

Hours

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from the act – that is very clear,” she said.

She also said the HPC was presented with substantial information saying the Beach Theatre was historically significant. She said there was nothing irregular about the Beach Theatre being added to the historic survey after it turned 50 years old.

“That’s nothing irregular ... that’s really just good governmental process,” she said.

She also said the HPC had standing, and the Washington Township case was not relevant because it concerned an HPC involving itself with another agency.

Nehmad objected to the rebuttal, saying the attorneys were supposed to make opening statements, not rebut his opening statement.

Neidig said he would advise

the board it would make its decision only on nine criteria outlining historic properties in the city’s ordinance.

Nehmad finally called his first witness, Debra Frank, the film buyer for Frank Theaters. Nehmad asked Frank about the business, which has been around since the early 1900s. Frank Theaters now has 23 locations with more than 200 screens located in seven states.

Frank Theaters bought the Beach Theater in 1986 and operated it until 1997, when it sold its operations to Hoyt. Frank got the theater back and resumed operations in 2003. The BTF leased the theater from November 2007 until March 2009, when Frank Theaters took over the operation. The theater was open in the summer of 2009 but closed thereafter. According to Charles

Neselsky, the second witness Nehmad called, the Beach Theatre lost \$57,000 in 2009, and lost money in each of the three years prior to being operated by the foundation.

Neselsky is a member of the board of directors of Frank Investments and its general counsel. He said part of his responsibility is to be familiar with all the assets in the company’s portfolio.

He said the Beach Theatre earned \$162,000 in gross ticket sales in 2009, and film rentals cost \$92,000, or 55 percent of their gross. He said that left \$70,000 for the operation of the theater, which ultimately lost \$57,000.

Nehmad asked if the theater had been competently managed.

“Frank Theaters, while it is a family owned business, is a very sophisticated organization,” he said.

Neselsky testified that in order to reverse the trend the Franks would have to improve the physical components – offer digital projection, stadium seating, a full service concession stand, etc. He said to turn the Beach Theatre into a modern facility it would require an investment of \$850,000. He said at the end of the day, they would be unable to find a lender who would let them borrow the money because the theater loses money. Additionally, he said lenders won’t lend the full amount, and the Franks would have to come up with the first \$300,000, but the loan would still not be approved. He said the company is prohibited from subsidizing the loan by bank documents. He said with the theater consistently losing money and the company unable to make the capital

investment needed, they opted to close the theater in 2010.

Neselsky outlined the business principles underscoring the Franks’ decision not to operate the Beach Theatre, which was followed by cross examination, including from the public, questioning why the theater could not be operated as other than a first-run theater; such as a sub-run theater, a theater showing released films, or as a partnership with a non-profit, or getting a grant from the city via a small cities block grant now in its possession. Neselsky repeatedly stated that if anyone wanted to buy the Beach Theatre and operate it as such, they should contact him; however, the Frank Theaters determined it was not economically viable to operate it as a movie cinema in Cape May.

“Have you considered using it for other cultural events?” Fineberg asked.

“We’re in the business of showing movies,” Neselsky said.

Donato asked at what level of revenue the company needed to operate it as a movie theater.

“At least break even,” Neselsky said. “But that would require raising ticket prices 75 percent. We would need to invest \$850,000 to make it a facility people want.”

The appeal by Frank Investments will reconvene on Sept. 23. The Zoning Board postponed the Celio application, scheduled to be heard July 22, until the August meeting.

Time

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project is \$10.5 million. He said that would include all the owner’s costs, furniture, fixtures and equipment, fees for professional services, geothermal and solar power, and contingency costs. He said that leaves \$7.5 to \$8 million for the construction costs.

Resident John Fleming asked if it was possible CRDA could renege on a grant of up to \$1.5 million. MacLeod said that was always possible, but conversations he has had indicate the money is still available.

Charlotte Todd asked about the status of a grant for a solar array on Convention Hall. MacLeod said it was one of three projects for which the city applied for grants. Two solar addition projects, the Public Works building

and the lifeguard headquarters, are completed. MacLeod said the deadline for using the grant for the Convention Hall project has expired. Todd asked for a member of Triad Associates be included on the project team to investigate what grants might be available. MacLeod said he would welcome adding a Triad member or any other grant writer to the team.

Two members of the public, Harry Bellangy and Jeanne Powick, complemented city council on the direction the city was now taking on Convention Hall.

“You’ve taken a hold of it, turned it around, and are moving it forward,” Bellangy said.

“The path we are on now gets me really excited,” Powick said.

Powick also volunteered to

be part of the project team, offering up her MBA and financial experience to help with that element of the project.

Murray said he hoped the demolition of the existing Convention Hall could begin sooner than later. Murray repeated his characterization of Convention Hall as a festering sore on the community.

“I don’t see any reason to keep it there any longer than necessary,” he said.

MacLeod said the demolition work was part of the bid specs previously prepared. The intention had been to award one contract for both demolition and construction. MacLeod said there would be a slightly higher cost for separate contracts. Mahaney said the permitting process might be affected by what is standing there when applica-

tion is made.

John Murray, a West Cape May resident, asked what would happen if Cape May voters initiate a referendum on the \$3.5 million bond voted down by city council last week. Attorney Andrew Catanese, who was filing in for City Solicitor Anthony Monzo, said citizens certainly could initiate a public vote on the bond ordinance, but even if passed, city council is not obligated to award a contract based on that ordinance.

“I don’t see how we can delay what we are doing now,” Councilman Murray said. “If a referendum happens it happens.”

Bob Biehn said he didn’t see the city’s timeline as realistic and urged them not to go through the design process and CAFRA application at the same time.

“Get your design and go to CAFRA and have them give you a timeline,” he said.

Biehn also reminded city council they had a plan, Design 1, developed in 2008 whereby a replacement structure would cost only \$4.5 million.

Voters approved a \$10.5 million bond ordinance in November 2008 to pay for a significantly larger Convention Hall. Bids for construction were delayed until a CAFRA permit was obtained. The permit was secured under the condition the project not cover virgin sand, and the city opted to move the project 24 feet closer to Beach Avenue, calling for a redesign of the Promenade. That redesign, along with a geothermal element of the project, resulted bids coming in over budget. After rejecting all 11 bids, the city held a second round of bids, with nine bidders all exceeding the \$10.5 million. The city sought another \$3.15 million to complete the project as designed, but last week council voted 3-2 to reject a bond ordinance for that amount.

Calendar for Design, Bidding and Construction

Aug. 1 to Sept. 15 – Conceptual phase.

Sept. 16 to Jan. 15, 2011 – Design development and construction documents.

Jan. 15 to Feb. 1, 2011 – Bid preparation.

Feb. 1, 2011 – Bid documents available.

March 1, 2011 – Receive bids.


April 1, 2011 – Award bid – contractor mobilize.

May 1, 2011 – Start construction.

May 1, 2012 – Finish construction.

May 28, 2012 – Open new building.

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Entered at Post Office in

Pleasantville NJ 08232 as a periodical

SUBSCRIPTION PRICES: By mail in

Cape May County: \$22;

East of Mississippi: \$25;

West of Mississippi: \$29. Mail sub-

scriptions paid in advance.

Newsstand price\$.50 per copy.

PUBLICATION SCHEDULE:

Weekly, every Thursday.

POSTMASTER:

Send address change to Cape May

Star and Wave, 600 Park Blvd. #28,

West Cape May, NJ 08204.

ASSISTANCE:

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