

# Bamboo woes may lead to neighbor suing neighbor

By JACK FICHTER  
Cape May Star and Wave

CAPE MAY POINT — Borough Commission approved changes to its bamboo ban to include a fine of as much as \$100 a day if a property owner who submitted a remediation plan to stop bamboo from spreading to neighboring properties does not follow it. It notes: "The administrative officer may request, and the municipal court may grant, a specific performance remedy. The Borough may also institute civil proceedings for injunctive or civil relief."

At a June 10 meeting, borough solicitor John Amenhauser said the amendment does not revoke the ordinance presently in effect. He said the ordinance as it is was written put an undue burden on code enforcement to maintain what can be viewed by many as a private dispute among neighbors. Code enforcement was very busy and the ordinance placed a burden on them to visit the same properties for the same issues, Amenhauser said. The amendment gives the borough the ability to diagnose the bamboo problem

and adopt a proposed plan of remediation. He said once that is done, there was nothing in the ordinance either written now or in the amendment that would prevent any homeowner in the borough from seeking private action in event there are issues on the property which alleviates some of the undue burden on code enforcement from the bamboo ordinance. Amenhauser said there was no requirement the code enforcement official have specific knowledge or training in the spread of bamboo or horticulture, and he accepts remediation plans at

"The borough will not have any further responsibility to continue to go out to the same properties over and over again to deal with the same issue. But nothing in the ordinance stops the owner of those properties from bringing an action against that individual in order to seek relief."

—John Amenhauser, borough solicitor

his discretion. In the event a remediation does not prove to be effective, there was nothing that prevented a property owner from bringing a private action against another homeowner, he said. "The borough will not have any further responsibility to continue to go out to the same properties over and over again to deal with the same issue," Amenhauser said. "But nothing in the ordinance stops the owner of those properties from bringing an action against that individual in order to seek relief." Resident Jon Opplinger questioned what was the value of the borough accepting a bamboo mitigation plan. Amenhauser said it was a benefit to the borough and homeowners that the bamboo

ordinance existed since many towns with bamboo problems had no prohibition ordinance. He said even with a remediation plan, there is no guaranty the bamboo would not return, and code enforcement cannot guaranty no resprouting of bamboo. Opplinger said he had been cutting down bamboo originating from a neighbor's property for 20 years and it has not gone away. "The homeowner who planted this 20 plus years ago is going to say 'I had a plan, I submitted it, I'm done, sue me,'" he said. Deputy Mayor Anita vanHeeswyk she remediated bamboo growing on her property and never thought it would be the borough's responsibility. In some cases,

the original owners of a property who planted bamboo have moved away, so there is no action to be taken. She noted it is against the law to plant bamboo in Cape May Point and each resident has a responsibility for their own yard. Opplinger said after bamboo came up through the floor of his home, he installed a barrier and rebuilt his home. He said the problem persists despite the property owner, where the bamboo originated, following a remediation plan. Resident John Mandley said he has been cutting bamboo on his property for 20 years but it "just gets thicker and thicker." "We tried to do our best and I think it was realized that this still falls into a neighbor-to-neighbor issue," vanHeeswyk said. She said nothing in the ordinance limits a property owner from suing a neighbor over an invasion of bamboo in the yard. "We'd like it to be kinder and gentler, but the borough doesn't normally go in and do anything on a neighbor-to-neighbor issue," vanHeeswyk said.

## Body cameras

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At a June 1 City Council meeting, Fashaw said New Jersey is one of the first states to require all law enforcement officers to wear body cameras. He said the cameras connect to the Cloud once they are docked at the police station. The body cameras have four microphones and 180-degree visual range and each costs about \$2,000, according to the chief. Fashaw said everyone in the public is carrying a cellphone with

a camera and police will now have capability of recording incidents that will document any wrongdoing and good deeds of officers. The cameras will also protect the city against lawsuits, he said. Fashaw said any time an officer is responding to a call or engaging with the public, he or she must activate their body camera. He said all officers will wear the cameras from police administration to Class II summer officers. The department purchased 36 cameras this year for a total cost of

\$165,000, Fashaw said. The cameras will be replaced after 2.5 years of use, he said. The state awarded the police department grant funding of \$91,000 for purchase of cameras, Fashaw said. The equipment package also allows citizens to provide police with video from their phones, doorbell cameras or security cameras, he said. "Our officers want transparency, I want transparency for the betterment of this community," Fashaw said.

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