

**REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF CAPE MAY, NJ  
Tuesday, March 19, 2013, 7:00pm**

The worksession/regular meeting of City Council of the City of Cape May was called to order by Mayor Mahaney at 7:00 P.M. Tuesday, February 19, 2013 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 Terri L. Swain  
Councilmember Jack Wichterman

Also Present: City Attorney Anthony Monzo  
City Manager Bruce MacLeod  
City Auditor Leon Costello  
City Clerk Louise Cummiskey  
Deputy Clerk Patricia Harbora

Absent: Deputy Mayor William H. Murray

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:**

**2013 CAPE MAY CITY BUDGET:**

Mr. Costello explains the Budget process and why there are two budget items on tonight's Agenda.

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

262-2013 Ordinance to exceed the Municipal Budget Appropriations Limits and to establish a CAP BANK

**OPEN THE PUBLIC HEARING**

Motion: Wichterman  
Second: Swain

**CLOSE THE PUBLIC HEARING**

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

72-03-2013 Resolution authorizing the reading of the 2013 annual municipal Budget by title only

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

#### **OPEN THE PUBLIC HEARING**

Motion: Wichterman  
Second: Swain

William Gaffney – 810 Columbia Avenue, Cape May asks Council to amend the budget so there will be no tax increase this year. Mr. Gaffney suggests using surplus of revenue funds to avoid a tax increase. Mr. Gaffney asks if there are funds in the capital budget to replace the outfall pipes along the beach at Brooklyn Avenue.

City Manager, Bruce MacLeod, advises there is no appropriation in the 2013 Capital Budget for the replacement of outfall pipes at Brooklyn Avenue and further advises that the County owns some of the outfall lines along the beach front and is responsible for maintaining the outfall lines.

Mr. Gaffney asks if the overtime in the budget for the Police and Fire Department can be reduced and whether the low number of residents in Victorian Towers is impacting the taxpayers of the City of Cape May. Mr. Gaffney would also like to reduce the cost of providing Police and Fire services to West Cape May and Cape May Point.

Mr. MacLeod advises that Victorian Towers has a 50 year agreement with the City of Cape May regarding taxes which agreement will not expire until 2021. There is also an agreement as to the Police and Fire services provided to West Cape May and Cape May Point which does not expire until the end of the year of 2015.

73-03-2013 Resolution to adopt the 2013 Budget

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

Mayor Mahaney thanks the City Auditor, Leon Costello, the City Manager, Bruce MacLeod, and the CFO, James Penn, for their time and effort in preparing the Budget.

Councilmember Wichterman comments that Cape May City is the most desirable place to live in the State of New Jersey and the offset to run the City through revenue is 48%. Mr. Wichterman thanked Mr. Leon Costello and Mr. MacLeod for the many hours they put into preparing the budget.

74-03-2013 Resolution declaring eligibility to conduct self examination of 2013 Budget

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

#### **ORDINANCES FOR PUBLIC HEARING AND SECOND READING**

261-2013 Ordinance of the City of Cape May Amending Chapter 194 of the Cape May City code Regulating Outside Construction Activities

Open Public Hearing

Motion: Swain  
Second: Wichterman

Close Public Hearing

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

263-2013 Bond Ordinance Providing for the Acquisition and Improvement of Property for Open Space Active and Passive Recreation in and by the City of Cape May in the County of Cape May, New Jersey, Appropriating \$3,400,000 Therefor and Authorizing the Issuance of \$3,400,000 Bonds or Notes of the City to Finance the Cost Thereof

#### Open Public Hearing

Motion: Wichterman  
Second: Swain

Mayor Mahaney introduces Richard Conway, Jr., Esquire, and Kenneth D. Seborowski, who represent JCP&L. There is much discussion regarding the type of remediation to be performed, where the project stands, and what the acceptable use of the space.

**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 Gaffney, 810 Columbia Avenue, Cape May asks if JCP&L would give the City of Cape May an unlimited hold harmless agreement regarding the remediation and asks what the City was paying for the property. Mr. Gaffney would like to know the cost to the taxpayers.

Mr. Conway replied that the City has a signed agreement with indemnification against any liability as to the City.

Mayor Mahaney advises that there will be no cost to the taxpayers for the property.

Mr. Gaffney asks if the City is using the \$3.4 million in Bond money to purchase the property.

