

**JUNE 10, 2021**  
**REGULAR MEETING MINUTES**

The Regular Meeting of the Board of Commissioners of the Borough of Cape May Point was called to order by Clerk Wallace at 6:00 PM. The Open Public Meetings Statement was read by the Clerk who then led those present in the flag salute. Mayor Moffatt, Commissioner Busch and Commissioner vanHeeswyk answered roll call. Also in attendance: Administrator Ed Grant, Clerk Elaine Wallace, and Solicitor John Amenhauser. This meeting was held electronically via Zoom under local operation guidance from the NJDCA, pursuant to P.L. 2020, c.11.

**COMMISSIONERS' REPORTS:**

Commissioner Busch reported the Yale Avenue project is finally wrapping up. She also reported the Environmental Commission agreed to take on the bed by the pump station in Pavilion Circle, which is overgrown with invasives. A group will work on the bed with assistance from Public Works. Public Work will also be removing some of the Bradford Pear trees along the walkways in the Circle. The trees weren't properly planted and are on the list of invasives. The plan is to remove every other tree and replace them with oak or other native trees. Once the trees have grown, the remaining Bradford Pears will be removed. Lastly, Ms. Busch reported a key employee from Public Works has left the Borough's employ and will be difficult to replace given other towns are also recruiting full time employees and offering better pay and benefits than the Borough. She asked to discuss salaries and benefits at the next work session.

Commissioner vanHeeswyk was in favor of planting oak trees in the Circle. She also noted resolution 81-21 is approving the latest Hazard Mitigation Plan, which will be in place for the next 5 years.

Mayor Moffatt reported May's beach tag sales were the most successful to date. The Borough is expecting a busy beach season and both beach departments are prepared to open. Dr. Moffatt felt, with more people going to the beach, there might be more people walking on the dunes. He asked that anyone who sees people in the dunes, they should call the police. He has spoken with Chief Fashaw who says the police are ready and willing to come out when necessary.

**ADMINISTRATOR'S REPORT:**

Ed Grant reported he has completed some training for OEM, and will follow up with additional training in the future. The Borough will be reviewing proposals from background check vendors provided by JIF. The dead tree in front of the State Park entrance has been taken down, all that remains to be done is removing the pile of shavings. Mr. Grant and Ms. Busch attended a meeting at the county on the offshore wind project that will be about 15 miles from Ocean City. It's not clear whether it would be visible from the Borough, but down the road the public will want to see more information. Mr. Grant also met with the County Open Space board to go over concerns with the Pearl and Cape beach entrances, to see if the Borough could qualify for funding. He is also still working on the employee manual with the Clerk and

Solicitor. Lastly, he and the Clerk are working on putting out a survey on historic preservation, which will most likely be distributed as a postcard in the tax bills. Each card will have a unique PIN, and can be returned via mail or dropped off at Borough Hall. In addition, voting online will be available using the PIN provided.

**PUBLIC QUESTIONS ON AGENDA ITEMS:** None

**APPROVAL OF MINUTES:**

May 13, 2021 Regular Meeting

May 13, 2021 Closed Session

May 25, 2021 Work Session

*Motions: vanHeeswyk, Moffatt*

*Roll call: all in favor*

**ORDINANCES FOR INTRODUCTION/PUBLICATION:** None

**RESOLUTIONS:**

81-21 Authorizing the Adoption of the 2021 Cape May County, New Jersey Hazard Mitigation Plan Update

*Motions: vanHeeswyk, Moffatt*

*Roll call: all in favor*

82-21 Authorizing Special Event Permit for Shantel Copeland – In Touch Ministries

*Motions: vanHeeswyk, Moffatt*

*Roll call: all in favor*

83-21 Approval of Bill List

*Motions: vanHeeswyk, Moffatt*

*Roll call: all in favor*

**ORDINANCES FOR SECOND READING AND PUBLIC HEARING:**

03-2021 Ordinance by the Borough of Cape May Point in the County of Cape May and State of New Jersey Prohibiting the Operation of Any Class of Cannabis Businesses within Its Geographical Boundaries and Amending Section 150-4 of the Borough of Cape May Point Municipal Code

*Motions to Open Public Hearing: vanHeeswyk, Moffatt*

*Roll call: all in favor*

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

*Motions to Adopt: vanHeeswyk, Moffatt*

*Roll call: all in favor*

05-2021 Amending Chapter 113 “Nuisances; Public Health”, Article II “Prohibitions Against Bamboo” of the Code of the Borough of Cape May Point

*Motions to Open Public Hearing: vanHeeswyk, Moffatt*

*Roll call: all in favor*

Clerk Wallace read aloud questions submitted via email by Jon Oplinger for inclusion in the meeting. Solicitor Amenhauser answered those questions as follows:

- The current ordinance puts undue burden on the Code Enforcement Officer in what is a private matter between neighbors. The proposed ordinance gives the Borough the ability to diagnose the problem and approve a plan to remediate. Once that is complete, there is nothing preventing neighbors from taking private action.
- The ordinance is not mandated and there is no requirement for the Code Enforcement Officer to have a license or be an expert in bamboo. Approval of a plan is at the Code Enforcer's discretion.
- The ordinance doesn't require, nor does the Code Enforcement Officer have, expertise in horticulture or the management and control of invasive plants.
- The purpose of the proposed ordinance is to alleviate the burden of continual enforcement of a specific bamboo situation. Again, nothing in the ordinance prevents private action.

