



**CITY OF ABSECON
Municipal Complex
500 Mill Road
Absecon, New Jersey 08201**

**Carie A. Crone
City Clerk**

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**AUGUST 18, 2011
WORK & REGULAR
MEETING MINUTES**

FLAG SALUTE – Mayor

INVOCATION – Heather Sugden, Reformation Lutheran Church, Galloway, NJ

ROLL CALL

Present: Seher, Vizthum, Gorman, Camp, Falivene

Absent: Urban, Green

Also Present: Mayor Elco, Terry Dolan, Mike Blee, Jessica Thompson and Carie Crone

STATEMENT ON THE SUNSHINE LAW

NOTIFICATION THAT THIS MEETING IS ELECTRONICALLY RECORDED – Jerry

PUBLIC PORTION

Motion to open to public – Councilman Camp – second – Councilman Vizthum

All were in favor.

Bobbie took over the meeting at this time since Jerry had to step down as well as Jim due to a conflict.

Bobbie – explained there is an ad hoc committee created and turned it over to Councilman Seher to report.

Chris – gave a recap of what has happened up to this point. The committee has met 5 times now and gone through the facts as we know them and asked for additional information from the applicant and received some but not all that we've been looking for. Most recently they have communicated to us the basis in lieu of payment situation they have been proposing. An appeal has been filed by a citizens group led by Mr. Courter and the committee reviewed the appeal and found that on its face the city was not named but against the Planning Board and the Applicant but when either board is sued it is the city whose time, resources and taxpayer's money is used in defending that case. So whether we were named or not clearly we have a stake in this. We asked our attorney for some fact finding and case history and opinionating and he has done that and have discussed it with him. Basically because the issues before us are addressed in the appeal of the Planning Board decision, the ad hoc committee is recommending that council take no action on those issues requested by the applicant at this time until such time the appeal process is played out.

Mike – explained the type of appeal that was filed and the procedure to be taken. He does not plan on giving any type of opinion on the matter. He wanted the public to know what exactly is to happen.

The relief that the Judge could give is to say the Planning Board acted reasonably and uphold that decision. If that were the case, council would promptly act on the conditions brought before them. In another outcome, the Judge could say the Planning Board did act arbitrarily and capriciously and unreasonably and perhaps misapplied the Sarlo Act and reverse their decision. The Judge could also decide to separate issues out and say that everything is okay but I will remand this case back to the Planning Board because we need to hear more testimony on this issue, so there could be another proceeding before the Planning Board. Council could act if they choose to. He was asked to look at the issues before council and the lawsuit and they are so close that taking action may not be reasonable or prudent because some of our actions could be fruitless, moot or unnecessary. He then went through each issue before council again and explained what could happen in each case.

Bobbie then asked if anyone from the public wanted to speak.

Rick DeLucry, attorney for developer of Absecon Gardens – on May 26th he responded to the City Administrator regarding the five conditions that needed to go before council and they feel they are exclusively within their jurisdiction. Then after the ad hoc committee was formed, meetings were asked for to meet with that committee and haven't got a response. The only request for information was a letter on 7/26 from Mr. Dolan where he requested three items of information and he responded back by letter dated 7/29. It's understood that there would be some give and take but we never got a counteroffer. If they are to wait for a decision that could take months and then take up with the issues, there will be some additional issues that will come up with the passage of time. The issue of payment in lieu of affordable housing was never an issue and they feel that could be decided now if a number could be worked out. We certainly wanted to try and come to a decision now so the developer can see what he has to build. A few of the issues before council will not change whether the outcome of the appeal is. He does not see why dialogue can't be held between the developer and council to see where it leads in the meantime. The height issue is also a council decision that nothing else will change. We'd like to have those discussions continue and get to a point of finality. If we can't move forward on this either, then the developer gets put into a position of a separate litigation in order to get relief. They don't want to have to go that route when it doesn't have to be. This problem should not be put on this developer and legal arguments won't change on that. He then explained the issue of development on the "Harper" property and that council would have the final decision on that too. They do agree with Mike on the issue of the change of zoning in the redevelopment Zone to permit non-age-restricted being up to the court now but still feels that discussions could happen. The issue of Mechanic St. vacation only can happen by city council no matter what the court says. This would only happen down the line with this project. The developer would request a conditional decision from council so the developer will know what he is able to do in the future. They would like the opportunity to discuss this also.

