

**REGULAR MEETING  
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ  
Tuesday, May 3, 2011, 1:00pm**

The worksession/regular meeting of City Council of the City of Cape May was called to order by Mayor Mahaney at 1:00pm on Tuesday, May 3, 2011, in the Cape May City Hall Auditorium. The Clerk called the roll and the Pledge of Allegiance was recited.

Present: Councilmember Deanna Fiocca  
Mayor Edward J. Mahaney, Jr.  
Councilmember William H. Murray  
Councilmember Terri L. Swain  
Deputy Mayor Jack Wichterman  
City Solicitor Anthony Monzo  
City Manager Bruce MacLeod  
City Auditor Leon Costello  
City Engineer Ray Roberts  
Deputy Clerk Louise Cummiskey  
City Clerk Diane Weldon

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.

**COUNCIL COMMENTS**

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

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

Motion: Murray

Second: Fiocca

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

Mayor Mahaney asks that Resolutions #95 and #98 be removed from the Consent Agenda and voted on separately.

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

**EARLY PUBLIC COMMENT ON AGENDA ITEMS** – Excluding items listed for public hearings

**PUBLIC HEARING ON BUDGET AMENDMENT:**

City Auditor, Leon Costello, explains today's process regarding the amendments made to the budget. He recaps the steps taken by the City to get to this point and advises that today there will be a public hearing regarding eleven line items of change from the meeting of April 20, 2011 and hopefully, a Motion to adopt the budget.

Mayor Mahaney explains that the three line items which changed by more than ten percent, necessitating today's hearing, are the LOSAP payment, a reduction in Legal O&E and an increase in expenditures in the Beach Utility for payment of the rental of the Ricker's property.

Mayor Mahaney opens the Public Hearing.  
As no one comes forward, the Public Hearing is closed.

Councilmember Fiocca points out that the terms listed on the Resolution are incorrect. Mr. Costello will make the appropriate correction.

Clerk reads the Resolution

89-05-2011 Resolution to adopt the budget.

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

Councilmember Murray acknowledges all the hard work of the City Manager, Mayor and Council in the preparation of this year's budget.

## **WORK SESSION DISCUSSION ITEMS**

Smoke free beaches –

Karen Blumenfeld, Global Advisors on Smoke free Policy “GASP”

Kim Burns, Atlantic Prevention Resources

Deputy Mayor Wichterman asks Ms. Blumenfeld and Ms. Burns to come to the table for a discussion. The Deputy Mayor advises that Council is in the discussion phase regarding non smoking beaches and welcomes any information that may be offered by Ms. Blumenfeld and Ms. Burns.

Karen Blumenfeld, advises that she is the Executive Director of “GASP” and has been with the organization since 1990. GASP works to promote smoke free environments and protect people from second hand smoke. They also provide education for people who want to quit smoking.

Kim Burns works at Atlantic Prevention Resources in Pleasantville and advises she is responsible for the seven southern counties in New Jersey. Her organization offers programming, presentations on how to quit smoking, and also works with the community in implementing new policies on smoking.

Deputy Mayor Wichterman speaks about the Borough of Belmar and their success in providing smoke free beaches and asks Ms. Blumenfeld to give us some history in that regard. Ms. Blumenfeld advises that when Belmar originally adopted their Ordinance in 2001, smoking was allowed in certain restricted areas. Belmar is currently moving toward a 100% smoke free environment. Ms. Blumenfeld announces that on May 15, 2011, New York City will pass a law establishing that all recreational areas under the City Park Service will be 100% smoke free.

Deputy Mayor Wichterman asks Ms. Blumenfeld how the Borough of Belmar enforces their smoke free Ordinance. Ms. Blumenfeld, advises it is enforced by their Police Department. Mr. MacLeod asks what tools are used to educate the public as to smoke free areas. Ms. Blumenfeld advises signage and newspaper ads, as well as health fairs and national smoke free events throughout the year. Mr. MacLeod inquires as to whether any municipality has received any legal challenge to a non-smoking ordinance and Ms. Blumenfeld advises not to her knowledge.

Kim Burns speaks about her work at Atlantic Prevention Resources and some of the beach clean-ups that she has participated in throughout the years with high school students. She tells us that young people today are very much concerned about the environment and can't understand why cigarette butts are not considered “litter.”

Mr. Wichterman asks Ms. Blumenfeld her opinion on restricted smoking areas on the beach and Ms. Blumenfeld is not in favor of them. She feels that if it is the intent of the City to create an environment that is healthful for all people and the environment, the beaches should be smoke free.

