

West Cape May to tighten tree-protection ordinance

By JACK FICHTER
Cape May Star and Wave

WEST CAPE MAY — Borough Commission is preparing to pass more stringent ordinances to prevent trees from being cut down without permits and to prevent contractors from damaging trees at construction sites.

In October, the Shade Tree Commission provided a 23-page report to Borough Commission. Shade Tree Commission President Wayne Hoffman said the most important aspect was regulation requiring tree protection barriers to be installed on properties to protect the root zone or above ground parts during construction.

Shade Tree Commission Vice President Dave Hammond said the objective of the ordinance was a “three strikes and you’re out format.” He suggested an escalating situation where the fine goes up three times and after the third fine, the contractor is prohibited from working in the borough for five years.

At a Jan. 27 Borough Commission meeting, solicitor Frank Corrado said he reviewed suggested changes from the Shade Tree Commission and could have the ordinances ready for introduction at the Feb. 10 commission meeting.

One issue in one of the two ordinances is the idea that stop work order constitutes a violation, he said. He said a stop work order is not a

violation but is a notification that a property owner is in violation.

“It’s liked being charged with something,” Corrado said.

He said if someone gets a stop work order and they violate it or do not appeal it, it could be counted as strike and a way to enhance the penalty for subsequent violations or prohibit the contractor from working in the borough.

Corrado said an ordinance that essentially states that a stop work order is the equivalent of an adjudicated violation would be subject to challenge on due process grounds.

Hoffman said if a tree trimming contractor cuts down a tree without an application and issued a summons and goes to court and loses, they would be issued a strike. He said some contractors building homes have agreed to protect trees on properties but have not done so despite multiple stop work orders.

Corrado said an appeal process for stop work orders was appealing to the county Construction Board of Appeals. He said an appeal process should be noted in the ordinance. The appeal could also be made to the borough’s Zoning Board, Corrado said.

“The concern is somebody will violate this ordinance, get a stop work order and then cease the violation and then later on do it again,” he said.

Corrado said he would amend that section of the

ordinance to ensure a stop work order, if not appealed and not complied with constitutes the first strike.

In other business: borough engineer Ray Roberts said West Cape May received \$185,000 from the state Department of Transportation for the reconstruction of Third Avenue between Atlantic and Columbia avenues which will include storm drainage pipes.

Borough Commission honored Cape May Police Chief Tony Marino on the occasion of his retirement. He said the police department had excellent communication with the borough administration.

“A job well done,” Mayor Carol Sabo said.

During public comment, Eli Nelson and his wife, Elizabeth Judge, residents of Second Avenue, said they had a problem that started last spring with noise coming from the Exit Zero restaurant. He said he had no objection to outdoor dining during the COVID pandemic.

Nelson said along with open seating outside Exit Zero, the restaurant had amplified live music. He said he could hear the music inside his house.

Mayor Carol Sabo said live music outdoors was not prohibited under zoning code but noise above a certain decibel level was addressed in the borough code. Nelson said he had contacted the police on the issue.

Elizabeth Judge said a po-

lice officer stated West Cape May did not own equipment to measure the level of noise coming from the restaurant. Nelson suggested the live music being moved indoors or unamplified.

Corrado said the police department is not required to have a decibel meter but under the state noise control act, which preempts municipal regulations, a certified noise control officer can be used. He said he did not believe Cape May police had such an officer and there were only a few in the county.

One county employee is qualified to measure noise levels, he said. The municipal code prohibits public nuisances and to an extent can be used to regulate noise irrespective if it reaches a certain decibel level, Corrado said.

“The problem with that is that’s a very subjective sort of criterion and difficult to prove in a definitive way,” he said.

The state has essentially told municipalities that the proper way to enforce noise violations is to have a decibel limit.

Nelson said live music was presented at Exit Zero seven days per week from 5 p.m. to 10 p.m. in the season. Sabo said before the Exit Zero building was constructed, the owner was very concerned on the impact to the neighborhood. She said she would speak with the owner of the restaurant.

Judge said a police officer told her the enforcement is-

sue was in the hands of the borough. She said the police department does not have a decibel meter and that was a matter for Cape May City Council.

Corrado said the enforcement of noise ordinance was in the hands of the county Health Department which has the equipment and a certified operator. He said as municipal prosecutor for Cape May over 25 years, he prosecuted dozens of noise complaints in court.

“If you get to the point where you have to prosecute the complaint, you’ve lost,” Corrado said. “It is far better to see if you can’t come to some accommodation neighbor to neighbor here.”

He said some smart phones are equipped with decibel meters. Corrado said Exit Zero owner, Jack

Wright, could measure the level of sound at his establishment to see if he is violating the standards.

Nelson said regulations would require the noise level to be measured on his property. He said removing amplification may solve the problem.

“He’s not playing to Yankee Stadium here,” he said. Corrado said the state has taken the position that municipalities do not have the ability to legislate standards that differ from what is in the state noise control ordinance. He said every municipality in the state that has a noise control ordinance has those same standards in it.

