

**REGULAR/WORKSESSION MEETING  
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ  
Tuesday, July 6, 2010 – 1pm**

The regular/worksession meeting of City Council of the City of Cape May was called to order by Mayor Mahaney 1:00pm Tuesday, July 6, 2010, 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 Attorney Anthony Monzo  
City Manager Bruce MacLeod  
City Clerk Diane 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.

**COUNCIL COMMENTS**

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

Application for a special permit for a Social Affair to be held on July 26, 2010 from 7-9pm, Cottager's Night, July 26, 2010, 7-9pm, to be held at the Robert Shackleton Playhouse, 405 Lafayette St.

Closed session meeting Resolution 165-07-2010, Legal Issues pertaining to the Convention Hall Contracts, Litigation regarding Friends and Neighbors of East Cape May and Negotiations regarding the Interlocal Construction Agreement – West Cape May

**Motion:** Wichterman

**Second:** Swain

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

## **WORK SESSION DISCUSSION ITEMS**

The first item for discussion announces Mayor Mahaney is changing the May Municipal Election to November.

Deputy Mayor Wichterman advises that he asked for this item to be placed on the agenda and he thinks it is a good idea for two reasons. The first reason is the City will save the cost of the election and the second reason is that he believes that more people will come out to vote in November. The change can be done in one of two ways advises Mr. Wichterman, simply by Ordinance or by a referendum vote.

Mayor Mahaney thinks it should be done by referendum as he believes that changing the date of the election is like changing the form of government.

Councilmember Murray believes that it should be done in November because of the turn out and he also believes it should be done by referendum.

Councilmember Fiocca is in favor of changing our election to November and believes we should do it by referendum.

Councilmember Swain agrees.

Mayor Mahaney asks the City Clerk to proceed with the aid of the City Solicitor and City Manager.

Regulation of commercial contractors is the next item for discussion. City Manager Bruce MacLeod advises that the City has an Ordinance requiring that contractors procure a license from the City. In 2005, the State enacted a law which removed the city's ability to license contractors who worked on residential homes. However, it did not address contractors who worked on commercial properties. Based on a review of our Ordinance, Mr. MacLeod recommends that the City of Cape May amend our Ordinance to reflect that a contractor's license is required to work on a commercial project in the City and the clarify the language that currently exists in the Ordinance so there is no confusion as to the intent of the Ordinance.

Mayor Mahaney opens the discussion to the public.

Chad DeSatnick, DeSatnick's Window Fashions, comes to the podium and wants the City to establish that Contractors who do work in Cape May provide documentation and insurance and would like equal enforcement for all contractors.

Dennis Crowley, 806 Lafayette Street, Cape May, NJ congratulates the new members of council and thanks Mr. MacLeod for his cooperation in this matter. He feels that if an unlicensed contractor is in town he should receive a warning and then take the proper measures. We need enforcement advises Mr. Crowley.

Councilmember Murray asks if there are minimum requirements to obtain a contractor's license in the State. Mr. MacLeod advises that there are requirements. Mr. Murray does not believe that

licensing is a source of revenue for the City but rather a source of protection for the consumer. He wonders how the state enforces the requirement of a contractor obtaining a license.

Mr. Monzo advises that the State regulations are enforced through the Attorney General's office under a civil process. There are many remedies available to the consumer.

### Convention Hall Project

In light of the fact that we do have time sensitive legal issues to discuss regarding Convention Hall in Closed Session, the Mayor advises that the Council will, at the conclusion of this portion of the meeting, go into Closed Session and will return and possibly take action.

Mayor Mahaney asks if anyone would like to speak on Convention Hall.

Bill Causey, President Greater Cape May Chamber of Commerce welcomes the new members of City Council and advises that he is here today representing the Executive Board of the Chamber. The Board took a vote and they were unanimously in favor of moving forward with this project as it is. Mr. Causey wants to remind the Council that they have been elected to represent all of the people in the City of Cape May. The lack of a convention center has been devastating to the City and we need to take action, comments Mr. Causey.

Jeanne Powick, 401 Clay Street, Cape May outlines some of the events that have impacted the Construction Hall project to date. She is in favor of downsizing Convention Hall.

Tom Carroll, Vice President Mid-Atlantic Center for the Arts, fully appreciates the dilemma of the new Councilmembers. Based on our current economy, advises Mr. Carroll, most people want to pull back. He compares the Convention Center project with the project to save the Emlen Physic Estate, forty years ago. He advises that the MAC invested in the "great unknown" and the result was more than imagined. "The location is right, the timing's right, and I urge you to not get gloomy about the future but know if we build for the future, the future will come to us."

