

**REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Tuesday, May 17, 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, May 17, 2011, in the Cape May City Hall Auditorium. The Clerk called the roll.

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

PROCLAMATION

Knights of Columbus - Council No. 6202 – The Proclamation is read by the City Clerk and presented to the Knights of Columbus by Mayor Mahaney. The Mayor thanks the members for their work in the community.

COUNCIL COMMENTS

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

121-05-2011 Resolution regarding City of Cape May City-Wide Sidewalk Sale – Addition to Agenda.

Motion: Murray
Second: Wichterman

Roll Call:
Fiocca Absent
Murray Yes
Swain Yes

Wichterman Yes
Mahaney Yes

ORDINANCES FOR INTRODUCTION

235-2011 Bond ordinance amending section 3(c) of bond ordinance numbered 232-2011 of the City of Cape May, in the County of Cape May, New Jersey finally adopted March 22, 2011 in order to appropriate a grant

Mayor asks for motion to introduce Ordinance 235-2011.

Motion: Wichterman

Second: Murray

City Manager Bruce MacLeod explains that this Bond Ordinance appropriates \$500,000.00 which the City received in a Grant from the State of New Jersey, DCA to address compliance issues for ADA needs and purposes.

Roll Call:

Fiocca Absent
Murray Yes
Swain Yes
Wichterman Yes
Mahaney Yes

ORDINANCE FOR SECOND READING AND CONSIDERATION FOR ADOPTION:

234-2011 An ordinance amending provisions of Chapter 7 of the revised general ordinances of the City of Cape May entitled "Vehicles and Traffic"

Mayor asks for motion to adopt Ordinance 234-2011.

Motion: Swain

Second: Wichterman

Mayor Mahaney opens the meeting for a public hearing.

Linda Steenrod, 1011 Washington Street, Cape May, NJ advises that there was a typographical error on this Ordinance and wants to make sure it has been corrected. Mayor Mahaney advises that the error was corrected.

Hearing no 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

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.

Councilmember Murray requests that Resolution 117-05-2011 be removed from the Consent Agenda and Councilmember Swain requests that Resolution 110-05-2011 B also be removed.

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

- 99-05-2011 Resolution of the City of Cape May approving the 4th Annual Harborfest Celebration
- 100-05-2011 Resolution approving participation in the NJ State Local Cooperative Housing Inspection Program
- 101-05-2011 Resolution authorizing reduction of performance guarantee – No. 3 Kocis – Osprey Landing
- 102-05-2011 Resolution of the City of Cape May authorizing the annual 4th of July fireworks display
- 103-05-2011 Resolution endorsing the adoption of Green Building Practices for civic, commercial and residential buildings in the City of Cape May
- 104-05-2011 Award of contract for supplying of uniforms for beach patrol, jr. lifeguards and beach tag personnel for the 2011 season
- 105-05-2011 Award of contract for tree care and maintenance
- 106-05-2011 Award of contract for supplying of water meter installation materials
- 107-05-2011 Award of contract for supplying of water and sewer materials and supplies
- 108-05-2011 Award of contract for the supply and delivery of removable containers to be used in the City's recycling program
- 109-05-2011 Resolution authorizing purchase of 2011 Ford Explorer for Beach Patrol
- 110-05-2011 Payment of bills A and B
- 111-05-2011 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 – Beach Theatre
- 112-05-2011 Award of contract for supplying of HVAC service and repairs
- 113-05-2011 Award of contract for supplying of electrical service and repairs
- 114-05-2011 Refund of overpaid 2011 taxes
- 115-05-2011 Resolution to approve agreement with Harbor Cove Village & Yacht Club Homeowners Association, Inc. accepting right-of-way dedication
- 116-05-2011 Resolution authorizing acceptance of Small Cities Community Development Block Grant from NJ Department of Community Affairs to make improvements to ensure compliance with the American with Disabilities Act
- 117-05-2011 Resolution approving letter agreement between City of Cape May, Ogren Construction and Cape Island Baptist Church (Removed from Consent Agenda)
- 118-05-2011 Authorization for Remington and Vernick Engineers to provide professional services including a licensed site remediation professional for the underground storage tank (UST) remediation project

