

September 16, 2013  
Special Meeting

A special emergency meeting of the Mayor and Council of the Borough of Bay Head was held on September 16, 2013 at 11:00 am at 106 Bridge Avenue, Bay Head, New Jersey.

Mayor Curtis called the meeting to order.

Mayor Curtis read the following statement:

Ladies and gentlemen, pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. This meeting was posted in the Lobby of the Municipal Office at 106 Bridge Avenue on September 16, 2013 and published in the *Ocean Star* on September 20, 2013

The roll was called for attendance. Present were Mayor Curtis and Councilmembers DeFilippis, Green, Magory, Jean Cipriani, Borough Attorney, John LeCompte, Borough Engineer, Chip Tillson, Public Works Supervisor and Doug Applegate, Construction Official. Councilmember Barnes and Lyons participated by phone.

Mayor Curtis: This meeting has been called to discuss the construction of the beach walkovers. Over the weekend D'Arcy and I have been contacted by no less than 20 people objecting to the walkovers as being constructed. The access to the beach this summer was walkways through sand over the rocks. They have requested the access be the same as before or less.

The project awarded to Axios started in June with the driving of piles. The work was stopped for safety concerns (beach open) to resume after Labor Day. There were many meetings with BHIA prior to the project going to bid and in fact many changes to height of the walkovers were made. There were no comments or questions on the project through the summer from anyone.

Council discussed the walkover underway at Egbert Street. It was stated that the pilings would be cut at the railing height and would not be 10 to 12 feet in the air as they presently exist.

Mayor Curtis: The question is do we back away, give to BHIA, continue at cost or scale back to make it look even smaller?

Councilmember Green: Throughout the process BHIA was involved in the design with Tom Gage, William Gage and Dr. Kappy present. The height of the platforms started at 26' above sea level and was lowered to 24' at their request. We have to meet NJ DEP standard for Beach Renourishment. We have now reduced them to 20 or 21 feet except Strickland which will be 22 feet. They have to be two feet above the rock revetment.

The access this year, sand over rocks, required continuous push of sand which is totally against DEP regulations. There is to be no push between April and October and the push also damages the berm of the beach reducing the beach size.

The residents are reporting that this is only being done as a money grab – it is not that at all. We are responsible to provide beach access and there are codes and standards that have to be met. We offered an easement to Tom Gage, BHIA but they declined.

Ms. Cipriani discussed the legal process to be used to back out of the contract.

Mr. LeCompte submitted the following as discussed during the meeting:

1. Stopping the project at this time – the Borough will incur the following costs if the work is stopped and the scope of work is changed to temporary structures.
  - None of the work done to date will be reimbursed by either FEMA or JIF. The contract will need to be paid according to how much work is done, how many materials have been ordered and delivered and amount of work required to remove the work already done. Damages could also be awarded for lost profit, loss of work due to scheduling etc... Cost of work to this point would exceed \$400,000.00 with no possible reimbursement.
  - Construction of temporary walkovers was discussed and would place additional liability on the Borough for any accidents that would occur due to the walkways not remaining stable due to lack of proper foundations. Borough maintenance costs would also increase if scope of work decreases and type of construction reduced. The amount of work required to re-build structures after each storm would be reduced by constructing the permanent structures.

Councilmember Green: DEP standards have to be met as well as CAFRA and ADA issues for public access. What was done this summer was a temporary fix. The State has been trying to help us but the sand over the rocks was not to be permanent.

Councilmember Lyons: Termination still exposes the Borough financially. We own the access not the beach but we are in the liability mix. Even if we turn the walkovers over to BHIA we are still liable.

Ms. Cipriani: Yes. If we allow someone to construct on our property even with a Hold Harmless Agreement you can get some protection but it is not absolute.

Councilmember Green: Just prior to the storm, DEP was staring to take beach access very serious again.

Mayor Curtis: We hold the General Permit on the beach which allows the homeowners to push sand.

Ms. Cipriani: There has been a huge push by the State for public access. Seven years ago there were new rules issued by DEP concerning ADA and entry points. Beach Replenishment is not going away. The Borough doesn't own the beach. We can't be blind that the replenishment project will happen.

Council discussed scaling back. Comments submitted by John LeCompte:

2. Any changes to the plans at this time will require additional engineering and construction costs. Reducing the width of the platforms from 30' to 24' was discussed. The Mayor stated that he thought it would be a reasonable compromise to reduce the platforms to pre-Sandy dimensions.
3. Reducing the platform to 24' at each location would require the following:
  - Additional cost to design each street end.
  - Additional cost for contractor to re-stakeout each street end.
  - Additional cost for change to plan-contractor to submit costs associated with changes.
4. The original design was based on allowing the dunes to be raised to an elevation of 24'. This would allow the revetment to be raised and would conform to the Army Corps of Engineers typical section. Since then, the Borough has lowered the elevation of the top of the decking to 22' and then again to 20' per meetings with the BHIA and a wish to scale down the project. Only Osborne Avenue and Strickland are set above 20' due to existing elevations.
5. A reduction of the scope was discussed. Since the walkways have already been reduced to 20' elevation. It was not recommended that they be reduced in height. Also, the Borough requested that the railings be reduced or removed. It was noted that the railings are required under commercial building code to a height of 42".
6. The height of the piles was discussed. The construction plans called for the piles to be constructed 5' above the proposed decking and 2' above the railing. This was done to allow for the walkways to be raised at a later time if the Borough desired. It was also discussed that the piles be cut at the elevation of the top of railing or at the same elevation as the decking to improve the aesthetics of the walkways.

After much discussion Councilmember Green moved to stop work until Wednesday, September 18, 2013, reduce the platform size and to cut the piles at the elevation of the top of railing. The motion was seconded by Councilmember Lyons and passed on roll call vote. YEAS: DeFilippis, Green, Barnes, Magory, Lyons. NAYS: None.

Councilmember Lyons: In the next day and ½ we need to develop a PR plan to get the word out to the homeowners on the beach street ends.

Mayor Curtis: My thoughts – I would like to see Strickland Street scaled back as far as possible. The walkway at the old Bluffs (Chadwick Street) is very narrow. I would recommend no sitting on the platforms except for the badge checkers except for Egbert Street.

Mayor Curtis opened to the public. There were no comments or questions.

There being no further comments Councilmember Magory moved to adjourn.  
The motion was seconded by Councilmember Green and passed on roll call vote.  
YEAS: DeFilippis, Green, Barnes, Magory, Lyons. NAYS: None.

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Patricia M. Applegate, Municipal Clerk

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William W. Curtis, Mayor