

Lower Township clears way for stairs after seawall left residents cut off

By **RICHARD DEGENER** Staff Writer | Posted: Thursday, June 9, 2011 9:26 pm

LOWER TOWNSHIP - The township has agreed to be liable for a set of stairs that could finally give Redwood Avenue residents access to the beach.

The agreement could settle a key issue that has been preventing the residents from getting to the water.

The problem arose when a group of Delaware Bay residents constructed a bulkhead to save their homes from erosion. The wooden wall cut off a path over the dunes to the beach. It created a steep dropoff that many elderly residents could not navigate.

The residents complained to Township Council earlier this year, and the township has been negotiating with the attorney for those who constructed the bulkhead. Township Manager Mike Voll said the group agreed to build the stairs if the township would be liable for them.

"It was a liability issue from day one. Once they construct it, we will own it and we'll be liable like any other street end," Voll said.

There are still some remaining issues. One appears to be figuring out when the state Department of Environmental Protection will allow the stairs to be built, since there are bans on construction along the bay certain times of the year.

Larry Hajna, a DEP spokesman, said a ban to protect a migrating shorebird called the red knot ended June 3. Red knots stop on the bay beaches during the spring to feed on horseshoe crab eggs.

"We had an option to go to June 7, but the birds departed and the beaches were reopened on June 3," Hajna said.

Voll was happy to hear this, but there may be another issue. Hajna said the Atlantic States Marine Fisheries Commission, or ASMFC, a compact of East Coast states that regulates horseshoe crabs, recommends a ban on beach construction from April 15 through Aug. 30. Hajna was not certain this would apply.

There appears to be some wiggle room depending on what is actually happening on the beach with the crabs, which come ashore mostly in May but linger into June as they mate and lay eggs.

The ASMFC interstate management plan for horseshoe crabs states: "Construction activities should avoid critical spawning and juvenile development periods. In the mid-Atlantic region, the

generally recommended seasonal restriction is from April 15 to Aug. 30. However, the specific seasonal restriction dates for a particular area should be based on site-specific data and appropriate monitoring."

Deputy Mayor Kevin Lare, at a meeting this week, told Redwood Avenue resident Mary Pacher the township would seek DEP approval.

Danielle Brzezinski, of the ASMFC, said New Jersey is one of the states that agreed to implement and enforce the horseshoe crab management plan. The plan also allows New Jersey fishermen to harvest 100,000 horseshoe crabs per year, but the state has banned any harvest. Brzezinski said this is allowed because a state can enact measures more conservative than the plan.

"They can be more conservative, but not less conservative," Brzezinski said.

Pacher, an 81-year-old Redwood Avenue resident who has fought for beach access, said there are few horseshoe crabs on the beach this year.

Even with DEP approval, Lare said the township's proposal still must be approved by the residents who built the bulkhead. Lare said their attorney, Frederick Schmidt, received the proposal last week and is still reviewing it.

"We met with the neighbors who built the bulkhead. We drafted a resolution that locks them into building the stairs. They're reviewing it," Lare said.

Schmidt could not be reached for comment Thursday. Several residents who built the bulkhead – and received extensive media coverage when erosion threatened their homes in 2009 - could not be reached for comment Thursday.

Vince Orlando, the engineer for the bulkhead project, said stairs were part of his original design approved by the DEP. He was not sure why they were not built but said once he designs a project, his job is over and it is up to the contractor to build it.

"We showed stairs on the plans. We designed stairs. I got the permit over one year ago," Orlando said.

The DEP, he recalled, did not want the bulkhead but instead just wanted the residents to construct a sand dune. Orlando said he demonstrated that would not be sufficient protection, so the DEP approved a bulkhead with a sand dune in front of it.

"The dune is already gone," Orlando noted.

Residents complained to council earlier this year when they tried to go to the beach and faced what Pacher called a 10-foot drop on the bay side of the wall. There were no stairs and "no trespassing" signs had been put up.

Lower Township clears way for stairs after seawall left residents cut off -
pressofAtlanticCity.com: Pacher said she could not even put a memorial bench on the beach as she does every year. The bench is dedicated to her late husband who built their house here more than a half century ago. Pacher said she had felt sorry for the homeowners facing erosion but now she just wants access.

"What they're doing is illegal. It's not right. Neighbors have a right to get to the beach," Pacher said.

When the bulkhead was proposed, Pacher said all the neighbors within 200 feet of the project received a notice showing designs that included steps.

"The reason nobody complained about the wall is we were expecting those steps. I called Trenton (DEP) and they said steps are in the permit," Pacher said.

Contact Richard Degener:

609-463-6711

RDegener@pressofac.com