

Property next to Sewell Tract may become nature walk

By JACK FICHTER
Cape May Star and Wave

CAPE MAY — Members of the Municipal Buildings and Properties Committee discussed possible uses of city-owned property off Pittsburgh Avenue, adjacent to the Sewell Tract, for nature walks and limited parking.

During a meeting Feb. 4, Chairman Bob Elwell said the committee formed a subcommittee to determine how the city could best use the property. He said in initial discussion by the full committee, ideas offered included a parking area with a jitney stop and

nature walk with an observation deck.

Committee member Wayne Keyser said he had a tentative area proposed for a nature preserve. The city-owned property is south of Cape May Lutheran Church and at the end of Cape May Avenue. He said to make the trails contiguous, the city would need to use property owned by the church.

A few paper streets are located at Pittsburgh Avenue that could be used for trail entrances, Keyser said.

"That would prevent a future road; it's a no-brainer to have multiple trailheads that come in on those roads to the main area," he said.

Elwell said a future bike trail could begin on Pennsylvania Avenue, down to Illinois Avenue, cross Pittsburgh Avenue to the church and down to New York Avenue to Baltimore Avenue to Wilmington Avenue, which would place the rider at the beach.

Deputy Mayor Patricia Hendricks said she was encouraged by the committee's ideas that did not include selling the city-owned property. She said the contiguous lots add up to 4.8 acres.

"I would implore you to make a recommendation to the council to place these lots on the ROSI (Recre-

ational and Open Space Inventory) list," she said.

Hendricks said placing the lots on the ROSI list would enable the committee to expand on its goals whether for a nature walk, a trail or bike trail. With an entry on the ROSI list, the city would be eligible for grant funding, she said.

"The grant money is significant, the open recreational grants are out there for the asking," Hendricks said.

She said ROSI-listed items and grants have restrictions that may only allow ancillary parking, which would mean taking a small section at the front of

the property off Pittsburgh Avenue.

"Keep in mind Pittsburgh Avenue is not metered and you can park all along Pittsburgh Avenue," Hendricks said.

She said some jitney riders are gravitating toward Pittsburgh Avenue because of the regularity of the service and the ease of parking.

Hendricks said at this point the fate of the Sewell Tract is unknown. However, the city showing its leadership to dedicate the city-owned property as recreational open space also protects and provides a buffer, no matter what happens to the Sewell Tract.

City tax assessor Lou Belasco said the city was able to place the right of ways on the ROSI list. He said the median area of Cape May Avenue is on the ROSI list.

According to the state Department of Environmental Protection (DEP), the ROSI database is maintained by the Green Acres Program. The database includes municipal, county and nonprofit parkland encumbered by the Green Acres Program only.

Each municipality is required to prepare a ROSI list as a condition of applying for and receiving Green Acres funding.

City won't help fund fight

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She noted Concerned Citizens is "on the side of the developers." Sheehan said council members were subpoenaed by East Cape May Associates concerning the lawsuit.

City solicitor Frank Corrado said whether or not the city is a party to the lawsuit, every member of council and any city employee who may have information that would bear on flood control, the city's potable water supply and any of the environmental consequences that may or may not flow from development of the Sewell Tract could be deposed.

Meier asked if Corrado agreed that East Cape May Associates and Concerned Citizens were on the same side. Corrado said at this point in the litigation, East Cape May Associates' objective and Concerned Citizens' objective are congruent.

"Concerned Citizens wants the Sewell Tract preserved," Corrado said. "They believe and have argued in court that the DEP's regulations essentially condemn that property and have essentially taken it away from East Cape May Associates and that East Cape May Associates is entitled to fair compensation for the property."

He said the DEP was trying to avoid that and the courts have essentially ruled that absent of some kind of adequate amelioration offer by the DEP, the property has been taken.

The DEP made an amelioration offer to allow East Cape May Associates to develop 20 to 25 acres of the Sewell Tract, much of which is believed to be wetlands.

Concerned Citizens claims the DEP's 2014 amelioration authorization would cause irreversible losses to freshwater wetlands and coastal resources that provide essential habitat and flood storage.

East Cape May Associates and Concerned Citizens both have asserted in the lawsuit the DEP's amelioration offer is insufficient and invalid and does not comply with the DEP's own regulations and does not provide East Cape May Associates with an adequate economic return on its investment even though it allows some development of the Sewell Tract.

Corrado said at this point in the litigation, East Cape May Associates and Concerned Citizens share a common objective.

The only issue before the court in this trial is whether the DEP's amelioration offer is adequate or valid, he said. Currently, Concerned Citizens and East Cape May Associates said the answer to the question is no and they are both arguing that to the court.

"The practical result of that position if adopted by the court would be to declare that the DEP in the state of New Jersey has in effect condemned the Sewell Tract and has to pay East Cape Associates the full fair market value of the property," Corrado said.