A Third Avenue resident said he also could hear music from Exit Zero at his home.

Point — Library resumes offering computers

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is needed because the remaining surplus in the water/sewer utility is below what is prudent to have for emergency repairs and unexpected expenditures. She said the prior administration “drained the surplus” and it is anticipated Cape May — which supplies water to the borough — will raise its water rates.

In other business, commission awarded a \$471,000 contract to Lafayette Utility Construction to replace the water main on Yale Avenue between Cape and Light-house avenues.

“It’s the oldest water main in town, maybe dates back to the ‘60s,” Busch said.

Connectors from the water main to the service lines to homes have lead joints that will be replaced. She said the borough has been sampling water from selected homes and there has not been an issue with lead.

The Yale Avenue project will start no sooner than Feb. 8, with the contract calling for completion of the work by Memorial Day, Busch said.

Deputy Mayor Anita vanHeeswyk said beach replenishment had been scheduled for completion by Dec. 1, 2020, but is running late. She said the contractor has a hard deadline of March 1 for completing the other half of the project for Cape May, which will back pass sand from the Nature Conservancy beach to the cove. The deadline coincides with the piping plover season, vanHeeswyk said.

Commission approved selling beach tags online. Borough Administrator Ed Grant said the beach tag fees have yet to be set. Beach tags will still be available for purchase at Borough Hall in May.

John Amenhauser, of the DeWeese law firm, was approved by commissioners as the borough’s new solicitor. His contract totals \$15,000 yearly for general duties with a provision for charges for services beyond the general duties at an hourly rate of \$175.

Number —

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Deaths over the past week include an 80-year-old woman from Lower Township reported Saturday, and a 78-year-old man and a 93-year-old woman from Middle Township on Jan. 25. On a daily basis, there were 30 new cases reported in the communities on Jan. 25, 57 on Jan. 26, 58 on Jan. 27, 46 on Jan. 28, 37 on Jan. 29, 28 on Saturday, Jan. 30 — when overall active cases dipped below 500 to 474 — and 33 on Sunday, Jan. 31.

On Monday, Feb. 1, 40 new cases were reported.

The Cape May County Library began offering the use of computers by appointment Monday, Feb. 1.

Patrons are now allowed to make an appointment to use the library’s computers, printers, fax machines and scanners at all branches. They may make one appointment per day to use the specified equipment by calling the branch they wish to visit.

At this time, the library is limiting both building capacity and length of stay for the health and safety of patrons and staff. Patrons will be permitted to use a public access computer for as long as an hour while copier, scanner, or fax machine use will be limited to 15 minutes.

People can schedule a time to use the library’s equipment the same day

they are making the appointment or as long as five days in advance.

“The Cape May County Library is working hard to safely reopen our learning institutions to the public,” said County Commissioner Marie Hayes, liaison to the Cape May County Library. “This step will give residents an avenue to vital means of communication as well as access to online resources. The health of patrons and staff members remains of the utmost importance as the library cautiously moves through their reopening phases.”

The library system is offering virtual events on its social media and curbside pickup appointments for library items.

Once an appointment has been made to use library equipment, patrons will

call the branch to alert the library staff that they have arrived for the appointment. Upon entering the building, people will have their temperatures checked using an automated scanner. If a patron has a temperature over 100.4 degrees, they will not be allowed to use the library equipment and will be asked to reschedule.

People are required to wear a mask while in the library building. While staff can assist from a distance, both patrons and library staff are expected to remain at least 6 feet apart from one another at all times.

In this phase of reopening, library patrons will not be permitted to browse the library’s collection. For library hours, visit cmclibrary.org.

TIDES: Feb. 3-10, 2021

DATE	HIGH		LOW	
	A.M.	P.M.	A.M.	P.M.
3	11:58		5:45	6:11
4	12:45	12:59	6:51	7:08
5	1:50	2:08	8:01	8:10
6	2:58	3:22	9:12	9:15
7	4:05	4:32	10:19	10:18
8	5:06	5:35	11:20	11:17
9	6:02	6:29		12:14
10	6:52	7:18	12:12	1:04

MOON PHASES

Last quarter, Feb. 4 • new moon, Feb. 11

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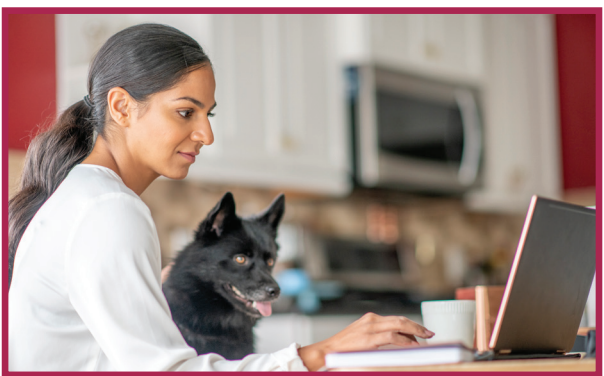
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