

**REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Wednesday, April 20, 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. Wednesday, April 20, 2011, in the Cape May City Hall Auditorium. The Clerk called the roll.

Present: Councilmember Deanna Fiocca
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 Auditor Leon Costello
City Clerk Diane L. Weldon
Deputy Clerk Louise Cummiskey

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.

Minutes do not reflect the actual order in which the events occurred.

PRESENTATION

Cape May City Elementary School 2011 budget presentation – John Thomas, Business Administrator

Mr. Thomas offers an update of the School Budget for the year 2011. The overall budget dropped this year and is down to \$3.4 million. The tax levy will remain the same this year for the fourth year in a row with no increase, advises Mr. Thomas. He comments that the staffing and enrollment remain the about the same and the school looks to share services with the City and other school districts to help keep costs down. Finally, Mr. Thomas states that the budget vote will be held next Wednesday from 4:00 P.M to 9:00 P.M. and he encourages everyone to come out and vote.

Deputy Mayor Wichterman asks Mr. Thomas if the school has reached out to West Cape May to encourage them to send their students to Cape May Elementary. Mr. Thomas comments that they have but that West Cape May's position is that they are a small farming school and that is the way they would like to remain.

2011 CAPE MAY CITY BUDGET:

Leon Costello, City Auditor, advises that this is the time for the public hearing on the budget. He then explains the process.

ORDINANCES FOR SECOND READING AND CONSIDERATION FOR ADOPTION:

Ordinance 233-2011 Ordinance to exceed the municipal budget appropriation limits and to establish a cap bank

Mayor asks for motion to adopt Ordinance 233-2011.

Motion: Swain
Second: Wichterman

Mayor Mahaney opens the meeting for a public hearing.

Jay Schatz, 25 Gurney Street, Cape May, NJ asks what items in the budget have changed more than ten percent.

Mr. Costello responds this is not the Ordinance which governs a change of more than ten percent.

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

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

76-04-2011 Resolution authorizing the reading of the 2011 annual municipal budget by title only

Motion: Swain
Second: Wichterman

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

OPEN PUBLIC HEARING ON THE CITY OF CAPE MAY 2011 MUNICIPAL BUDGET

Jay Schatz, 25 Gurney Street, Cape May, NJ asks what items in the budget have changed more than ten percent. Mr. Costello responds the Length of Service Awards Program (LOSAP) for the Fire Department, Legal fees and Beach Tag Program.

Deputy Mayor Wichterman moves to close public portion.

Mayor Mahaney asks whether the language in the following Resolution, #77-04-2011, can be changed. The Mayor suggests there is a typographical error in the first line of Resolution #77, and more specifically the word “approved” should be replaced with the word “introduced.” Mr. Costello advises that it is not a typographical error and that the State calls the introduction of the Resolution the approval and therefore, the language is correct. Mayor Mahaney requests that the word “introduced” be placed in parenthesis after the word “approved” to clarify the meaning. Mayor Mahaney moves to amend the language in the first sentence of Resolution #77 by placing the word “introduced” after the word “approved.”

Motion: Mahaney

Second: Wichterman

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

77-04-2011 Resolution to amend the budget (As amended)

Motion: Murray

Second: Wichterman

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

Mr. Costello advises that on May 3, 2011 at the 1:00 P.M. Worksession Meeting, we will have the final vote to adopt the budget.

COUNCIL COMMENTS

PROCLAMATION

Arbor Day Celebration – read by Clerk

Mayor Mahaney asks the Clerk to provide a copy of the Arbor Day Proclamation to the Shade Tree Commission as well as the Elementary School.

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

The following Resolutions will be approved by Consent. Deputy Mayor Wichterman offers an explanation of the purpose of the Resolutions for the benefit of the public.

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

- 78-04-2011 Resolution authorizing purchase of one (1) new 2011 tenant model M20 mall scrubber/sweeper
- 79-04-2011 Resolution authorizing utility bill adjustments due to catastrophic occurrence
- 80-04-2011 Resolution designating the 2011 bathing beaches
- 81-04-2011 Refund of overpaid 2011 taxes
- 82-04-2011 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 – Johnston v. City of Cape May, City of Cape May v. Promenade Partners, LLC and Edward Henry
- 83-04-2011 Authorization for the City of Cape May to extend construction timeline for contract #7 – USDA Sanitary Sewer Improvements Phase III - Rebid
- 84-03-2011 Resolution authorizing purchase of one (1) new 2011 bucket truck Ford F-450 with utility body and dur-a-lift aerial bucket unit under state contract no. A73960
- 85-04-2011 Payment of bills A
- 85-04-2011 Payment of bills B
- 86-04-2011 Resolution authorizing contracts with certain approved state contract vendors for contracting units pursuant to NJSA 40A:11-12a
- 87-04-2011 Resolution authorizing purchase of new fuel dispenser and full management system under state contract no. A75554

Mayor Mahaney suggests that a vote be taken on all Resolutions except Resolution 85A and 85B.

