

**REGULAR MEETING  
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ  
Tuesday, October 18, 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. Tuesday, October 18, 2011, in the Cape May City Hall Auditorium. The Clerk called the roll and the Pledge of Allegiance was recited.

Present: Mayor Edward J. Mahaney, Jr.  
Councilmember William H. Murray  
Councilmember Terri L. Swain  
Councilmember Deanna Fiocca  
Deputy Mayor Jack Wichterman

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.

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

Resolution 219-10-2011 - Mayor Mahaney asks for the addition of the matter of City of Cape May v Henry's on the Beach under the litigation category, and then he clarifies the contract negotiations with the Boroughs of West Cape May and Cape May Point refer to the interlocal Police Agreements only.

**Motion:** Mahaney  
**Second:** Wichterman  
Roll Call:  
Fiocca Yes  
Murray Yes  
Swain Yes  
Wichterman Yes  
Mahaney Yes

**PROCLAMATION:** The clerk reads the Breast Cancer Awareness Month Proclamation

**ORDINANCES FOR INTRODUCTION:**

240-2011 Ordinance Prohibiting Smoking in Cape May City Public Parks, Beaches, Promenade and Recreation areas

Mayor Mahaney asks Mr. Monzo to amend Ordinance 240-2011 by adding Wise Anderson Park to the Ordinance.

Mayor Mahaney asks for a motion to introduce Ordinance 242-2011, as amended.

**Motion:** Wichterman

**Second:** Murray

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

Deputy Mayor Wichterman recognizes Kim Burns and Robert Zlotnick of Atlantic Prevention Resources, who are in the audience this evening and invites them to attend the November 14, 2011 Regular Meeting of the City of Cape May when the within Ordinance will come up for second reading and public hearing. Deputy Mayor Wichterman comments that he has had a lot of verbal support from residents regarding this Ordinance.

**ORDINANCES FOR PUBLIC HEARING AND ADOPTION:**

240-2011 An Ordinance amending Section 7 of the Cape May City Code – Handicapped Parking

**Motion:** Wichterman

**Second:** Swain

Mayor Mahaney opens the meeting for a public hearing.

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

Deputy Mayor Wichterman again thanks Mayor and Council for supporting this Ordinance.

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

241-2011 An Ordinance of the City of Cape May amending Article 1 of Chapter 379 of the Code of the City of Cape May to regulate bait and tackle vendors.

**Motion:** Wichterman

**Second:** Fiocca

Mayor Mahaney opens the meeting for a public hearing.

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

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:

218-10-2011 Resolution regarding Trick-or-Treat night

219-10-2011 Resolution of the City of Cape May providing for a meeting not open to the public in accordance with the provisions of the NJ Open Public Meetings Act, *NJSA10:4-12* - contract negotiations – interlocal police agreements with Cape May Point and West Cape May; collective bargaining – IAFF 3495; litigation - Promenade Partners LLC

220-10-2011 Resolution Authorizing Change Order No. 1 for Contract with Ogren Construction for Construction on the new Convention Hall

221-10-2011 Resolution Authorizing Change Order No. 2 for Contract with Ogren Construction for Construction of new Convention Hall

222-10-2011 Payment of Bills A

**Motion:** Wichterman

**Second:** Fiocca

Councilmember Murray asks if the aforementioned Change Orders are going to increase the cost of the new Convention Hall. He would also like to know why the location of the transformer pad has to be changed and why it was not properly located in the original design of the hall. Mr. Murray would like to know why the Architect didn't foresee this and asks why the Architect isn't responsible for the payment of the change. Mayor Mahaney advises that the electric utility chooses the location of the pad and said utility changed their position several times on the location of the pad. Mr. Murray advises that he will look closely at all change orders very closely to make sure the City is not exposed to possible extensive costs.

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

222-10-2011 Payment of Bills B

**Motion:** Murray

**Second:** Fiocca

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Abstain
Wichterman	Yes
Mahaney	Yes

**MINUTES:**

City Council worksession/regular meeting minutes dated October 4, 2011

City Council closed executive session meeting minutes dated August 25, 2011

City Council closed executive session meeting minutes dated August 18, 2011

**Motion:** Mahaney

**Second:** Wichterman

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

City Council closed executive session meeting minutes dated August 19, 2011

**Motion:** Mahaney

**Second:** Murray

Roll Call:

Fiocca	Abstain
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

**REPORTS RECEIVED BY THE CLERK:**

Cape May City Police Department Monthly Report for October, 2011

Construction Permit Activity Report for September, 2011

Shade Tree Commission meeting minutes dated September 8, 2011

Tourism Commission meeting minutes dated July 13, 2011

Overtime Report for September, 2011

WSMMC approved minutes dated September 13, 2011

Cape May City Fire Department Monthly Report for September, 2011

**Motion:** Wichterman

**Second:** Fiocca

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

**LICENSES/APPLICATIONS:**

Merchandise and 50/50 raffle license, Brendan Borek High Tides Memorial Fund, Inc., November 5, 2011, 6-10pm VFW Post 386 Cape May.