Rick "Dee" Wisneski, First Vice President of the Cape May Jazz Festival, advises that there is no question that the Convention Hall is needed. Attendance at the Jazz Festival is down because attendees must be bussed to the High School. Rick continues by advising that the Festivals are held in the off season, and when attendance is down, everyone in town suffers. He urges Mayor and Council to do the right thing.

Barbara Skinner represents the group known as the Citizens Association for the Protection of the Environment (CAPE). She reminds people of an event held at Convention Hall that featured international speakers and also that many people come to Cape May for the eco tourism. She would like to reiterate and support Jeanne Powick's position regarding the seawall and the importance of protecting the town from the ocean. Ms. Skinner advises that Council's foremost responsibility is public safety.

Diane Hutchinson speaks on behalf of the Kiwanis. She advises that the Kiwanis Convention was held in the City of Cape May one time and it was the only time that they had over 500 people attend the State Convention. The reason for the high attendance advises Ms. Hutchinson, was the fact that the spouses and children of the Kiwanis members came because they enjoy the City of Cape May. We need this Convention Hall, advises Ms. Hutchinson, and we need it to be the size that it was designed to be.

Joe Bogle, The Original Fudge Kitchen, and Chairperson of the WSMHC. Mr. Bogle advises that he has listening to many arguments about this and has spoken to Council. One thing that has him disheartened is that some of the speakers today are speaking to only three members of council. Mr. Bogle advises that when the Convention Center was closed down several years ago, it had a devastating effect on his business on the Promenade. He is in favor of moving forward with the Convention Center and approving the additional funds needed to complete the project.

Barbara Masemore, 609 Columbia Avenue, Cape May believes that we had a wonderful meeting two weeks ago with a lot of new information. She goes on to advise that there is a wonderful quote attributed to Ghandi which says "I changed my mind because now I have new information." We now have new information which tells us what we might expect with this new Convention Center and we have a way of paying for it. Please vote in favor of the Convention Hall.

Jay Schatz, Chamber Member of over 33 years, advises people not to be misled by a Chamber poll. Mr. Schatz advises that not all the members of the Chamber are in favor of the bigger convention hall. He wants to build on the current footprint and stay within the \$10.5 million dollar budget.

Bernie Haas, Cape May, asks if the original footprint that has been approved for the \$10.5 million dollars is the same footprint for the \$13.5 million dollars. Mayor Mahaney responds that it is. In that case, Mr. Haas asks Mayor and Council to approve what has currently been approved.

Frank Giannoni, 615 Jefferson Street, Cape May, congratulates the three new members of Council. He advises that he has been coming to town for at least 13 years and hopes to retire here. Over the years, Mr. Giannoni advises that he has gone to the Convention Center and noticed that the hall was overcrowded. He also attended the antique show and advises that it also was very crowded. Mr. Giannoni wants Council to vote on the plan on the table. "Bigger is better" advises Mr. Giannoni and he mentions the movie "Field of Dreams" and the voice in the sky that says, "If you build it they will come."

Gary Peduses advises that he has been coming to Cape May since he was a child and has been a property owner in Cape May for the past ten years. He is an environmentalist and he names the organizations with which he has been associated. He states that the engineers will not do anything to jeopardize the sea wall and states that he would rather have a big building blocking the sea than a big sea wall. He advises that there is a big question between progress and change. He does not want to change the ambiance of this town but does want to see the town progress. If

you do not go ahead with this project states Mr. Peduses, the residents of the City will bear the burden of increased property taxes to maintain their way of life.

Mayor Mahaney thanks all for their commentary.

## **ENGINEER REPORT**

City Engineer Jim Mott discusses the current City projects as follows:

DCA Handicap Beach Project-Phase I - Completed. There will be a close out for that project at the next Council Meeting. The Contract came in at \$10,000.00 under the Contract amount.

Phase II – The Contractor will mobilize into town tomorrow. He has about one months work in completing six or seven railings on the handicap ramps and putting in a ramp at the Lifeguard Headquarters and installing Mr. Boardwalks out to the water's edge.

2009 Road Improvement Program (Ohio, Idaho and Maryland Avenues) – The contractor has completed the base paving and has completed most of the clean up. They have demobilized out of the City for the summer and will return in September to finish the project.

USDA Sanitary Sewer Improvements – Includes work that will be performed on Grant, Broadway, Mt. Vernon, Park Boulevard, Windsor Avenue to Congress Street and Claghorn Place and will begin on September 15, 2010. This project is scheduled to be completed by Easter, 2011.

