

JULY 23, 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 12:00 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' DISCUSSION/REPORTS:

Proposed Flood Regulation Changes: Commissioner vanHeeswyk introduced Assistant County Administrator Ron Simone and Environmental Consultant Peter Lomax. Mr. Simone explained the new flood regulations were promulgated under Governor Murphy's Executive Order 100. Initial reports of the proposed regulations caused concerns over the potential, widespread impact on residential and commercial development throughout Cape May County. As a result, the County hired Peter Lomax to prepare an impact study and summary and offer each municipality the opportunity to have him give an informational presentation. Mr. Lomax thanked the commissioners for their time and the opportunity to inform the people who live and work in the coastal zone of the impact of the proposed rules. He explained the presentation is based on rules that were supposed to be released in early July, but have been tentatively postponed until August 5th. Once they are published, there will be a 90-day comment period during which there will be three virtual public hearings, written comments and questions can be submitted. Then, the NJDEP will address those comments and questions and either proceed with adoption of the rules or pause and make amendments. If the changes are substantial enough, then publication and public comment period would have to be repeated. Mr. Lomax will revise his analysis as necessary to reflect any changes once the rules are published.

The intent of the regulations is to deal with sea level rise and are a result of an executive order, rather than from adopted legislation. Most municipalities in Cape May County are used to dealing with coastal development rules, freshwater wetlands rules, flood hazard rules, and green acres rules, among others. The proposed regulations would have an impact on each of those existing rules. They are based on a 2019 Rutgers panel tasked with looking at sea level rise. The panel looked at the year 2100 as a design horizon as structures and infrastructure being built now has the potential to still be in existence in 2100. NJDEP has based the proposed rules on the panel's prediction that there is a 17% chance that sea level rise will be 5.1' by 2100. The rules would create an Inundation Risk Zone that is predicted to be permanently flooded by tidal water and will be newly regulated. In addition, they would take current FEMA maps showing the 100-year flood limits and add an additional 5' to them. As a result, someone in an A Zone with an 8' base flood elevation would become a 13' elevation. That would mean the finished

first flood elevation would have to be 14' instead of 9'. Mr. Lomax showed several slides illustrating the impact these changes would have on a home in the flood zone. Development, redevelopment, and substantial improvements in these areas would be bound by the proposed rules which would require impact assessment, look at potential loss of life, how the structure would handle inundation, impacts of flood, shore and long term costs of inundation. In addition, an alternatives analysis would be required, such as alternate location or not building, to justify if development is in the best interest of the public health, safety and welfare. There would also be a risk notification requirement so any future landowners would be warned that the property is susceptible to flooding and inundation. The rules would government to just commercial and residential structures but also, critical buildings like police, fire, schools, and medical facilities. Mr. Lomax also showed a slide of Cape May County illustrating the areas that would be inundated if sea level rose 5'. In Cape May Point, just under 64% (not including Lake Lily) of the borough would be underwater. In addition to the inundation zone, there is a Climate Adjusted Flood Elevation, which would impact most of the Cape May Point requiring additional elevations when building.

The Inundation Risk Zone and the Climate Adjusted Flood Elevation are just two of the biggest items in the proposed rules that would impact property owners. There are many other changes in the proposed rules that aren't specific to sea level rise, but the DEP is taking the opportunity to implement changes they've been considering for some time. In addition, FEMA will be releasing new flood maps. If those maps are adjusted for predictive sea level rise, the proposed rules NJDEP rules would further increase them. Some have asked that the NJDEP process be paused until after the FEMA maps are released and determine whether it would be compounding the issue prematurely.

Mr. Lomax invited questions from the commissioners.

Commissioner Busch asked how the rules would affect the borough's roadways and infrastructure. Mr. Lomax explained road reconstruction would require compliance with the new rules, within reason. Obviously, the streets couldn't be raised 5' without making it impossible to transition from the road to the adjoining properties. An analysis would have to be done to prove it would be impossible or economically impossible to meet the elevation requirement and the road would still have to be made as high as feasibly possible. Commissioner Busch also asked about the upcoming renovations to the 40-year old public works building which is barely above flood level. Mr. Lomax advised the building can remain at its current level if the work is completed before the new rules go into effect. If not, it would have to comply.

