

**REGULAR MEETING  
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ  
Tuesday, February 15, 2011 – 7:00 P.M.**

The regular meeting of City Council of the City of Cape May was called to order by Mayor Mahaney at 7:00 P.M. on Tuesday, February 15, 2011, in the Cape May City Hall Auditorium. The Clerk called the roll.

The following attended the regular meeting of City Council:

Present:	Mayor Edward J. Mahaney, Jr. Councilmember William H. Murray Councilmember Terri L. Swain Deputy Mayor Jack Wichterman
Also Present:	City Attorney Anthony Monzo City Manager Bruce MacLeod City Clerk Diane L. Weldon Deputy Clerk Louise Cummiskey
Absent:	Councilmember Deanna Fiocca

Mayor Mahaney announced that under the Open Public Meetings Law, notice of this meeting was sent to the Cape May Star and Wave and The Press and a copy of the agenda was delivered to each Member of Council and was posted on the City Hall Bulletin Board.

**PRESENTATION**

Merion Inn Fire. Chief Jerome Inderwies presents meritorious unit citations to the following for their live saving and property saving actions during the fire on December 23, 2010 at the Merion Inn: Lieutenants Coulter, Boyt, and Elwell; Firefighters Warburton, Szemcsak, Eck, Toler, Gay and Laag are all acknowledged.

In addition to the above, Chief Inderwies offers his thanks to the U.S. Coast Guard Tracen, West Cape May Fire Department, Cape May Point Fire Department, Townbank Fire Department, Erma Fire Department, Lower Township Rescue Squad, Cape May Fire Police, Cape May Police Department, two individuals from the Wildwood Fire Department and an EMT from Lower Township, all of whom aided the City of Cape May Fire Department in their efforts on that day. Chief Inderwies advises that without the countless hours of training and the dedication of the members of the Fire Department, the loss could have been deadly. Instead, there was no loss of life and the Merion Inn was saved.

Mayor Mahaney, on behalf of City Council, thanks the members of the volunteer fire company, the career fire company and the fire police who came out to assist that day. The events of that day, comments Mayor Mahaney, exhibited the interest and dedication that the Fire Department has to this City and as a result, three people are alive today who wouldn't be here if this town did not have such a professional Fire Department.

**COUNCIL COMMENTS**

**AGENDA ADDITION/DELETION OF LATE AGENDA ITEMS TO BE CONSIDERED FOR ACTION:**

**ORDINANCES FOR INTRODUCTION:**

230-2011 Bond ordinance providing for various water and sewer utility improvements of the City of Cape May, in the County of Cape May, New Jersey appropriating the aggregate amount of \$1,350,000 therefor and authorizing the issuance of \$ 1,350,000 bonds or notes of the City for financing the cost thereof

Motion: Wichterman  
Second: Swain

Mayor Mahaney requests that the Motion on all three of the Bond Ordinances introduced tonight be amended, because on the back of the Ordinance it states that the second reading and public hearing will be on March 22, 2011 at 7:00 P.M. The Meeting on March 22, 2011 will begin at 1:00 P.M.

Motion: Wichterman (As amended)  
Second: Swain

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

231-2011 Bond ordinance providing for various beach utility improvements of the City of Cape May, in the County of Cape May, New Jersey appropriating the aggregate amount of \$200,000 therefor and authorizing the issuance of \$200,000 bonds or notes of the City for financing the cost thereof

Motion: Wichterman, as amended  
Second: Swain

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

232-2011 Bond ordinance providing for various capital improvements of the City of Cape May, in the County of Cape May, New Jersey appropriating the aggregate amount of \$1,500,000 therefor and authorizing the issuance of \$1,425,000 bonds or notes of the City for financing the cost thereof

Motion: Wichterman, as amended

Second: Swain

Roll Call:

Fiocca Absent

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

**ORDINANCES FOR SECOND READING AND CONSIDERATION FOR ADOPTION:**

225-2011 An Ordinance amending Section 310-19 of the Cape May City Code – mercantile late fee

Mayor asks for motion to adopt Ordinance 225-2011.