Elmira Street widening plans were submitted to the County for their review. There is one more parcel of land to be acquired and once obtained, Elmira Street will become a two way roadway. The project is expected to be done this fall.

Queen Street Outfalls project was an emergent situation. The contractor came into town on June 1, 2010 and the project was completed by June 28, 2010. The project went smoothly and there is a Resolution on today's agenda to accept the project and make final payment. This project came in at \$13,000.00 below the contracted amount.

2010 Capital Improvement Program includes the last two blocks of Idaho Avenue, the Elmira Street widening project, the Stockton Avenue storm water improvements, the Cape May Avenue Phase II utilities, Cape May Avenue Phase III and IV and Yacht Avenue from Washington Street to the end. This project should go to bid in early August with bids being received in late August or early September and the contract will be awarded at the September 7, 2010 meeting.

Cape May Avenue, Phase II – Application has been made for municipal aid in the amount of \$150,000 to repair from Reading to :Pittsburgh on the South side.

Cape May City Hall Restoration – A meeting has been scheduled with a restoration expert on Monday, July 12, 2010. Thereafter, a determination will be made and plans and specifications will be put out to bid.

Deputy Mayor Wichterman asks for a completion date for the Mr. Boardwalks. He also asks about a problem on Ohio and Madison Avenues and asks if Mr. Mott knows about the problem and the outcome. Mr. Mott explains that the problem (flooding) in the area was caused by filter fabric being placed over the storm inlet. Once the fabric is removed, Mr. Mott does not expect there to be any further problems.

Councilmember Murray asks if Mr. Mott will extend his appreciation to Walters Marine Construction for a job well done on the repair of the Queen Street outfall pipes.

Mayor Mahaney thanks Mr. Mott for suggesting the bidding in parcels which saved the City considerable money on the Queen Street project. The Mayor asks Solicitor Monzo where we stand with the Depot Market easement and Mr. Monzo responds he is trying to schedule a meeting.

The Mayor then asks if it would be possible, when the final paving is completed on Ohio, Maryland and Idaho, if the contractor could do another hydroseeding. Mr. Mott agrees.

Mr. MacLeod asks that the contractor fine comb Cape May Avenue. Mr. Mott agrees.

Mayor Mahaney asks about Yacht Avenue and if Mr. Mott has a level of comfort with the project. Mr. Mott advises that their investigation was extensive and he feels they will be successful without any additional easements.

Councilmember Fiocca asks if curbing is included in the Cape May Avenue project. Mr. Mott advises it is not.

### **CITY MANAGER ITEMS**

Interlocal agreement with West Cape May for construction services. This item is struck since it will be discussed in Closed Session.

Mr. MacLeod reports that beach tag sales for this year are up by over \$54,000.00 over 2009. He does not have the numbers for parking meters as he is awaiting the figures for credit card transactions but advises that it looks like parking meter revenues for 2010 are about even with revenues for 2009. Mr. MacLeod advises that the on street parking program has had 25 applications to date.

### **ATTORNEY ITEMS**

### **CLERK'S ANNOUNCEMENTS**

The Clerk announces that the Town Meeting scheduled for this Thursday, July 8, 2010, has been cancelled. Out next meeting will be on July 20, 2010 at 7:00 P.M.

## **REGULAR MEETING BUSINESS :**

Mayor Mahaney advises that items on the agenda will be voted on by Consent at the request of Deputy Mayor Wichterman. However, the Mayor will briefly explain each item for the benefit of the public. The following consent agenda resolutions were approved on a motion from Deputy Mayor Wichterman, seconded by Councilmember Swain.

- 156-07-2010 Resolution of the City of Cape May appointing an advisory committee on municipal plan endorsement
- 157-07-2010 Authorization for Mott Associates, LLC to perform professional design and construction management services for the 2010 road program improvements
- 158-07-2010 Approval to submit a grant application and execute a grant agreement with the NJ Department of Transportation for the FY 2011 NJDOT Municipal Aid Program
- 159-07-2010 Resolution authorizing final payment to Walters Marine Construction, Inc. – Queen Street outfall repairs, contract 13
- 160-07-2010 Award of contract for supplying of water meters with encoded registers and radio frequency automatic meter reading
- 161-07-2010 Award of contract for the supply and delivery on one (1) new beach sanitizer
- 162-07-2010 Resolution approving liquor license renewals for the 2010-2011 license year
- 163-07-2010 Payment of bills
- 164-07-2010 Resolution extending lease with Pete Smith Surf Shop for Solarium buildings #3 and #4
- 165-07-2010 Closed Session Resolution - Legal Issues pertaining to the Convention Hall Contracts, Litigation regarding Friends and Neighbors of East Cape May and Negotiations regarding the Interlocal Construction Agreement – West Cape May