Mike – responded back on each issue as to how the city felt.

Chris – explained why the committee came to the decision they did.

Mr. DuPree – Pleasantville – council should be concerned about developer switching things around.

Joe Courter – 815 Hay Road – questioned what site plan is in effect and being used for building purposes at this time. Mike told him they would look into it.

Carie Yakita – 21 Mechanic St. – wanted to know if there is enough space for phase II if Mechanic St. stays the same.

Chris – really can't answer that now but will look into it.

Shirley Lathbury - 618 Hay Road – asked if the city has a relationship with Parke Bank.

Jessica – yes we do plus two other banks.

Mike Iaconelli – 13 E. Church St. – concerned that no other councilperson other than Mr. Seher is speaking about this to anyone. We have to assume that it's a waste of time to come and they will do whatever they want.

Chris – I was asked to speak tonight on behalf of the ad hoc committee. Councilwoman Gorman serves on the committee as well as Councilman Green and Councilman Camp who is on the PB. They were unanimous in what was said tonight. He has not made his mind made up yet on this.

Bobbie – we hear both sides and are supposed to be objective and we are. We don't want to give any opinions until we have answers to all of our questions and all the facts are given. We do that for everything and it should be that way.

Don – hasn't said anything yet either and he hasn't made up his mind yet either.

Mike – explained the process of the committee and what meetings were held and what was supposed to happen. Once the lawsuit was filed, they decided to wait to make decisions.

Leo McLaughlin – 205 Pennsylvania Ave. – read from a report from water co. as to the volume of water and he feels it's not enough to fulfill the needs of the fire pumps.

Chris – if any test is required it will be done and if it's not required, he doesn't know we would be able to require more than any other state or local requirements.

Terry – mentioned the tests that were done so far.

Carl Robinson - 414 Pitney Road – feels traffic is already a problem on Church St. & Pitney Rd. Spoke against having kids live there. Have we ever even vacated a street before? Agrees with buyer beware. Doesn't want council to cave in. He would rather have an eyesore.

Chris - It's important to say again that we can't reverse the PB decision on lifting the age restriction. We will only deal with those 5 issues that were requested by the developer. It would be inappropriate to speak out yet until we hear all testimony and facts. We shouldn't give any opinion yet.

John Jenkins – 22 E. Church St. – concerned about traffic and parking.

Steve Callaghan – 58 N. Shore Road – claims that 60 cars per minute go by his house. Traffic is his main concern. Church Street would have to be one-way.

Bill Fritz – 825 New York Ave. – has resided here all his life. He was originally against the project with the very first approval but he feels with these new improvements it's a much better project. He has taken a tour of the building and it's very nice. He feels the 55 and over developments are not happening now.

Bob Kusnirik – 200 Briarcliff Place – thanked council and the committee for waiting on any decisions and he was glad to hear that the meetings would be open to the public. There are bigger issues than looks with this project. Traffic, schools and congestion were mentioned.

Motion to close public portion – Councilman Camp – second – Councilman Seher
All were in favor.

WORK MEETING

ORDINANCES AND RESOLUTIONS LISTED BELOW ARE FOR DISCUSSION AND MAY BE ACTED UPON AT THE REGULAR MEETING OF CITY COUNCIL.

2011 RESOLUTIONS

139 Awarding a contract for professional services for a Conflict Engineer.

Mike – reached Fred Green on phone and he explained that his vote was needed for this resolution.

Chris – explained it was needed because the city engineer is not able to do inspections on work that was done by Councilman Falivene's company. He explained how they were selected. The company that was picked was Mott Associates.

Fred – confirmed by phone that he heard that conversation.

