

**REGULAR MEETING  
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ  
Tuesday, September 6, 2011 – 1pm**

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, September 6, 2011, in the Cape May City Hall Auditorium. The Clerk called the roll and the Pledge of Allegiance was recited.

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

**PROCLAMATION** A Proclamation commemorating the 10<sup>TH</sup> Anniversary of September 11, 2001 is read by Diane Weldon, the City Clerk. Ms. Weldon informs all that a ceremony will be held at 6:30 P.M. on 9/11/2011 at the Sunset Pavilion.

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

Mayor Mahaney asks to delete the Closed Session Meeting Minutes of August 18, August 19, and August 25, 2011 and to add under discussion items a presentation by Kevin Maloney regarding the Cape May Maritime and Educational Museum.

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

Mayor Mahaney introduces Mark Blauer, the Grant Specialist for the City of Cape May, and asks him to speak about his position and explain how grant money is applied for and obtained. Mr. Blauer explains the purpose of the Resolutions on today's agenda, and further advises that the City Clerk is the Fair Housing Officer for the City of Cape May and in that capacity, she takes care of all complaints regarding housing. City Manager Bruce MacLeod mentions that Mr. Blauer also helps the Cape May Fire Department apply for grants and thanks him for those efforts.

### **WORK SESSION DISCUSSION ITEMS**

Bait and Tackle Ordinance. Mayor Mahaney advises that the Bait and Tackle Ordinance has a sunset provision, and in that regard, the participant must send a letter describing the results of the prior year's operation. Richard Orth comes to the table and reads the letter he submitted, commenting that no problems arose and advising that he knows of no complaints. He comments that his total sales did not cover the expenses he incurred and he would like to expand his hours of operation to 24 hours per day and be allowed to change his location to better position himself for a more favorable outcome next year. He would also like to hire someone to work the truck along the beach so that he would be available to keep his shop open.

Councilmember Murray questions Mr. Orth about changing locations along the beachfront and about his hours of operation. Mr. Orth advises he would like to be permitted to move to any spot along the beach where the fisherman are catching fish as that location changes on a daily bases. He also advises that he would like the option of being permitted to operate anytime during a 24 hour period. Mr. Murray believes that the option to work 24 hours per day would be problematic.

As stated by Mr. Orth, he did not realize any profit for his efforts last year... Councilmember Fiocca asks if hiring an additional employee and being permitted to operate anytime during a 24 hour period is a sound business choice. Mr. Orth believes he would realize a profit if he were given the options requested.

Deputy Mayor Wichterman would like to help Mr. Orth anyway we can and Ms. Swain confirms that the majority of Mr. Orth's business comes from fall and spring striped fishing and that really what Mr. Orth is asking for is an extension of his hours of operation.

City Manager MacLeod confirms that Mr. Orth's business will operate from September 15 through May 15 and that there is a provision in the Ordinance which deals with satisfying the payment of parking meters. Mr. MacLeod is also concerned about noise, lighting and odor if Mr. Orth operates 24 hours per day.

Mayor Mahaney advises the consensus of council is to work with Mr. Orth but feels the need to be specific on the logistics of the operation. The first thing which needs to be established is the length of the season and Mr. Orth advises that the season does not really begin until October 1 and ends on May 15 and would be agreeable to those times. Secondly, it is determined that Mr. Orth will be responsible to pay for any parking meter, if applicable, between October 1 and October 31 and May 1 through May 15. Thirdly, Mr. Orth would like to be permitted to roam the entire beachfront but the City Solicitor feels there should be a daily designated spot of

operation and Mr. Orth agrees. Finally, Mayor Mahaney agrees that there must be a beginning and an end period of operation each day and Mr. Orth asks that time to be from 4:00 A.M. until 9:00 P.M. each day. Those times are agreeable to council. Mayor Mahaney asks Mr. Monzo to amend the existing Ordinance and he asks Mr. Orth to contact the City Manager to work out the aforementioned provisions and make all the necessary arrangements.

### **ENGINEER REPORT**

City Engineer, Ray Roberts, distributes his report to Mayor and Council and comments that today's report deals with schedules. He begins with the Washington Street slip-lining project and he points out that the schedule for that project has been set. The project will go out for bid on October 3, 2011; bids will be received on October 31, 2011; construction will begin on November 7, 2011; and work will be completed by November 18, 2011.

The FY 2011 Road Program will be advertised in the paper on September 8, 2011, notifying contractors to pick up packages at RV on September 12, 2011. The project will be awarded on October 4, 2011, and for the conveyance of the property owners in the area, the first order of work will be the reconstruction of Cape May Avenue from Madison to Philadelphia. The construction will begin on October 17, 2011 and will be finalized on November 18, 2011. The second part of the contract will be the reconstruction of Corgie and Jefferson with construction start after Thanksgiving and be completed by May 1, 2012. The time frame suggested is adequate to complete the project and Mr. Roberts is not concerned about time.

Upon receipt of a filed copy of the Deed of Notice, a copy will be forwarded to the State and the underground storage tank project #23 will be complete.

