an issue since it is already covered by the existing ordinances.

Helen Chezem wasn't sure how the ordinance will be enforced because it only addresses what is reasonable without using decibels to measure noise. Mayor Moffatt explained the Borough does not have the capacity

When no one else wished to speak, the public hearing was closed.

Motion to Amend paragraph (b) and Adopt: vanHeeswyk, Moffatt

Roll call: all in favor

05-2019 Amending Chapter 76 "Construction Site Standards" of the Code of the Borough of Cape May Point

Motion to open Public Hearing: vanHeeswyk, Moffatt

Roll call: all in favor

Kevin Casey, 503 Lighthouse, thanked the Board for the opportunity to address. He, Catherine Busch and Gary Murphy were the Planning Board subcommittee members that worked on the recommendations. They addressed construction and the impact and disruption on neighbors. The Master Plan characterizes the Borough as a quiet, resort community. The objective was to give relief to people who are here during the summer when there is a lot of activity and during holidays where lots of family are seeking peace. The State noise ordinance addresses decibel levels and requires a certified noise officer, of which only one exists in Cape May County. Instead, the subcommittee decided to control nuisance activities. As a result, the regulations adopted follow Cape May City's regulations since the same police officers will be enforcing the ordinance. The main thrust is

prohibiting nuisance activities on major holidays throughout the year, prohibiting nuisance activities on Sundays during the summer, and limiting the hours of those activities on Saturdays during the summer. They also included requirements for silt fencing and street sweeping of construction sites.

Mary Kelly again applauded the hard work of considering the myriad issues however, she found enforcement to be a big problem and urged the Borough to do a better job of enforcing its ordinances. She compared the poor condition of the work site next door to her house, which has been trouble from the start to the house across the street that has been managed with respect to the community and other residents.

Denise Goren also applauded the changes. She would love to see the activities banned completely in July and August, but would settle for just 2 days in a row instead of just one. Catherine Busch stated the subcommittee considered banning activities on Saturday and Sunday but it was determined such restriction would be unfair to property owners who can only be here on the weekend and may need to work on their own homes. Solicitor Russell asserted equities had to be a balanced.

Beryl Rosenstock lives on a street where there is currently a lot of construction and a reprieve would be nice. Commissioner vanHeeswyk understood, having had 7 houses built on her block over the last several years. The good news is it comes to an end. Now she has the benefit of lovely new neighbors. Cape May Point is about the people not the buildings. It is unpleasant, but once it's done, it's done.

Connie Campanella submitted a letter from Gary Price who was ill and couldn't attend. She summarized his letter as stating he endorses the ordinance as a good start.

Mayor Moffatt stated one of the construction projects on Cambridge has been a disgrace from the start and has been issued several summonses. Solicitor Russell explained you have to issue summonses and ask the prosecutor to ask the judge to impose stiff fines on a daily basis. Everyone involved has to take a hard stance. Mary Kelly suggested every complaint be documented in writing by the Borough so there is a thorough record of all the problems since before the original house was even torn down. She felt a judge won't impose heavy, daily fines without a history of problems. Solicitor Russell explained the judge bases his decision on whether adequate notice of a violation was provided, not on how many complaints were received. Ms. Kelly said the problem goes back to not enough enforcement.

When no one else wished to speak, the public hearing was closed and the Ordinance was amended to add "leaf blowers" to paragraph (b).

Motion to Amend and Adopt: vanHeeswyk, Moffatt

Roll call: all in favor

06-2019 Salary Ordinance

Motion to open Public Hearing: vanHeeswyk, Moffatt

Roll call: all in favor

Gregg Greenberg thanked the members of the Planning Board subcommittee who worked on both construction activity ordinances.

When no one else wished to speak, the public hearing was closed.

Motion to Adopt: Mullock, vanHeeswyk

Roll call: all in favor

07-2019 Ordinance Appropriating \$2,000 from the Capital Improvement Fund for Filing Cabinets

Motion to open Public Hearing: vanHeeswyk, Moffatt

Roll call: all in favor

Commissioner vanHeeswyk explained the cabinets are to accommodate the expansive zoning files.

When no one wished to speak, the public hearing was closed.

Motion to Adopt: vanHeeswyk, Moffatt

Roll call: all in favor

PUBLIC PORTION:

Catherine Busch, Environmental Chair, said that commission agreed with the idea and approved contributing funds to the purchase of recycling containers. There is also a subcommittee of the EC that will work with Borough representatives to prepare educational materials to be distributed with the cans explaining the rules and regulations. The 3 most important messages, per the CMCMUA, are 1) don't put your recycling in plastic bags, 2) rinse bottles and cans and throw away the caps, and 3) cover your recycling. Mayor Moffatt mentioned he spoke with someone working for a property maintenance company in the Point and she said many landlords have signs in the kitchen about proper recycling but the renters just ignore them. Ms. Busch also reported the Borough Hall Rain Garden project was completed yesterday. Staff and interns from Rutgers Cooperative Extension Water Resources worked with Public Works to complete the project. An educational signs and brochures will be produced and, hopefully, a seminar will be presented about rain gardens on private property.

Thomas Maye suggested the if a fine was assessed to a property owner, maybe they could deduct the amount from the security deposit the renter posts. He felt summonses were needed to get compliance.

Helen Chezem said she specifies in her rental leases that fines will be taken out of the security deposit. She also gives detailed information and instructions for trash and recycling.

Catherine Busch stated the first round of materials sent out by the Environmental Commission will be educational and trying to get people to understand the rules and how to properly recycling. Many visitors and second home owners have different recycling practices where they live, which makes it more confusing. She felt education should be provided before enforcement.

Dan Simmler, 111 Lincoln, disagrees with Bill Oat's assessment of Coral Avenue beach needing to be closed. He felt there's a possible monetary impact from a long-term beach closing. Originally, he thought the annual beach survey was the motivator but he didn't see that recommended when he read the report. He asked if there is a process allowing the lifeguard leadership to determine a beach closure. Mayor Moffatt explained the lifeguards go out regularly and survey the depth and have determined it is too low at low tide to allow swimming. The concern is over major injuries such as neck injuries and quadriplegia, not cuts and scrapes. Mr. Simmler also had a concern that moving the Coral lifeguard closer to St. Pete's makes it impossible to see the groins. He wondered if the Borough would have liability for people injured on the rocks. Mayor Moffatt stated people are not permitted to walk on the rocks, but Solicitor Russell explained someone can always argue liability. Mayor Moffatt explained there is a shortage of lifeguards along the entire Jersey shore. Mr. Simmler asked if there would be enough guards to cover Coral if it were reopened, to which Mayor Moffatt answered in the affirmative. There was some discussion about the dynamic nature of the shoreline due to ocean and weather conditions and the need to constantly monitor. Solicitor Russell explained the Borough has qualified immunity, but if the Beach Patrol Chief recommends closing the beach, and the Borough decides to leave it open, then the Borough is then liable. Mr. Simmler wanted to know if people are permitted to fish from the jetties. Commissioner vanHeeswyk explained people are permitted to fish from jetties where there are no bathing beaches.

When no one else wished to speak, the meeting was adjourned at 7:00 pm on motion of Commissioner vanHeeswyk, seconded by Mayor Moffatt.

Respectfully submitted,

Accepted:

Elaine L. Wallace, RMC, CMR
Municipal Clerk

Commissioner Mullock

Commissioner vanHeeswyk

Mayor Moffatt