

LBI access rule may change

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HARVEY CEDARS — State officials overseeing the beach replenishment project said Friday that they will discuss changing certain parts of the easements that island municipalities have asked about 800 beachfront property owners to sign.

The easements would grant state and federal officials access to their properties to implement the beach project, which seeks to bolster the island's beaches from the Loveladies section of Long Beach Township, in the north, to the Holgate section of Long Beach Township in the south. This is the first time the state Department of Environmental Protection officials have said they will discuss possible changes.

The meeting, set up as a question and answer session with Harvey Cedars residents, left a surprisingly positive impression on borough and island residents in attendance. The relationship between the DEP and some local politicians and residents has become increasingly bitter.

“They weren't communicating clearly until this point,” said Dave Martin of the North Beach section of Long Beach Township. “This was much better.”

Meanwhile, attorney Kenneth Porro, who represents 46 island beachfront property owners, said he will visit each municipal body to warn them that they could be held liable in a lawsuit if they enact laws in retaliation against residents who don't sign easements. Porro called the ordinance recently introduced in Surf City, in which beachfront property owners would be responsible for dune maintenance, a violation of property rights and civil rights. Porro also represents residents in Ocean City, Cape May County, who sued the city charging a breach of easement agreement.

“Municipalities have to be aware of federal civil rights laws which say that government cannot conduct actions which run afoul of constitutional rights, and if they do they are exposing themselves to personal liability and for my attorney's fees,” Porro said. “That's a strong hammer.”

Sen. Leonard T. Connors, R-Ocean, Burlington, Atlantic, who is also mayor of Surf City, called Porro's allegations ridiculous. He said the borough ordinance protects beachfront property rights by ensuring that dunes are maintained.

“I've got a problem; I've got six blocks that have lost a tremendous amount of sand,” Connors said by phone Friday night. “If somebody doesn't shovel their sidewalk and it's a hazard to the community, we have a right to go in there and shovel and bill it to their tax bill.”

Connors questioned the foundation of Porro's argument, and Porro's motivation.

“Let him take us to court, I hope he does,” Connors said of Porro. “He's a man in a shiny suit, as far as I can see.”

The DEP officials said they would look into four changes and clarifications to the easement language:

A clarification that easements will not permit the public to use private crossovers to access a private home.

The easement currently states that homeowners are forbidden from excavating and grading dunes created in the project. The DEP might change it to say that grading and excavating is permitted, provided the homeowner acquires appropriate permits from local, state and federal authorities.

A clarification that, while the goal of the project is to create a dune from Loveladies south that is 22 feet above sea level, the dune will erode and accrete sand naturally.

The removal of language in the easement that says that easement signers have “jointly participated in the drafting and preparation” of the easement language. State DEP officials acknowledged at Wednesday's meeting that the statement was untrue.

But Ben Keiser, a DEP supervising engineer for the project, would not say whether the DEP would relax its most stringent project requirements, which are not included in the easements: that towns grant public access to the beach every quarter-mile, a major sticking point for the project in the North Beach and Loveladies section of Long Beach Township.

“The DEP is in discussions with Mayor Gove (of Long Beach Township),” was all Keiser said.

The DEP requires the participating island towns — all the towns except Barnegat Light — to provide access points to the beach every quarter-mile and construct parking lots and restroom facilities in some locations. The federal requirement for beach access is every half-mile.

About 15 residents attended Friday's meeting, a far more intimate affair than the debacle that was the Dec. 13 meeting state, federal and local officials held with island residents at St. Francis in Brant Beach. That meeting was originally supposed to be just for Long Beach Township residents, but it became overcrowded with a nervous, islandwide crowd. The relationship between some residents and local officials, particularly in Long Beach Township, has suffered since.

Judy and Michael Pasnik, 64, of Harvey Cedars, said they enjoyed the meeting and commended Mayor Jonathan Oldham for hosting. They own a small home but are

entertaining building a new, bigger home on their lot. But they're concerned that easements could infringe on their square-footage, meaning any house they build would have to be substantially smaller than they plan. They found out from the meeting that they would, in fact, be able to include the easement area in their square footage.

“But we don't know whether some future administration would say the easement had to come off the square footage,” said Michael Pasnik, an attorney plans to retire to Harvey Cedars soon.

One man who identified himself as a Harvey Cedars beachfront homeowner said he was afraid of signing his property away without getting beach replenishment. This could happen, he said, if Harvey Cedars is unable to procure all of their easements. The DEP has said repeatedly that the project, which is being carried out municipality by municipality, will not proceed for a given town until it has procured every easement.

Dave Rosenblatt, administrator of the DEP's office of engineering and construction, said they would discuss that issue further.

In recent years, controversy erupted over a beach replenishment project on Absecon Island. The DEP and the U.S. Army Corps of Engineers initially wanted all four towns in question — Atlantic City, Ventnor, Margate and Longport — to agree to the project. Margate and Longport balked and eventually the project proceeded with only Atlantic City and Ventnor.

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