

MAY 9, 2024
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:

Mayor Moffatt reported beach sales were going well. Tags are available for purchase in borough hall seven days a week between 9 am and 12 pm. He also thanked the environmental commission for their report on outside lighting.

ADMINISTRATOR'S REPORT:

Mr. Grant reported: the JIF elected officials training has been completed; the voucher issue with the court has been resolved; and the first safety meeting of the year was held.

PUBLIC QUESTIONS ON AGENDA ITEMS: None

APPROVAL OF MINUTES:

April 23, 2024

Motion: vanHeeswyk, Moffatt

Roll call: all in favor

ORDINANCES FOR INTRODUCTION/PUBLICATION:

13-2024 An Ordinance Amending Chapter 146, Article II ("Water") of the Code of the Borough of Cape May Point

Motion: Busch, Moffatt

Roll call: all in favor

Second Reading, Public Hearing, Consideration to Adopt – May 28th at 12 pm

RESOLUTIONS:

69-24 Award of Contract – Public Works Building Addition & Renovation

Motion: Busch, Moffatt

Roll call: all in favor

70-24 Authorizing Participation in a Shared Services Agreement with West Cape May for Sharing of Equipment – Vacuum Excavator

Motion: Busch, Moffatt

Roll call: all in favor

71-24 Authorizing Participation in a Shared Services Agreement with West Cape May for Sharing of Equipment – Street Sweeper

Motion: Busch, Moffatt

Roll call: all in favor

72-24 Declaring the Official Opening Date of Cape May Point Beaches to Bathing and Fishing for 2024 Season

Motion: Moffatt, vanHeeswyk

Roll call: all in favor

73-24 Payment of Bills

Motion: vanHeeswyk, Moffatt

Roll call: all in favor

74-23 Authorizing Advertisement for Bids for Ocean Avenue and Lehigh Avenue Water Main Replacement and Resurfacing Improvements Project

Motion: Busch, Moffatt

Roll call: all in favor

75-24 Authorizing Advertisement for Bids for Water Utility Controls Replacement Project

Motion: Busch, Moffatt

Roll call: all in favor

ORDINANCES FOR SECOND READING AND PUBLIC HEARING:

11-2024 An Ordinance Amending Chapter 150, Section 150-21 (“Landscaping and Vegetation Plan”) of the Code of the Borough of Cape May Point Chapter

Motion to open public hearing: vanHeeswyk, Moffatt

Roll call: all in favor

12-2024 Tree Removal and Replacement Ordinance

Motion to open public hearing: vanHeeswyk, Moffatt

Roll call: all in favor

Helen Chezem said she understood the need for an application but the fee in the ordinance was too high. She also questioned what would happen if she didn't want to plant one of the trees on the list. Commissioner Busch explained the ordinance is a requirement for the borough to qualify for its stormwater permit. When originally advised of the requirement, it was thought the existing tree regulations in zoning were adequate. The purpose is to have a zero net loss of trees because they help manage stormwater.

Matt Brown, 502 Coral, expressed three main concerns with the proposed ordinance: 1) it went further than the state model, 2) it was excessively expensive for property owners, and 3) it created added bureaucracy. Mr. Brown hoped the commissioners would revise the ordinance rather than adopting it in its current form.

Michael Puzio, 316 Alexander, expressed his objections to the ordinance: 1) the closest LTE is over 30 miles away and an added expense for homeowners, why couldn't a LTO be used instead, 2) the application fee was unnecessarily high, 3) eliminating the requirement for tree species would eliminate the need for an LTE, and 4) he questioned the need to replace with native trees. Mr. Puzio asked the board not to adopt the ordinance until it could be fixed. Commissioner Busch explained the licensed tree expert is mostly required for determining tree hazards but anywhere it was possible to use a borough official, that was put in the ordinance. Some requirements for native trees and the size of trees were done to be consistent with the landscaping section of the zoning ordinance. She also said changes could be made to the ordinance as some experience is gained with the process, but feel the borough must adopt the ordinance to enable the borough to received its stormwater permit and avoid fines.