Mayor Mahaney advises that the \$3.4 million will be used to acquire the Vance's Bar property and the additional two properties on St. John's Street. Mr. MacLeod explains that the assessment value on the tax record for these properties totaled approximately \$3 million and this Ordinance will allow for administrative costs, professional fees, appraisals and demolition.

Bill Bezaire, 1314 Massachusetts Avenue, Cape May asks if the acquisition of the property can be used for open space and parking and if there are any restrictions or limitations on the funds received from the State.

Mayor Mahaney advises that the State has no restrictions or limitations on the use of the land; however, the State will not agree to high-rise parking garages, residential housing, or concrete covering the entire property.

Public Hearing is closed

### **MOTION TO ADOPT ORDINANCE 263-2013**

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

264-2013      Ordinance of the City of Cape May Updating List of Historic Structures

Public Hearing is opened

Motion:	Wichterman
Second:	Swain

Philip Rogers, 1275 Lafayette Street, Cape May asks someone to explain the Ordinance and what the definition of Historic Structures means. Mr. Rogers asks if his property is contributing.

Mayor Mahaney explains that this Ordinance is one of several authorizing surveys to be performed on properties in Cape May so the City may maintain its National Historical Landmark designation. The Mayor advises that if a resident received a certified letter from the City, the status of their property has probably changed. Mayor Mahaney advises Mr. Rogers that his property is contributing.

Irv Fruchtman, 1309 New York Avenue, Cape May states he received a letter regarding his property and would like to know if there was any change as to his property designation.

Mayor Mahaney advises that Mr. Fruchtman's property was listed on Ordinance 260-2013 which was previously adopted. The Mayor advises that he will get back to Mr. Fruchtman as to the designation.

Mark Allen, 704 St. James Place, Cape May indicates that he is here on behalf of the homeowners of St. James Place and asks if their homes are contributing or non-contributing.

Ms. Cummiskey, City Clerk replies that the properties on St. James Place were not rated in the past but after a recent survey, the properties are listed as non-contributing.

James Morrow, 722 Beach Avenue, Cape May advises that his property at 5 Stockton Place was changed from non-contributing to contributing and his property at 525 Elmira Street was not rated and is now contributing.

Jessica Cichitti, 404 Clay Street, Cape May would like to know if her property is contributing or non-contributing. Ms. Cichitti advises that she received a letter stating that a survey would be performed and would like to know if her property can be removed from the process. Also, she wonders what restrictions there will be with a change of designation.

Mayor Mahaney advises that all properties must be surveyed. If the property designation changes and the homeowner disagrees with the change in designation, they may meet with the HPC to discuss the matter.

City Clerk, Louise Cummiskey, requests that two properties owned by Councilmember Swain be removed from the list. Ms. Cummiskey identifies the properties as Block 1061, Lot 82.01 and Block 1061, Lot 84.01 (1207 and 1211 Lafayette Street.)

Mr. Monzo suggests a Motion to amend the Ordinance to remove Ms. Swain's two properties.

**MOTION TO AMEND ORDINANCE 264-2013 (Remove Ms. Swain's two properties)**

Motion: Wichterman  
Second: Mahaney

Mayor Mahaney would like to amend the Ordinance by removing Ms. Swain's two properties with the understanding that the two properties in question go through an expeditious review by the Construction Office and the HPC Appeal Board.

Mr. Morrow requests that his properties at 5 Stockton Place and 525 Elmira Street also be removed from the property list.

Mayor Mahaney withdraws his second and asks Mr. Wichterman to amend his Motion.

Mr. Wichterman amends his Motion to include Mr. Morrow's two properties.

Mayor Mahaney seconds the Motion.

Roll Call:  
Fiocca Yes  
Swain Abstain

Murray Absent  
Wichterman Yes  
Mahaney Yes

**RESOLUTIONS:**

- 75-03-2013 – Resolution Recommending Amendments to the Biggert-Waters Flood insurance Reform Act of 2012  
76-03-2013 – Resolution Declaring Certain Surplus Items as Surplus Property and Authorizing Sale of same  
77-03-2013 – Resolution 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 – Vance’s Property  
78-03-2013 – Resolution Designating April as National Distracted Driving Prevention Month in Cape May County  
79-03-2013 – Resolution Authorizing the City Clerk to Issue Bingo and Raffle License Throughout the Year to Qualified Organizations  
80 -03-2013 –Resolution Authorizing Final Payment to EMSA Solar, LLC  
81-03-2013 – Resolution to Appoint a Member to the Environmental Commission of the City of Cape May  
82-03-2013 – Resolution to Appoint a Member to the Housing Authority of the City of Cape May  
83-03-2013 – Payment of Bills “A”  
83-03-2013 – Payment of Bills “B” (**Removed from Consent Agenda**)