There was testing recently performed on a second underground tank. The results of the testing confirmed that there was no groundwater contamination but there was soil contamination, similar to the aforementioned project #23. A proposal has been submitted to the City of Cape May for authorization to continue with testing to determine what must be done to remediate the problem.

Water tank. The rehabilitation of the water tank will be advertised in February of 2012 with construction to begin after Labor Day of 2012 with completion by May of 2013.

2012 Small Cities Grant. The project will be advertised on September 22, 2011 and details are being finalized with Mr. MacLeod and Mr. Smith.

2012 Small Cities Program is being discussed with Mr. MacLeod this week.

The 2012 NJ Department of Transportation Municipal Aid application will be submitted electronically by the 23<sup>rd</sup> of September, 2011.

Deputy Mayor Wichterman wants to make sure the roads will be in passable condition during the aforementioned road program. He would like the contractor to put down one layer of macadam so that the property owners in the area will not be too inconvenienced. Mr. Roberts advises that the contract may be amended to allow for the contractor to put down a 1½ inch layer of

macadam but that there would be an additional cost. Councilmember Murray asks what the additional cost would be and Mr. Roberts advises \$15,000.00 to \$20,000.00.

Mr. MacLeod asks Mr. Roberts about the Corgie and Jefferson Street project and whether or not the project will be completed to the point of putting down macadam. Mr. Roberts feels confident that the project will be complete enough to put down the DGA, the last material you put down before paving, which should allow residents to easily traverse the streets effected by the project.

#### MARITIME MUSEUM PROJECT

Kevin Maloney updates Mayor and Council on the Maritime Museum and Education Center project and offers a power point presentation. He introduces some members of his team and speaks of the mission of the Center and their vision, hoping to offer the community and our visitors something of value relating to our Maritime Heritage. Councilmember Fiocca asks Mr. Maloney if he has a business plan and he confirms there is.

Mayor Mahaney introduces Tom Hynes who serves on the Cape May Housing Authority. Due to the passing of Joe Fox, Mr. Heinz has taken over as the chairperson of the Housing Authority. The Mayor advises that there is an Ordinance on today's agenda, Ordinance #239-2011, concerning the Housing Authority and he asks Mr. MacLeod to provide an explanation of the Ordinance. Mr. MacLeod advises that due to the Authority's limitation to satisfy current water/sewer bills to the City of Cape May, a fee structure of \$80,000.00 has been established in payment of this year's W/S bill. That \$80,000.00 is a \$12,000 to \$15,000 increase over what the HA had been paying and there will be a two percent increase annually thereafter. Mr. Hynes advises he is here today to thank Bruce and City Council for working with the HA and coming up with a solution to this problem.

Mayor Mahaney asks for a Motion to introduce Ordinance 239-2011

239-2011      An Ordinance amending Section 510 of the Cape May City Code – water & sewer billing

Motion: Murray

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.

Roll Call:

Fiocca            Yes

Murray           Yes

Swain            Yes

Wichterman    Yes

Mahaney        Yes

197-09-2011      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* – Mount Construction, IAFF 3249 labor negotiations, beach replenishment

Motion: Wichterman

Second: Swain

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

Motion to go into Closed Session made by Deputy Mayor Wichterman.

Council goes into Closed Session at approximately 2:55 P.M.

The open session of the meeting resumes at 4:10 P.M.

Handicapped parking meters – Deputy Mayor Wichterman speaks of the unenforceability of a City Ordinance governing handicapped parking and he previously asked City Solicitor Monzo to research the City's ability to exempt anyone with a handicapped sticker or plate from paying a meter. Mr. Monzo's research determined that the City can exempt handicapped people from paying and Mr. Wichterman would like Mr. Monzo to prepare an Ordinance to that effect to introduce at the next council meeting. Mr. Murray, Ms. Fiocca and Ms. Swain agree with Deputy Mayor Wichterman. Mayor Mahaney asks Mr. Monzo to proceed with the preparation of the Ordinance.

### **CITY MANAGER ITEMS**

Mr. MacLeod advises that this is the second year for the Best Practices Report which report has been changed from last year. The City's responses to the questions show 47 questions answered "yes", two questions answered "not applicable" and one perspective answer. Last year's report only allowed you to answer yes or no and based upon the results of last year's responses and comments from the responding municipalities, this years choices were broadened as mentioned above. Next, Mr. MacLeod announces that over the weekend, through the Governor's office, all 21 New Jersey counties were deemed to be eligible for disaster aide as a result of Hurricane Irene. There is assistance for business recovery as well. Mr. MacLeod thanks various City departments and personnel for their outstanding services during the hurricane. Councilmember Murray echos Mr. MacLeod's thanks.

### **ATTORNEY ITEMS**

### **CLERK'S ANNOUNCEMENTS**

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. Before doing so, Mayor Mahaney

asks that Resolution #197-09-2011, already passed and Resolution #198-09-2011B be removed from the Consent Agenda.