**Motion:** Wichterman

**Second:** Swain

City Manager Bruce MacLeod explains that there is a single purpose behind this amendment which is to be more specific as to when a late fee would be imposed for an individual business that did not procure their Mercantile License timely.

Mayor Mahaney opens the meeting for a public hearing.

Hearing no public comment, Mayor Mahaney closes the public hearing and asks for a roll call vote.

Roll Call:

Fiocca Absent

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

**RESOLUTIONS:** Council will accept questions from the public on resolutions:

42-02-2011 Resolution authorizing utility bill adjustments due to catastrophic occurrences

43-02-2011 Resolution authorizing change order of procurement agreement between Metric Group, Inc., and the City of Cape May for the purchase of multi-space parking meters

44-02-2011 Payment of bills

- 45-02-2011 Resolution of the City of Cape May providing for a meeting not open to the public in accordance with the provisions of the New Jersey Open Public Meetings Act, *N.J.S.A. 10:4-12* – litigation City of Cape May vs. Promenade Partners, LLC
- 46-02-2011 Resolution authorizing bidding for beach concessions along the beach strand
- 47-02-2011 Resolution approving a settlement agreement for acquisition of property located at 409 Elmira Street, Block 1060, Lot 33

Mayor Mahaney asks that Resolution 46-02-2011 be omitted from the consent agenda and voted on separately

Councilmember Murray thanks everyone who worked on obtaining the new parking meters.

Consent Agenda Vote:

Motion: Swain  
 Second: Wichterman

Roll Call:  
 Fiocca Absent  
 Murray Yes  
 Swain Yes  
 Wichterman Yes  
 Mahaney Yes

Mayor Mahaney asks the City Clerk to put a discussion item on the March 1, 2011 Agenda for Ordinances pertaining to utility bill adjustments.

- 46-02-2011 Resolution authorizing bidding for beach concessions along the beach strand

Mayor Mahaney comments on Resolution 46. He asks about beach boxes being offered as a required use in the regular parcels. They are not an option in the hotel zones. Secondly, the Mayor would like to have language inserted to make it absolutely clear that there will be no hawking in the hotel zones where food will be sold. Finally, the Mayor believes there should be a map attached for bidders so there is not confusion.

Mr. MacLeod comments that in specifying two different zones, there will be six areas that will be hotel zones and all remaining areas will be considered regular. If a hotel zone is not bid on, it will be offered as a regular zone on the same day. Mayor Mahaney would like to see a provision advising that if there are no bids on a certain parcel, that parcel will not be reduced and rebid.

Motion, as amended: Wichterman  
 Second: Swain

Mr. Murray advises that before voting, he would like to see the aforementioned amendments reduced to writing for both him and the public. He feels uncomfortable voting on this Resolution tonight.

Mayor Mahaney advises that there are people in the audience tonight who will be bidding on these parcels and time is of the essence. He would usually agree with Mr. Murray but in light of the lateness of these bids, and in order for the bidders to be ready for the upcoming season, he believes this Resolution should be bid on tonight.

Larry Hirsch, Montreal Inn, Cape May, NJ appreciates the city's attempts to expedite this matter. He is concerned because the terms contained in the Resolution have been prepared without contacting the people who are going to bid. He would like to be able to rent beach boxes in a hotel zone and hopes the City will reconsider and allow beach boxes to be rented in a hotel zone.

Linda Steenrod, 1011 Washington Street, Cape May, NJ advises that she is a beachgoer who purchases a beach box every year so she would like council to allow the hotel zones to rent beach boxes.

Deputy Mayor Wichterman amends Resolution 46 to require beach boxes in the regular zone and to make beach boxes optional in the hotel zone.

Motion, second amendment: Wichterman

Second, second amendment: Swain

Before the Roll Call, the City Clerk confirms that the publication of the bids for beach concessions will be advised on February 23 and March 2 and the Bid auction will be held on March 4 at 10:00 A.M. in the City Hall Auditorium.