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

83-03-2013 – Payment of Bills “B”

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

**MINUTES:**

City Council Closed Executive Session Meeting Minutes dated February 19, 2013

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

**REPORTS RECEIVED BY THE CLERK:**

Assessors Office Monthly Report dated March 7, 2013  
City of Cape May Fire Department Monthly Report dated February, 2013  
Shade Tree Commission Minutes dated February 14, 2013  
City of Cape May Police Department Monthly Reports for February, 2013  
City of Cape May Planning Board Meeting Minutes dated December 11, 2012  
City of Cape May Planning Board Meeting Minutes dated January 8, 2013

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

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

- A) City Attorney – Mr. Monzo provides a status report on the Convention Hall Flood Insurance. See copy of statement attached hereto and made a part hereof.
- B) City Manager – Mr. MacLeod reports that Beach Tag sales for this year total \$250,385.00 up from last year by more than \$17,000.00. Mr. MacLeod reminds everyone that the end date for the discounted Beach Tags is March 31, 2013 which is a Sunday, and that City Offices will be closed on Good Friday, March 29, 2013. The last day to purchase Beach Tags at City Hall will be Thursday, March 28, 2013; however, the Information Booth on the Mall will be selling Beach Tags on Friday, Saturday and Sunday between the hours of 11:00 A.M. to 1:00 P.M. Mr. MacLeod announces that Single stream recycling will begin April 1, 2013.
- C) City Clerk
- D) Councilmembers – Mr. Wichterman comments on the JIF Seminar he attended with Mayor Mahaney and Mr. MacLeod in East Hampton. Mr. Wichterman advises that the City of Cape May is doing well with the JIF and receives a credit for each member that attends the seminar.

Mayor Mahaney announces that the Kiwanis Club is having an Easter Egg Hunt at the Cape May Elementary School on March 30, 2013 at 10am. Also, the traditional Easter Sunday Fashion Stroll will take place on the Washington Street Mall, beginning at 1:00 P.M. If the weather is inclement, the Fashion stroll will take place at Our Lady Star of the Sea Parish Hall.

**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, is pleased that City Council is pursuing the errors with the construction of Convention Hall.

Jim Matthews, President, Cape May Volunteer Fire Department, provides a status report of the Fire Department budget. See a copy of the report attached hereto. Mr. Matthews has questions regarding the LOSAP program and requests a meeting with the City Manager to go over the matter.

Patricia Hendricks, 106 Trenton Avenue, Cape May asks if the speed limit has been changed on Pittsburgh Avenue.

Mayor Mahaney advises that Pittsburgh Avenue is a County Road and the County has reduced the speed limit. The Mayor asks that the Police Department post the new speed limit on a digital sign on Pittsburgh Avenue to inform the public and asks that a notice of the change be posted on the City website.

**CLOSED SESSION**

Motion made by Councilmember Wichterman to go into closed session at approximately 9:00 P.M.

**ADJOURNMENT**

Motion made by Councilmember Wichterman to go back into open session.

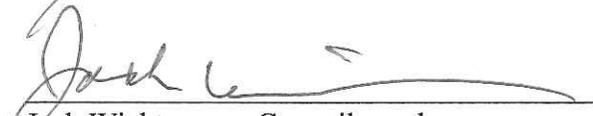
Motion made Councilmember Wichterman, seconded by Councilmember Fiocca to adjourn. The meeting adjourned at approximately 9:10 P.M.

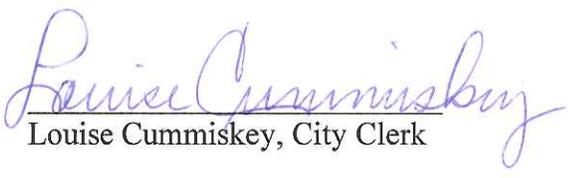
  
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Edward J. Mahaney, Jr., Mayor

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ABSENT  
William H. Murray, Deputy Mayor

  
Deanna Fiocca, Councilmember

  
Terri L. Swain, Councilmember

  
Jack Wichterman, Councilmember

  
Louise Cummiskey, City Clerk