- 119-05-2011 Authorization for Remington and Vernick Engineers to prepare the response action outcome (RAO) for the underground storage tank (UST) remediation project
- 120-05-2011 Authorization for Remington and Vernick Engineers to provide professional engineer services for demolition and replacement of the 700,000 gallon elevated water storage tank
- 121-05-2011 Resolution regarding City of Cape May City-Wide Sidewalk Sale

Motion: Wichterman

Second: Murray

Paul Johnston, 11 S. Broadway, Cape May, NJ thinks it is a great idea to celebrate and recognize the Cape May Harbor.

Bernie Haas, 1016 Illinois Avenue, Cape May, NJ asks how much the Ford Explorer costs. Mayor Mahaney responds \$24,000.00. Mr. Haas then asks about the “green building” standards and whether they would be incorporated in any new structures built in the City of Cape May.

Susan Tischler, 507 Washington Street Mall, Cape May, NJ asks about the times for the sidewalk sale. Mayor Mahaney advises 9:00 A.M. to 7:00 P.M.

Linda Steenrod, 1011 Washington Street, Cape May, NJ asks for information on the HVAC and Electrical awards. Mayor Mahaney advises that the HVAC contract was awarded to Marlee and Vitelli was awarded the electrical contract.

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

110-05-2011 Payment of bills B

Motion: Murray

Second: Wichterman

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Abstain
Wichterman	Yes
Mahaney	Yes

117-05-2011 Resolution approving letter agreement between City of Cape May, Ogren Construction and Cape Island Baptist Church

Motion: Wichterman

Second: Mahaney

Councilmember Swain requests clarification from Mr. Monzo as to her ability to vote on this Resolution based upon her association with the Cape Island Baptist Church. Mr. Monzo advises that being a member of the Church will not prohibit her from voting on this Resolution.

Councilmember Murray explains the purpose of the letter agreement between the City of Cape May, Cape Island Baptist Church and Ogren Construction. Mr. Murray believes Ogren Construction should pay the fee for parking and not the City of Cape May and suggests that being a part of this agreement exposes the City to additional liability. Mayor Mahaney advises that this item is covered under the “owners’ budget” and had the City asked Ogren Construction to pay for parking as part of the bid specifications, Ogren would have placed a higher bid or may have marked up the price to the City for this service. Mayor Mahaney further advises that the City is interested in preserving non-metered and metered parking in the area of the construction site for the benefit of the residents and visitors to the City of Cape May. Finally Mayor Mahaney advises that the bid specifications specify that the City of Cape May will provide parking for the contractors and sub-contractors working on the construction site. Mr. Murray agrees with the Mayor and believes in the principal of this agreement but does not believe that the City should be responsible to pay for this parking.

Paul Johnston asks how many cars the Church lot can accommodate. Deputy Mayor Wichterman advises thirty-eight. Ms. Steenrod asks is the City will need additional money to pay for the parking and Mayor Mahaney advises that the money is included in the owners’ budget.

Shain Meier, 1217 Vermont Avenue, Cape May, NJ asks the duration of the contract. Mayor Mahaney advises that this contract runs from now until Memorial Day weekend of 2012.