Roll Call:

Fiocca	Absent
Murray	Abstain
Swain	Yes
Wichterman	Yes
Mahaney	Yes

**MINUTES:**

Worksession/Regular City Council meeting minutes dated February 1, 2011

Closed Executive Session City Council meeting minutes dated February 1, 2011

Motion: Wichterman

Second: Swain

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

**LICENSES/APPLICATIONS:**

- Application for Enrollment – CMC Volunteer Fire Department – Vincent Howard
- Application for Fire Police – Larry Reed
- Application for Fire Police – Mark LeMunyon
- Christ Child Society of Cape May, on-premises merchandise raffle, 50/50 on premise raffle and off-premise raffle, drawing to be held on April 10, 2011, noon – 3pm, Grand Hotel of Cape May

Motion: Wichterman

Second: Murray

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

Mayor Mahaney requests that Mr. Monzo work with Mr. MacLeod, the Fire Chief and the Police Chief for a more concise document memorializing the framework and duties of the Fire Police. Secondly, currently there are members in need of reappointment as their five (5) year term has expired.

**REPORTS RECEIVED BY THE CLERK:**

- Overtime report for January, 2011
- Zoning Board of Adjustment meeting minutes dated November 10, 2010
- Shade Tree Commission meeting minutes dated January 13, 2011
- Tourism Commission meeting minutes dated October 13, 2010
- Construction Permit Activity Report for January, 2011
- Monthly report of tax collections for the period ending 12/31/2010
- Fire Department monthly report for January, 2011
- Tax Assessors monthly report dated February 8, 2011

Motion: Swain

Second: Wichterman

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

- A) City Attorney
- B) City Manager – Mr. MacLeod advises that he attended the weekly meeting on the beach replenishment project. All the dredging and sand placement has been completed and the final

phase of the project is the demobilization and removal of all the equipment which is expected to be completed within the next two weeks. Secondly, Mr. MacLeod advises that there will be a special meeting of City Council on Friday, February 18, 2011 at 1:00 P.M. for the purpose of reviewing the budget. Finally, Mr. MacLeod informs that he received notification that the city library will be closed for approximately 30 days for the fixing of the HVAC system.

C) City Clerk, Diane Weldon, announces that the special meeting on Friday will begin at 1:00 P.M. and the Regular Meeting of Council scheduled for March 22, 2011 will also begin at 1:00 P.M. The School Board Election is to take place on April 27, 2011 from 4:00 P.M. until 9:00 P.M.

D) Councilmembers – Mayor Mahaney announces that the contract for the Pile installation was awarded to Arthur Henry. Work will most likely start on Tuesday, February 22, 2011. The City of Cape May did receive a modified CAFRA Permit, states the Mayor and the one condition included in the approval which was that the City had to be in conformance with the Secretary of the Interior’s standards for rehabilitation (standard #9) requiring the City to work with the State Office of Historic Preservation and the Department of the Interior. The City received a letter on January 27, 2011 stating that we are totally in compliance. Finally, Mayor Mahaney announces that contrary to information contained on the internet, the City of Cape May was never taken off the State watch list as a National Historic Landmark. He urges everyone to work harder so that the City can maintain its status as it is crucial to the future of the City.

**PUBLIC PORTION:** Those wishing to publicly comment shall come forward, give their name and address and speak into the microphone. Each speaker will be limited to five (5) minutes.

Charles Hendricks, 106 Trenton Avenue, Cape May, NJ passes out a letter prepared on behalf of himself and five additional tax payers and makes a brief statement regarding said letter. His group objects to the proposed tax height and he urges Council to reduce the proposed budget by \$600,000.00.

### **COUNCIL & CITY MANAGER COMMENTS**

**CLOSED:** City of Cape May vs. Promenade Partners, LLC

Motion made by Councilmember Swain Seconded by Wichterman at 8:10 P.M. to go into closed session.

Motion made by Deputy Mayor Wichterman to go back into open session. Motion made by Deputy Mayor Wichterman, seconded by Councilmember Swain to adjourn the meeting. Meeting adjourned at approximately 8:45 P.M.

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Edward J. Mahaney, Jr., Mayor

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Jack Wichterman, Deputy Mayor

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Deanna Fiocca, Councilmember

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Terri L. Swain, Councilmember

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William H. Murray, Councilmember

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Diane L. Weldon, City Clerk