**REGULAR MEETING BUSINESS :**

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

186-09-2011	Resolution certifying the 2010 City of Cape May annual audit
187-09-2011	Resolution of the City of Cape May approving the Corrective Action Plan for the year 2010
188-09-2011	Resolution regarding City of Cape May city-wide annual sidewalk sale
189-09-2011	Refund of Overpaid 2011 Taxes – Block 1000/Lot 50
190-09-2011	Refund of Overpaid 2011 Taxes – Block 1075/Lot9 C-02
191-09-2011	Resolution for the release of maintenance guarantee for Block 1061/Lot 58
192-09-2011	Resolution approving an agreement between the City of Cape May and Mark Blauer for consulting services
193-09-2011	Resolution identifying Small Cities Fair Housing Officer
194-09-2011	Resolution approving submission of Fiscal Year 2012 Small Cities Public Facilities Application
195-09-2011	Resolution approving Public Facilities Grant Management Plan for Small Cities Community Development Block Grant
196-09-2011	Resolution adopting a State Model Citizen Participation Plan for DCA Small Cities Program
197-09-2011	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, <i>N.J.S.A. 10:4-12</i> – Mount Construction, IAFF 3249 labor negotiations, beach replenishment
198-09-2011	Payment of bills A

All resolutions except 197-09-2011 and 198-2011B

Motion: Mahaney

Second: Murray

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

198-09-2011	Payment of bills B
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Motion: Mahaney

Second: Wichterman

Roll Call:

Fiocca	Yes
Murray	Yes

Swain	Abstain
Wichterman	Yes
Mahaney	Yes

**ORDINANCE FOR SECOND READING AND PUBLIC HEARING:**

236-2011 Bond Ordinance providing the beach replenishment projects in and by the City of Cape May, in the County of Cape May, New Jersey, appropriating \$300,000 therefor and authorizing the issuance of \$200,000 bonds or notes of the City for financing the cost thereof

**Motion:** Wichterman

**Second:** Murray

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

**MINUTES:**

City Council regular meeting minutes dated August 16, 2011

City Council closed executive session meeting minutes dated August 16, 2011

City Council regular meeting minutes dated August 18, 2011

City Council regular meeting minutes dated August 25, 2011

City Council regular meeting minutes dated August 19, 2011

Motion: Wichterman

Second: Swain

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

**LICENSES/APPLICATIONS:**

Special Permits for Social Affair, Mid-Atlantic Center for the Arts & Humanities, Preservation of the Emlen Physick Estate at the following dates and locations:

Sunday, 9/18/11 9:15am – Island Grill, 311 Mansion St

Sunday, 9/18/11 6:15pm – Fresco's, 412 Bank St.

Monday, 9/19/11 8:30pm – 410 Bank St, 410 Bank St.

Monday, 9/19/11 7:00pm – Peter Shields Inn, 1301 Beach Ave

Motion: Mahaney

Second: Swain

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

### **REPORTS RECEIVED BY THE CLERK:**

2011 Best Practices Report

Overtime Report for August, 2011

Occupancy tax budget projection dated 8/25/11

WSM Management Co., Inc. 2010 audit report

Environmental Commission meeting minutes dated August 9, 2011

Motion: Mahaney

Second: Swain??

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's Band concert season is over and he commends Terry Brown for a job well done. A Kite Festival will take place on September 11 and September 12, 2011 and a citywide Sidewalk sale for businesses only will take place on September 15 through September 18, 2011. Mr. MacLeod mentions that the City will be conducting Project Porch Light to provide a free light bulb to residents of the city and volunteers are needed on September 24, 2011. Anyone interested in helping can gather at the Elementary School at Noon on the 24<sup>th</sup>. Finally, Mr. MacLeod advises that the County of Cape May through the MUA will be holding the annual hazardous waste collection on Saturday, September 10, 2011.

C) City Clerk

D) Councilmembers – Deputy Mayor Wichterman asks Mr. MacLeod when the contractor will return to town to finish the roads. Mr. MacLeod advises the latter part of September and there will be a schedule which he will provide to council.

Mayor Mahaney thanks the City employees for their tremendous efforts during the recent hurricane. The Mayor asks for volunteers for Project Porch Light and the program is geared to

residences and not commercial properties. Finally, Mayor Mahaney comments on his memo to council regarding a Tourism Utility for the year 2012. The Mayor believes this will give us a methodology to separate tourism and recreation expenses from the current fund budget and will help us to more effectively cost out tourism expenses we have.

**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.

Bernie Haas, 1016 Illinois Avenue Cape May, NJ asks about the ability of the Franks to secure a demolition permit for the demolition of the Beach Theatre in light of the appeal that is currently pending. Mr. Monzo suggests that Mr. Haas speak to his attorney about the matter as it is not appropriate for him to counsel Mr. Haas on the matter.

Motion made by Deputy Mayor Wichterman to go back into closed session. The regular meeting adjourned at 4:45 P.M.

**CLOSED:** Mount Construction, IAFF labor negotiations, beach replenishment

Motion made by Deputy Mayor Wichterman to open the closed session and go back into open session.

Motion made by Deputy Mayor Wichterman to adjourn. Meeting adjourned at 5:15 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