Roll Call:

Fiocca	Absent
Murray	No
Swain	Yes
Wichterman	Yes
Mahaney	Yes

MINUTES:

City Council regular meeting minutes dated April 20, 2011

City Council special session meeting minutes dated April 29, 2011

City Council special closed executive session meeting minutes dated April 29, 2011

City Council regular meeting minutes dated May 3, 2011

Motion: Wichterman

Second: Swain

Roll Call:

Fiocca	Absent
Murray	Yes
Swain	Yes

Wichterman Yes
Mahaney Yes

REPORTS RECEIVED BY THE CLERK:

Environmental Commission meeting minutes dated April 27, 2011
Construction permit activity report for April, 2011
Tourism Commission meeting minutes dated February 9, 2011
CMCMUA meeting minutes for March 2, March 16, April 6, April 20
Assessor's office monthly report dated May 6, 2011
Fire Department monthly report for April, 2011
Plan Endorsement Citizens' Advisory Committee meeting minutes dated 3/10 & 4/7
Police Department monthly report for April, 2011
Shade Tree Commission meeting minutes dated April 14, 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 mentions the Memorial Day Services ceremony at the monument at 9:00 A.M. and he invites all council members to attend. Further, on Sunday, May 29, 2011 the City of Cape May will sponsor the first concert in Rotary Park at 8:00 P.M. The Cape May Elementary School children will provide the City with a beach cleaning on Monday, May 23, 2011 between 11:00 A.M. and 2:00 P.M. and the Trolley service will use a new route this summer and the service will begin in July and run through Labor Day weekend.
 - C) City Clerk reminds everyone that June 7, 2011 is primary election day so the next council worksession will be held on Wednesday, June 8, 2011 at 1:00 P.M.
 - D) Councilmembers – Deputy Mayor Wichterman inquires as to whether Mr. MacLeod has any information on the problem of tour buses allowing passengers to disembark in unauthorized areas. Mr. MacLeod advises that the City is following up on those incidents but basically, you must see the action before you can correct it. Mr. MacLeod further advises that if the Bus Company properly applies for and secures a permit, the City can instruct them as to the rules and regulations. It is the companies that do not secure a permit that are the problem. Deputy Mayor Wichterman would like to see strict enforcement of the restriction of dogs, bicycles and skateboards on the mall.
- Mayor Mahaney advises there will be a second community visioning meeting on this Thursday at 10:00 A.M. and the Mayor asks that everyone please fill out the visioning questionnaire which may be obtained on the City website and at City Hall during working hours. The Recreation

Department is sponsoring the annual Cape May Dancer's recital this Friday and Saturday evening. A letter was received from Governor Christie advising that the City has received a \$450,000.00 Grant for the Lafayette Street Open Space. Finally, the Mayor comments on the City's intention to refurbish/replace the water tower and he itemizes the City's options in that endeavor.

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.

Paul Johnston, 405 Beach Avenue, Cape May, NJ asks how much money the City spent in the litigation between the City of Cape May and Johnston. Mr. Monzo advises that Mr. Johnston may receive that information by submitting an OPRA request to the City Clerk.

Linda Steenrod, 1011 Washington Street, Cape May, NJ asks Deputy Mayor Wichterman about the enforcement of the Sign Ordinance and specifically about A-frame signs. Mr. MacLeod advises that there is a portion of the Ordinance that deals with A-frame signs and they are not totally prohibited. There is a permit process, states Mr. MacLeod, and there are rules and regulations regarding A-frame signs. Mr. MacLeod asks Ms. Steenrod if she is speaking of a specific location and if so, he will investigate to see if the sign has been applied for in a proper manner.

Bernie Haas, 1014 Illinois Avenue, Cape May, NJ questions the safety of the current fencing at the Convention Hall project. He would also like to see some community art to hang on the fences so they don't look like "construction fences." Mayor Mahaney explains the intention of the City in that regard and confirms that the City will add a second section of fencing. The Mayor advises that the area will have a police officer at the site to direct traffic and protect the pedestrians.

COUNCIL & CITY MANAGER COMMENTS

CLOSED: litigation – beach theatre

Motion made by Swain, seconded by Wichterman to go into closed session. The regular meeting adjourned 8:15 P.M.

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

Edward J. Mahaney, Jr., Mayor

Jack Wichterman, Deputy Mayor

ABSENT

Deanna Fiocca, Councilmember

Terri L. Swain, Councilmember

William H. Murray, Councilmember

Diane L. Weldon, City Clerk