Commissioner Busch understood the NJDEP is taking a conservative approach to mitigate long-term risk to public facilities. The County had asked the municipalities to adopt a resolution asking for the rules to be delayed, Ms. Busch asked Ron Simone how that helps her in long-term planning for borough facilities and infrastructure. Mr. Simone advised the county is keeping the municipalities

informed and able to participate in the comment period. The county feels the proposed rules will change building standards at the local level and is hoping to maybe get the rules modified. Each town in the county participates in CRS and are already doing some flood mitigation. The County is hoping the towns will adopt the resolution that addresses Mr. Lomax's report and request some potential changes and a gradual, incremental approach, rather than all at once on a probability 76 years in the future. The county is asking towns to look at how the rules could impact local bulk requirements, capital projects, residential impact, impact on low or moderate income families.

Mayor Moffatt invited the public to ask questions.

Elise Geiger thanked Mr. Lomax for his presentation. Cape May Point is very proud of its dunes, but Ms. Geiger asked if she was correct in her understanding that the dunes would help with the FEMA maps, but have no effect on the new 5' inundation zone. Mr. Lomax confirmed that while the dunes may be the single greatest asset to Cape May Point, they would not protect the borough from sea level rise inundation because it would come from inland through West Cape May and Lower Township, not from the beach.

Hope Luken asked if the presentation would be available at borough hall for anyone that wanted a copy. Mr. Lomax was happy to make it available to the public, but not until after the rules are published and he has had a chance to make any necessary updates. Once released, the borough's website will include a link to the documents.

Commissioner vanHeeswyk thanked Mr. Simone and Mr. Lomax.

2024 Dune Day Plan:

Commissioner Busch reported the plan was reviewed by the Environmental Committee which suggested a few changes. Jonathan Westcott revised the plan and Ms. Busch recommended it for approval. Commissioners Moffatt and vanHeeswyk concurred.

Commissioner vanHeeswyk reported the audit has once again be perfectly clean. She thanked the staff for all their work including Kelly Redington, Marie Hood, Kim Stevenson, Elaine Wallace, Ed Grant, former CFO Jim Craft, and Auditor Mike Garcia. The Borough is in a stronger position this year than last year with a stronger fund balance and higher assets. She thanked the property owners for paying their taxes and not requiring a tax sale. Lastly, she thanked the borough's IT consultant, Barber Consulting for holding strong and recommending their clients not switch when the state pushed towns to switch CloudStrike. The borough heeded their advice and was saved the trouble that was caused by the recent error that caused global shutdowns. JIF has also sent a statement warning of the next wave of cyber attacks that will result from threat actors using the CloudStrike issue.

ADMINISTRATOR’S REPORT: None

PUBLIC QUESTIONS ON AGENDA ITEMS: None

APPROVAL OF MINUTES:

July 11, 2024

ORDINANCES FOR INTRODUCTION/PUBLICATION: None

RESOLUTIONS:

98-24 Authorizing the Disposal of Surplus Property

Motion: Busch, vanHeeswyk

Roll call: all in favor

99-24 Urging the State of New Jersey to Take an Incremental and Targeted Approach to Adopting the Proposed “Protecting Against Climate Threat (PACT)/Resilient Environments and Landscape (REAL)” Rules

Motion to Table: Busch, vanHeeswyk

Roll call: all in favor

100-24 Authorization to Accept the Audit Report for 2023

Motion: vanHeeswyk, Moffatt

Roll call: all in favor

101-24 Authorizing the Extension of the Grace Period for the August 2024 Tax Quarter

Motion: vanHeeswyk, Moffatt

Roll call: all in favor

102-24 Approval of Bill List

Motion: vanHeeswyk, Moffatt

Roll call: all in favor

ORDINANCES FOR SECOND READING AND PUBLIC HEARING: None

PUBLIC PORTION:

When no one else wished to speak, the meeting was adjourned at 1:14 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