Jon Oplinger expressed concern that, by the Code Enforcement Officer approving a plan, the homeowner would then have some advantage if there is future civil action. Solicitor Amenhauser explained the ordinance's existence is a benefit to the homeowners, but there is no way for the Borough or the Code Enforcement Officer to guarantee that a plan will work to completely eradicate bamboo. Commissioner vanHeeswyk understood his concerns, having dealt with bamboo for years from a neighboring property where the owner passed away, the land was subdivided and sold, and there isn't anyone to hold accountable. She has managed to control the bamboo without seeking outside assistance. She intended for the ordinance to prevent people from planting bamboo and remediate on their own property. Commissioner Busch pointed out that previous to the ordinance being adopted, people were only responsible for what was on their own property, not neighboring properties.

Jack Mandley complained that he wrote to the Borough multiple times about his concerns and never received an answer from any commissioner, only the Code Enforcement Officer. He has also suffered from bamboo encroachment from the same neighbor as Mr. Oplinger for the last 20 years. He felt the Borough now has an ordinance and is still not doing anything about it, so why did it bother to adopt the ordinance in the first place.

Patricia Rega has been impacted by the same bamboo as the previous speakers. She was happy to see the ordinance get passed, hoping it would eliminate bamboo in Cape May Point and help her situation. She wanted to see everyone try to work together with the ordinance as it is currently on the books and do so for an extended time period. She felt follow through has been lacking and the planting property owner should be held accountable for a longer period of time. Not just until they finish the plan approved by the Code Enforcement Officer. She also felt the homeowner drove the plan approved, not the Code Enforcement Officer, in her situation. Commissioner

vanHeeswyk said under normal circumstances, when a neighbor's vegetation crosses your property line, it is your prerogative to cut it back to the property line. It is a neighbor-to-neighbor issue, but the original ordinance drew the Borough into it. She felt the proposed ordinance is better worded.

John Oplinger asserted the Borough will continue to be drawn into the situation because the planting property owner has been established and their bamboo has invaded the neighboring properties. It has been acknowledged that the plan might not solve the problem, but the neighbors just have to keep cutting it back and it will disappear. That hasn't happened in the last 20 years. If the plan doesn't work, he will just file another complaint and everyone will be right back in the same position. He understood the Borough's position, but the ordinance enables the neighbors to file complaints, so they will.

Sandy Allison thought the ordinance would have owners taking action to remove their bamboo, and was surprised to find it didn't. She also thought the ordinance would require people who wanted to keep their bamboo to have to install some type of barrier to prevent the spread and remove anything that had already spread beyond their property line. She also noted Cape May Bamboo is a company that is planting bamboo in Cape May City. It is the same company that is remediating the bamboo issue on Knox Avenue.

John Mandley asked if their case could be grandfathered, thinking the Borough should continue to help them. Solicitor Amenhauser explained this ordinance would not eliminate the Borough from having to investigate a complaint. Mr. Mandley again complained that all his correspondence went unanswered, except for Code Enforcement Officer, and communication was totally lacking. Mr. Amenhauser explained that Code Enforcement Officer is the Borough's representative in this situation and that will remain unchanged with the proposed ordinance. The Code Enforcement Officer must communicate with all affected property owners. Mayor Moffatt explained that all Mr. Mandley's correspondence was forwarded to the Code Enforcer for action.

Julie Rega asked if the Borough has an ordinance on invasive species. When she was advised there isn't such an ordinance, she asserted there should be one to prevent the spread of bamboo. John Amenhauser explained the current ordinance prohibits the planting of bamboo, which isn't being changed.

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

*Motions to Adopt: Moffatt, vanHeeswyk*

*Roll call: all in favor*

06-2021 Salary Ordinance

*Motions to Open Public Hearing: vanHeeswyk, Moffatt*

*Roll call: all in favor*

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

*Motions to Adopt: vanHeeswyk, Moffatt  
Roll call: all in favor*

**PUBLIC PORTION:**

Sandy Allison asked if any plans were made to address the issues of people parking at Alexander beach entrance and walking onto the state park and leaving their trash, etc. by our entrance and on our street. Mayor Moffatt explained anything illegal will be acted on, but certain things can't be avoided, such as allowing people to park on the street. In addition, the entrance to the path is in Lower Township, so the taggers have to be at the end located in Cape May Point. Ms. Allison thought there was talk of moving the beach entrance, but that was the suggestion of a previous commissioner.

Mary Kelly agreed with Jack Mandley's earlier comments about communications with the Borough. She experienced the same problem several years ago when sending letters and certified letters to the Borough without getting formal responses, which she found frustrating. She admitted, to some degree, it is due to the form of government and how each commissioner is solely responsible for their department. She thought the Borough could better explain it to people so they'd understand. Commissioner vanHeeswyk was sure the flow-chart of departments is posted on the website, but the Clerk will make sure. Commissioner Busch agreed that the form of government can be confusing from the outside, but someone can always reach out to the Administrator or Clerk.

Jon Oplinger said he believed Jack Mandley's main concern was that the property owner who planted the bamboo near his house was running the communications with the neighbors, rather than the Code Enforcement Officer. And the ordinance says communications have to be by certified mail, not email. Having it done by email was less official and caused the neighbors to have less confidence in the process. Mayor Moffatt will discuss the requirements of the ordinance with the Code Official.

When no one else wished to speak, the meeting was adjourned at 7:15 pm on motion of Commissioner vanHeeswyk, seconded by Mayor Moffatt.

Respectfully submitted,

Accepted:

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Elaine L. Wallace, RMC, CMR  
Municipal Clerk

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Commissioner Busch

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Mayor Moffatt

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Commissioner vanHeeswyk