## **CITY ENGINEER REPORT**

Ray Roberts comes to the table to offer his monthly report. Mr. Roberts begins by advising that they are presently cleaning the sewer between the island and the Washington Street connector for

the slip lining process. There is a significant problem there, advises Mr. Roberts, and we will find out today what the problem is. Mayor Mahaney confirms with Mr. Roberts that once the problem has been identified, the determination will dictate whether or not we can slip line it. Mr. Roberts continues with the 2011 Road Program update and advises that there is a Resolution on today's agenda and if approved, we will move forward on the selected road projects with construction by Labor Day and a completion date of Memorial Day 2012. He comments that the investigation of the underground storage tank at Canning House Lane has been completed, the final report was mailed on April 29, 2011 and the next step, in order to close the matter, will be to prepare a response action outcome which basically says there is nothing further to do at the site. However, while conducting that investigation, the DEP found another outstanding case in the same area. Mr. Roberts has spoken to the City Manager about determining what the situation is and how to respond to the situation. The City Manager clarifies which streets will be under construction as a part of the 2011 road program, as follows: Jefferson Street between and including the intersections of Corgie and Columbia Streets; and Corgie Street between and including the intersections of Franklin and Jefferson Streets. Those improvements will encompass full water/sewer utility and storm sewer replacement, as well as road resurfacing. We will continue work on Cape May Avenue which will include the resurfacing and repaving on Cape May Avenue North between Madison and Philadelphia, states Mr. MacLeod.

Mayor Mahaney asks Mr. Roberts to look at Pittsburgh Avenue, to the Coast Guard Base entrance on Pennsylvania Avenue, for work to be performed sometime in the future. As to the Water Tower, Mayor Mahaney asks Mr. Roberts to look at the advisability of increasing the tank to one million gallons.

Councilmember Murray asks when the work on Grant Street will be finalized. Mr. MacLeod advises that the base paving has been done on Capehart, Claghorn and Congress and utility work is continuing on Windsor and Grant with the intention of completing all the utility work by June 15, 2011.

### **CITY MANAGER ITEMS**

### **ATTORNEY ITEMS**

**CLERK'S ANNOUNCEMENTS** – City Clerk announces that the school board election was held on April 27, 2011 and 158 people voted which included 35 mail-in votes.

### **ORDINANCES FOR INTRODUCTION:**

234-2011      An ordinance amending provisions of Chapter 7 of the revised general ordinances of the City of Cape May entitled – “Vehicles and Traffic”  
Second Reading on May 17, 2011 at 7:00 P.M.

Motion: Wichterman

Second: Swain

Roll Call:

Fiocca            Yes

Murray            Yes

Swain Yes  
Wichterman Yes  
Mahaney Yes

## **REGULAR MEETING BUSINESS:**

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

**RESOLUTIONS:** Council will accept questions from the public on Consent Agenda Resolutions

90-05-2011 Award of contract for the supply and delivery of one (1) new heavy-duty trailer  
91-05-2011 Authorization for Remington & Vernick, Engineers to perform professional design and construction management services for 2011 road & utility program improvements  
92-05-2011 Resolution authorizing utility bill adjustments due to catastrophic occurrences  
93-05-2011 Resolution of the City of Cape May approving a professional services agreement between Blauer & Associates, Inc. and the City of Cape May  
94-05-2011 Resolution approving professional services agreement between Preservation Design Partnership, LLC and the City of Cape May  
96-05-2011 Local government energy audit program grant resolution pursuant to DLGS authorization and providing for the insertion of a special item of revenue in the budget pursuant to chapter 159 PL 1948  
97-05-2011 Resolution for the payment of bills

Motion: Wichterman

Second: Swain

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

95-05-2011 Resolution approving stipulation of settlement

Mr. Monzo explains the purpose of Resolution #95-05-2011. See statement attached hereto.

Motion: Wichterman

Second: Fiocca

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

98-05-2011 Resolution to award bid – construction of new convention hall

City Manager Bruce MacLeod advises that five bids were received with the base prices being very competitive and ranging from a low of \$7,523,000 to a high of \$8,164,000, and the three lowest prices were separated by only \$75,000.00. Mr. MacLeod mentions that while the City solicited prices for six alternates, they have elected not to exercise any of the alternate options and will award the contract based upon the base bid.

Deputy Mayor Wichterman would like the Mayor to introduce this Resolution, as he has been working on the Convention Hall project since July 2008 when he came into office and he has been instrumental in getting us to this point.