Motion for all but 85A and 85B

Motion: Wicherman

Second: Mahaney

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

85-04-2011 Payment of bills A

Motion: Wichterman

Second: Fiocca

Roll Call:

Fiocca	Yes
Murray	Abstain
Swain	Yes
Wichterman	Yes
Mahaney	Yes

85-04-2011 Payment of bills B

Motion: Wichterman

Second: Fiocca

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Abstain
Wichterman	Yes
Mahaney	Yes

MINUTES:

City Council Special Closed Executive Meeting Minutes dated March 15, 2011

Motion: Murray

Second: Fiocca

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Abstain
Mahaney	Yes

City Council Special Closed Executive Meeting Minutes dated April 5, 2011

City Council Worksession Meeting Minutes dated April 5, 2011

Motion: Wichterman

Second: Fiocca

Roll Call:

Fiocca	Yes
Murray	Yes

Swain Yes
Wichterman Yes
Mahaney Yes

REPORTS RECEIVED BY THE CLERK:

Regular meeting minutes of the Tourism Commission of the City of Cape May
Monthly report of tax collections for the periods ending 1/31, 2/28 and 3/31/2011
Assessors Office monthly report dated April 7, 2011
Cape May City Police Department monthly report for March, 2011
WSM Management Co., Inc. meeting minutes dated March 7, 2011
Construction permit activity report for March, 2011
Cape May City Fire Department monthly report for March, 2011
Cape May City Shade Tree Commission meeting minutes dated March 10, 2011
Cape May City Planning Board meeting minutes dated February 8, 2011

Motion: Wichterman

Second: Fiocca

Roll Call:

Fiocca Yes
Murray Yes
Swain Yes
Wichterman Yes
Mahaney Yes

UNFINISHED BUSINESS:

NEW BUSINESS:

- A) City Attorney
- B) City Manager
- C) City Clerk advises that the School Board Election will be held next Wednesday, from 4P.M. to 9P.M., and reminds all of the venues for each district.
- D) Councilmembers - Deputy Mayor Wichterman comments that Lower Township has introduced a budget for the regional school which has the City of Cape May paying an exorbitant amount toward the taxes. The Financial Officer of Lower Township was quoted as saying that the formula which determines what the City of Cape May will pay is dictated by Trenton and Mr. Wichterman advises that that statement is not accurate. Deputy Mayor Wichterman tells us that back in 1956, the City of Cape May voted to enter into the regional school system and at that time, the funding was predicated upon the number of children attending the school. In 1974, the state chose to change the funding formula without any input from the municipality and what has happened, is that the formula used to tax the City of Cape May is based mainly upon tax ratables. Consequently, the City of Cape May pays about 33% of the cost.

Mayor Mahaney itemizes the events taking place over the weekend, including an Easter Egg Hunt and an Easter Fashion Stroll on the Mall. The Mayor congratulates Mr. Monzo and his

wife for the success of the Crop Walk which was recently held in the City of Cape May. The mayor talks about the purchase of the new bucket truck.

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.

Bernard Haas, 1016 Illinois Avenue, Cape May, NJ has five questions. The subject he would like to discuss is the Beach Theatre. Before he talks about the Beach Theatre, he would like to know what happened to the banners that say “National Historic Landmark City?” Mayor Mahaney advises that the City is in possession of the banners but did not have a bucket truck to put them up. Mr. Haas inquires as to whether the Minutes of today’s Closed Session will be made available to the public. The Mayor responds that the Minutes will be made available at the conclusion of the litigation. Mr. Haas feels that the failure of council to decide to support the findings of the HPC regarding the Beach Theatre has led to the long, extended hearing before the Planning Board. Mr. Haas thinks it is odd that no one from Council has attended any of the meetings and is curious as to why no one from Council has attended any of the hearings. Mayor Mahaney responds for all of Council. The Mayor advises that City Council is unanimous in following the procedure under the State Statute as to how a case is handled that is on appeal. It would be inappropriate, advises the Mayor, for City Council Members individually or collectively to attend a meeting in any capacity.

Paul Johnston, 11 S. Broadway, Cape May, NJ inquires as to the three line items which were to be increased in the budget by ten percent. Mayor Mahaney advises Mr. Johnston that the three items are being decreased by ten percent.

Jay Schatz 25 Gurney Street, Cape May, NJ compliments the people who widened Elmira Street. He thanks Mayor and Council for the Arbor Day Proclamation. Mr. Schatz inquires as to the purpose of the notch in the sea wall at Gurney Street. Mr. MacLeod advises that the notch was created to allow the City to install the bathroom facility to be located there while work is being completed on Convention Hall.

City Solicitor comments that the City of Cape May will need to pass an Ordinance to make Elmira Street a two-way street.

COUNCIL & CITY MANAGER COMMENTS

CLOSED: Johnston v. City of Cape May, City of Cape May v. Promenade Partners, LLC and Ed Henry

Motion made by Deputy Mayor Wichterman, seconded by Councilmember Murray to go into closed session. The regular meeting adjourned at 7:50 P.M.

Motion made Deputy Mayor Wichterman to go back into open session. Motion made by to adjourn the meeting. Meeting adjourned at approximately 9:00 P.M.

Edward J. Mahaney, Jr., Mayor

Jack Wichterman, Deputy Mayor

Deanna Fiocca, Councilmember

Terri L. Swain, Councilmember

William H. Murray, Councilmember

Diane L. Weldon, City Clerk