**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 – Mr. MacLeod advises bids will be received on October 21, 2011 at Noon for the catering kitchen equipment and the telescopic chair risers for the new Convention Hall.

On October 28, 2011, at Noon, bids will be received for the skating rink barrier for the Convention Hall project.

C) City Clerk – Next regular meeting will be on Monday, November 14, 2011 at 7:00 P.M.

D) Councilmembers – Ms. Fiocca asks whether the price of the aerobics classes has changed as she has been approached by some of our senior citizens about an increase in the price of each class. Mr. MacLeod will check and get back to Ms. Fiocca.

Mayor Mahaney advises the drive through flu clinic will be held this Sunday, October 23, 2011 from 9:00 A.M. to 3:00 P.M. The City Halloween Parade will be held this Sunday, registration will begin at 2:00 P.M. and the Parade will begin at 3:00 P.M. As part of that event, the mall merchants will sponsor trick or treat on the mall beginning at 12:00 P.M. Mayor Mahaney advises that he has penned an article in the New Jersey League of Municipalities Magazine which talks about sustainability being the crux of Cape May's future. Copies of the Magazine are available.

**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.

Kim Byrne, from Tobacco Free for a Healthy New Jersey, is here in support of the non-smoking ban on the beaches and public parks in the City of Cape May. She offers her assistance in this endeavor. Deputy Mayor Wichterman asks Ms. Byrne for brochures in support of the Non Smoking Ordinance and she advises she will work with the City when we get to that point.

Dr. Bob Zlotnick, Atlantic Prevention Resources, Atlantic County, wants the City to consider adding the Washington Street Mall to the non smoking ordinance. Deputy Mayor Wichterman advises that will be a topic next year.

Charles Hendricks, 106 Trenton Avenue, Cape May, NJ assumes that Mayor and Council have received and read his October 14, 2011 letter. Mr. Hendricks advises he was denied information which he requested via an OPRA request based upon the deliberative material exception. He believes he is entitled to the information and before he files an appeal, he would like council to waive the exception and give him the information. Mr. Monzo comments that this matter is scheduled to be discussed by council in closed session and he would advise council to refrain from voting on the matter until after the closed session meeting.

Bernie Long, 1012 New York Avenue, Cape May, NJ speaks about future sustainability and asks about tax increases in the future. Mr. Long would like to know how the City of Cape May intends to keep real estate taxes from increasing in the future. Mr. Murray asks Mr. Long to attend the City Budget Hearings and offer specific suggestions as to how the taxes can be controlled. Mr. Long advises that at budget time, he will be 1,100 miles away. There is much discussion between Council and Mr. Long about the topic.

Jay Schatz, 34 Gurney Street, Cape May, NJ comments about the anti smoking ordinance. He refers to the nuisance ordinances which were adopted by the City in the past and believes the City is beginning to travel that same path. He is concerned about enforcement of the non-smoking ordinance and wants to know who will tell the Canadians they must not smoke on the beach when they travel to Cape May in July and August. Mr. Schatz believes the handicapped ordinance is a step in the right direction.

Bernie Haas, 1016 Illinois Avenue, Cape May, NJ asks if the owners of the beach theatre will be reassessed since the theatre has been razed and asks if they will receive a tax rebate. Mr. Monzo does not believe there will be a significant change in the taxes since the assessment is based upon the income generated on the property and the retail stores have been the only source of income during the past several years. Mr. Haas again asks about the National Historic Landmark Banners and again is advised that as soon as the bucket truck is delivered to the City, we will install the banners. Mr. Haas asks if anything will be built on the property where the Beach Theatre was located and Mayor Mahaney advises that he should ask the Franks as they are the owners of the property.

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

Motion made by Murray, seconded by Wichterman to go into closed session. The regular meeting adjourned at 8:00 P.M.

**CLOSED:** contract negotiations – interlocal agreements with Cape May Point and West Cape May

collective bargaining – IAFF 3495

Motion made Deputy Mayor Wichterman to go back into open session. Motion made by Deputy Mayor Wichterman to adjourn the meeting. Meeting adjourned at approximately 9:10 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