Helen Chezem asked if the closest LTE was the same one the borough hired to look at trees and stated there could be a conflict of interest if it were. She also felt the borough doesn't have to exceed the minimum requirements and be more restrictive than other towns.

Commissioner Busch stated the model ordinance was based on larger towns with shade tree commission and a budget to hire an arborist. Cape May Point doesn't have either. Ms. Busch said she was open to making changes after the other commissioners had a chance to comment, but felt the ordinance had to be adopted. Attorney Amenhauser stated the ordinance met the statutory requirements as written and he wasn't sure it was the borough's responsibility to provide easy access to a Licensed Tree Expert.

Commissioner vanHeeswyk asked what the deadline was for having the ordinance in place. Commissioner Busch advised the deadline was May 1. The state inspector was in the previous week and the borough avoided a citation because the ordinance was up for adoption on this agenda. The DEP could assess steep fines for non-compliance.

Bill Gibson, speaking as a taxpayer, said he had seen every local tree company cut down trees in the dunes to improve property owners' views, so would prefer to see a properly license LTE make determinations on trees.

Sandy Allison asked 1) how the ordinance would affect lots that are completely cleared, 2) asked to hear from Mayor Moffatt and Commissioner vanHeeswyk, and 3) expressed concern with how many trees have been taken down recently. Mr. Amenhauser stated most of her concerns were better addressed with zoning or construction. Commissioner Busch said the borough has been removing dead trees or those that posed a safety hazard.

Mayor Moffatt stated the commissioners have not had discussion on the ordinance. He felt excellent points were raised, but didn't think changes could be made at this meeting. Mr. Amenhauser confirmed that any changes made would require advertisement and a new public hearing at a future meeting.

Commissioner vanHeeswyk stated the borough's original tree ordinance was adopted in the 80s and won an award from NJDEP. She did not want to see the borough fined for not complying with the newest requirements. She also acknowledged the planning board has a subcommittee looking at the landscaping requirements which are contained in the zoning chapter. The two different requirements need to be coordinated. Commissioner Busch stated the current requirements in zoning are more restrictive than this ordinance. This ordinance only requires new trees to be planted if there aren't already 3 native trees of a certain size on the property. She was open to making changes to the ordinance and seeing where an LTO could meet requirements instead of an LTE.

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

Motion to table: vanHeeswyk, Moffatt

Roll call: vanHeeswyk & Moffatt in favor; Busch against

Commissioner vanHeeswyk stated she wanted to make amendments and reintroduce the ordinance at the next meeting. Clerk Wallace explained any ordinance introduced at the next meeting wouldn't be able to be adopted until June 25. Commissioner vanHeeswyk did not want to jeopardize the stormwater permit or incur DEP fines. Mayor Moffatt felt the borough will have to address the concerns another way.

Motion to adopt: vanHeeswyk, Moffatt

Roll call: all in favor

Commissioner Busch asked Administrator Grant to coordinate with the Clerk, Code Enforcement Officer, and other commissioners to work out some of the details of administration and enforcement. Administrator Grant stated the commissioners took the best action by adopting and avoiding fines, and then amending to make it more workable.

PUBLIC PORTION:

Michael Puzio thanked the commissioner for the work they do. He asked if the poison ivy growing into the Alexander Avenue beach entrance pathway could be removed. Commissioner Busch explained public works is currently in the process of getting the entrances ready by Memorial Day, which includes removal of poison ivy.

Helen Chezem asked if there are specific hours for when trucks for the Higbee's Beach project are permitted to be on the roads. Commissioner Busch explained only 5 trucks per day from Memorial Day to Labor Day, so the contractor is trying to get as many as possible right now. The roads are under the jurisdiction of Lower Township. Bill Gibson advised the hours for the trucks is currently 6 am to 2 pm, mostly to keep the trucks from being on the roads when kids are getting on and off school buses.

When no one else wished to speak, the meeting was adjourned at 7:13 pm on motion of Commissioner vanHeeswyk, seconded by Mayor Moffatt.

Respectfully submitted,

Accepted:

Elaine L. Wallace, RMC, CMR
Municipal Clerk

Commissioner Busch

Mayor Moffatt

Commissioner vanHeeswyk