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

**MINUTES:**

Closed Executive Session of the City Council dated April 20, 2011

Motion: Murray  
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 the City is currently conducting the spring water main flushing at various sections in the City. Residents may obtain a schedule of the flushing at the tax office.
- C) City Clerk
- D) Councilmembers – Deputy Mayor Wichterman advises he had a complaint from a MAC Tour Guide regarding tour buses, which were letting their riders off near Victorian Towers instead of at the Transportation Center. Also, Mr. Wichterman advises there were an inordinate amount of dogs on the mall.

Mayor Mahaney mentions the Easter Fashion Stroll and how well it was attended and how well it was received. Over 1,000 people attended states the Mayor but more importantly, there were a record number of entries. Mayor Mahaney also thanks the Garden Club for their annual Flower Show which was held last Thursday at the Grand Hotel. The Mayor comments it was an upscale event and very well attended.

Councilmember Murray comments about the importance of the Plan Endorsement Committee. Mr. Murray announces there are three upcoming meetings, May 12, 2011 at 7:00 P.M.; May 19, at 10:00 A.M.; and June 9, 2011 at 7:00 P.M. and he encourages everyone to come.

**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.

William Jerry Gaffney, 810 Columbia Avenue. Cape May, NJ advises he is not a member of the Beach Theatre Association and has no affiliation with them. He has two questions. Mr. Gaffney asks if the action taken today will allow the Construction Official to issue a demolition permit. Mr. Monzo advises if Franks Theatres comply with all the remaining conditions through the Construction Office, they will be issued a demolition permit. Mr. Gaffney asks if the City is overstepping the Zoning Board of Adjustment case currently being heard. Mr. Monzo advises that because of this Resolution, the Zoning Board hearings will be mute.

Linda Steenrod, 1011 Washington Street, Cape May, NJ asks Mr. MacLeod if he will address the revision to the law on the 2% cap limit. Mr. MacLeod advises that previous legislation regarding the levy cap law did not allow a municipality to create a cap bank and carry it forward. Revisions to that legislation added that option so now, through mathematical formulas, municipalities may calculate the dollars that would create a bank and hold that money for future use.

Ms. Steenrod then comments about smoke free beaches. She believes that if someone wants to smoke, they will walk to a smoking area. She also believes that people will leave the beach if someone is smoking beside them. Ms. Steenrod thinks public awareness is important and she likes the idea of warning an offender instead of issuing a violation. Ms. Steenrod believes that a bigger problem than dogs on the Mall and Promenade are bicycles and skateboards. She is supportive of the Plan Endorsement Committee and encourages all residents to come out to the meetings. She is in favor of using the "Oasis" for bathrooms for beach goers.

Jay Schatz, 34 Gurney Street, Cape May, NJ asks the amount of the tax increase. Mr. Schatz believes that if the City ultimately supports smoke free beaches, signs should be posted in French as well as English.

Shaine Meier, 1217 Vermont Avenue, Cape May, NJ commends Mayor and Council on passing Resolution #94-05-2011 as he believes that is very important for the City of Cape May and also congratulates the City on awarding the Convention Hall bid. Mr. Meier believes that it will be difficult to enforce non-smoking on the beaches. Mr. Meier thinks that signs asking smokers to be courteous to their neighbors may be effective.

John Fleming, 1484 Washington Street, Cape May, NJ thanks every member of Council, as well as Mr. Monzo, Mr. MacLeod, the City Clerk and Assistant City Clerk for all their hard work on the Beach Theatre settlement and the awarding of a Contract for the Convention Hall project.

Terry Shields, 11 Gurney Street, Cape May, NJ talks about Convention Hall and is happy that a contract was awarded. He is disappointed in the reduced size of the building and hopes that the new Hall will be appropriate for the needs of the City. Mr. Shields has questions about the traffic flow on Beach Avenue during the construction of the new hall. He is concerned about traffic being detoured and how it may affect his business. Mayor Mahaney advises that all the plans call for the maintenance of two-lane traffic on Beach Avenue during the entire project. The only exception will be at the end of the project when the County will reconstruct Beach Avenue from Gurney Street to at least Stockton. Mr. Shields asks if the City has enough money to complete the Convention Hall project and Mayor Mahaney advises “yes.” Mr. Shields is concerned about the length of time the Beach Theatre will remain in its current condition prior to demolition. Mr. Monzo advises that Franks Theatres will have until December 31, 2011 to demolish the structure.

**COUNCIL & CITY MANAGER COMMENTS**

**ADJOURNMENT** Motion to adjourn made by Deputy Mayor Wichterman seconded by Councilmember Murray. Meeting adjourned at 3:00 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