Motion to move resolution 139 to the work agenda made by Councilman Seher – second – Councilman Camp

ROLL CALL: Seher, yes; Green, yes; Gorman, yes; Camp, yes

- 140** Authorizing the release of a maintenance guarantee posted by Mill Road Associates I (Blk. 262, Lot 3.01).
- 141** Authorizing the release of a maintenance guarantee posted by Mill Road Associates II (Blk. 262, Lot 3.03, 5, 6, 7 & 8).
- 142** Accepting a performance guarantee and engineer's escrow for improvements on property known as Block 259, Lot 4, Oceanic Holdings, LLC.
- 143** Approving the insertion of a special item of revenue into the 2011 municipal budget to allow for the receipt of \$13,298.24 from the State of New Jersey Recycling Tonnage Grant.
- 144** Authorizing the City of Absecon to enter into a contract with Woodruff Energy for the delivery of natural gas for use by the City.
- 145** Regarding the Local Government Best Practices Questionnaire.
- 146** Opposing the New Jersey State Senate Bill S2950 and Assembly Bill A4128.
Jerry – explained this is along the same line as the Sarlo Bill.
- 147** Accepting a Volunteer Firefighter into the Absecon Fire Department

REGULAR MEETING AGENDA

- 10** Amending the Code of the City of Absecon, Chapter 330, Vehicles and Traffic, adding schedule XXII, Section 330-51, Firehouse Parking Lots and amending various schedules within Chapter 330.

Motion for second reading – Councilwoman Gorman – second – Councilman Vizthum

ROLL CALL: Seher, yes; Vizthum, yes; Gorman, yes; Camp, yes; Falivene, yes

Motion to open to public – Councilman Camp – second – Councilman Vizthum

All were in favor. Mr. Dupree asked for clarification. Council President Falivene explained this will stop others from parking or putting cars for sale on lots.

Motion to close public – Councilman Seher – second – Councilman Camp

Motion for final reading and adoption – Councilman Seher – second – Councilman Camp

ROLL CALL: Seher, yes; Vizthum, yes; Gorman, yes; Camp, yes; Falivene, yes

CONSENT AGENDA

All matters listed under item, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be discussed separately.

Resolutions #139 through #147 were included in the consent agenda.

Motion to approve – Councilman Camp – second – Councilman Vizthum
ROLL CALL: Seher, yes; Vizthum, yes; Gorman, yes; Camp, yes; Falivene, yes

APPROVAL OF BILL LIST- \$ 1,507,364.19

Motion to approve – Councilman Camp – second – Councilwoman Gorman
ROLL CALL: Seher, yes; Vizthum, yes; Gorman, yes; Camp, yes; Falivene, yes

MONTHLY REPORTS

Municipal Clerk - \$7,522.65
Construction - \$3,874
Tax Collection - \$329,335.32

APPROVAL OF MINUTES

Regular Meeting Minutes – 7/7/11 and 7/21/11
Closed Session as to form and content only – 7/21/11
Motion to approve minutes made by Councilman Camp – second – Councilman Vizthum
ROLL CALL: Seher, yes; Vizthum, yes; Gorman, abstain on 7/7 & yes for 7/21; Camp, yes; Falivene, yes

REPORTS

Don – announced annual Lions Blind Center event
Bobbie – thanked all for the concerts this year
Jim – gave update on New Jersey Ave.
Chris – commended the work on NJ Ave. Finance committee received report from assessor’s office on the appeals and mentioned what the ad hoc committee has discussed
Mayor – mentioned the redevelopment meeting for the revitalization of downtown. Asked the Chief to come up to speak.
Chief Cowan – talked about the program to be held at the school for parents and children that will discuss Internet safety
Jerry – spoke about the concerts and how great they were and thanked everyone involved.

PUBLIC PORTION

Motion to open to public – Councilman Vizthum – second – Councilwoman Gorman
All were in favor.
Mr. DuPree – mentioned that he heard as of 1/1 the government is cutting buses and free lunches.
Motion to close public – Councilman Seher – second – Councilwoman Gorman
All were in favor.

ADJOURNMENT

Motion to adjourn meeting – Councilwoman Gorman – second – Councilman Camp
All were in favor.

Respectfully submitted,

Carie A. Crone, Clerk

Approved: _____