He said if neither Concerned Citizens nor the city is a party to the litigation, the possibility exists that if the DEP and East Cape May Associates become the only parties left in the litigation, East Cape May Associates or its successor will cut a deal with the DEP that would involve a payment of money by the DEP to East Cape May Associates less than the fair market value of the undeveloped property plus allow some development on the property.

If Concerned Citizens is a party in the litigation, the case cannot be settled unless all three parties agree to it, Corrado said.

Mullock said he wished to see the Sewell Tract completely preserved from development but he did not think it equaled the city

issuing a \$85,000 check to a third party, Concerned Citizens.

"The city has to represent itself in these really important matters," he said.

Mullock said he has heard development of the Sewell Tract could cost Cape May \$15 million in infrastructure costs but he "could not hand that over to a third party."

Meier suggested council vote to intervene in the case.

Mullock noted two weeks ago Concerned Citizens was asking the city for \$65,000, which had increased to \$85,000.

Corrado said he was not sure he understood an item in Concerned Citizens' revised offer of joint plaintiff/intervenor option. Charles Hendricks said that option was controlled by Judge Christine Smith.

Corrado said it would involve the city making an application to intervene. He said Concerned Citizens supports that option and would provide necessary certifications in support of that motion, which would make Corrado a collaborator as the city's attorney, a co-counsel in the litigation.

"Ultimately this should have been your case," Charles Hendricks said. "Five years ago, we got involved in this because the city didn't and we carried this case for five years."

Lear said the Sewell Tract is a long-term issue in which the city stood on the sidelines and Concerned Citizens stepped up when the city did not.

Earlier in the meeting, Charles Hendricks asked if council had any questions. He said he was surprised council did not ask how Concerned Citizen spent the donations it has received from individuals.

"If you approve this I will immediately show you how every dollar has been spent," he said.

Charles Hendricks said all expenditures were ap-

plied to three different sources, the lawyers, the consultant and the people who do the transcribing.

Lear asked what would happen if the city did not assist Concerned Citizens financially. Charles Hendricks said the organization has a donor base but no one knew its participation in the litigation would last five years.

He said Concerned Citizens did not know the litigation would have a new judge who would totally change the ground rules.

"Unless all this information, all this \$400,000 worth of information gets written down and transcribed and gets in the record, this whole thing for the last five years is for naught," Charles Hendricks said.

He asked council to pass the resolution for the sake of their sons and daughters and grandchildren.

Meier asked if the city could take the place of Concerned Citizens and what role his organization would have in the litigation. Charles Hendricks said if the city moved forward with the financial assistance, Cape May could work as a plaintiff intervenor.

"That's option one, you have Concerned Citizens and the city working side by side but that requires the judge to bring Frank (Corrado) and the city into the case," Charles Hendricks said. "Going one step further, we're willing to disappear, we're willing to set you up and slowly drift back and turn this over to you, that's option two, that's at the end of our proposal."

"We know you have differences of opinion but this is one thing you can unite on," he continued.

During public comment, Nature Center of Cape May Director Gretchen Whitman said New Jersey Audubon has always supported the full preservation of the Sewell Tract.

"It's our last remaining

large tract of land where we can really make a difference," she said.

Resident Jennifer Rimerman said she hoped the city would not choose to be pen-

nywise and pound foolish and not join the fight.

"As a taxpayer, I can't think of no greater thing I'd like to see my tax money go toward," she said.

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Hendricks steps down from Concerned Citizens

CAPE MAY — Concerned Citizens for Sewell Tract Preservation has announced the resignation of founder, president and trustee Charles F. Hendricks.

The organization, a plaintiff-intervenor in the long-running litigation aimed at preserving Cape May's Sewell Tract from development, announced Monday that Hendricks would be stepping down from his positions for "reasons of health," effective immediately.

The group said James

A. Testa, secretary and a trustee, would be replacing Hendricks as acting president.

"It is simply impossible to describe how important Charlie Hendricks has been in the matter of preserving Cape May's last great natural resource stretching back to before our group was formed, and equally hard to say how much his leadership of Concerned Citizens will be missed," the group stated in a news release.

Hendricks is the husband of Deputy Mayor Pa-

tricia Hendricks, who due to a conflict of interest has had to recuse herself on at least two votes this year regarding the city helping fund the litigation, both failing in a 2-2 tie.

A vote on a resolution Jan. 7 requesting an immediate contribution of \$20,000, as well as a contingent contribution of as much as \$35,000 matched with pledges, deadlocked. Mayor Chuck Lear and Councilman Shaine Meier voted in favor, while Councilwoman Stacy Sheehan and Councilman Zack

Mullock voted against. A second vote on the same issue Feb. 4 ended the same way.

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