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

### **LICENSES:**

Raffle license, Mid-Atlantic Center for the Arts and Humanities, November 7, 2010 @ 5:00pm, 1048 Washington St., proceeds benefit the beautification of the Physick Estate  
Social Affairs Permit for Cape May Stage for July 26, 2010 from 7-9pm

**Motion:** Swain

**Second:** Wichterman

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

**REPORTS RECEIVED BY THE CLERK:**

Environmental Commission meeting minutes dated June 8, 2010  
Shade Tree Commission meeting minutes dated June 10, 2010  
Overtime Report for June 2010  
Occupancy Tax budget projection dated June 22, 2010  
Assessors Office monthly report dated June 11, 2010  
Construction Office Monthly report for May, 2010  
HPC meeting minutes dated May 10, 2010  
Planning Board meeting minutes dated April 27, 2010  
Zoning Board meeting minutes dated May 27, 2010  
Under \$500 check register dated June 30, 2010

**Motion:** Mahaney

**Second:** Swain

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

**MINUTES:**

Regular City Council meeting minutes dated 6/1/10  
Closed executive City Council meeting minutes dated 6/1/10  
Special City Council meeting minutes dated 6/8/10  
Closed executive City Council meeting minutes dated 6/8/10  
Regular City Council meeting minutes dated 6/15/10  
Closed executive City Council meeting minutes dated 6/15/10

**Motion:** Mahaney

**Second:** Swain

Roll Call:

Fiocca	Abstain
Murray	Abstain
Swain	Yes
Wichterman	Abstain
Mahaney	Yes

**UNFINISHED BUSINESS:****NEW BUSINESS:**

A) City Attorney  
B) City Manager – Mr. MacLeod advises that this weekend we have the 46<sup>th</sup> Promenade Art Show on the beach front and he thanks the City forces for their assistance during the holiday weekend. Mr. MacLeod comments that the Fire Works were well attended and were one of the best displays for the past several years.



C) City Clerk

D) Councilmembers – Deputy Mayor Wichterman states that he received an email from a city resident advising that there are many property owners in the City who rent their homes without obtaining a Mercantile License. Mr. Wichterman asks Mr. MacLeod how the City checks to make sure that people who rent obtain the proper licensing. Mr. MacLeod advises that there are over 1,300 Mercantile Licenses issued within the City for various business reasons. A large group of those are for rental properties, comments Mr. MacLeod and our Code Enforcement Officer reviews the newspaper to look for advertisements, as well as Real Estate listings to cross reference our mercantile license list. Mr. Wichterman asks if the realtors share with the City, the names of the owners of the homes that are being rented. Mr. MacLeod advises there is no requirement to that effect.

Councilmember Murray asks if the homeowner is required to display the Mercantile License and Mr. MacLeod advises that they are.

Mayor Mahaney asks Mr. MacLeod to commend the City employees for their contributions to the holiday celebration. The town ran smoothly and people who came to town felt welcomed. The Mayor announces the Beach Patrol superathalon is being held Monday, July 12, 2010.

**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.

Dennis Crowley 806 Lafayette Street, Cape May wants to clarify the figure of the increase on the tax rate and subsequent tax dollar increase that was mentioned during the Convention Hall discussion. Mayor Mahaney advises that the figure is between \$50 and \$60 on a home assessed at \$500,000.00. Mr. Crowley then speaks about the new Convention Center and how much it will cost to operate after it is completed, how much revenue it will realize. Finally, Mr. Crowley asks how much of the budget of the City is dedicated to Code Enforcement. He believes not enough and the subject should be addressed in the near future.

Jay Schatz, President, Hotel/Motel and Lodging Association advises that there is a bill before the Assembly to roll back the room tax and apply a seven percent tax on accommodations which will include weekly rentals, whole house rentals, condo rentals, etc. There will then be no requirement for a mercantile license because in order to rent a property, either the realtor or the owner will be required to obtain a tax number and give back five percent to the state and two percent to the city.

Bob Biehn, 315 Franklin Street, Cape May, welcomes the new Council Members and thanks the City for the fireworks display which was exceptional this year. He then thanks everyone involved for the on street parking program. Finally, Mr. Biehn speaks about the 30% overrun in costs on the new Convention Center and how to protect the City in the future.

Dennis Crowley, comments on the room tax bill. He believes it is exactly what we need to be worrying about right now and we shouldn't wait for the State to do something about it. He

believes the proposed bill is worse than the present law. We are making money for the State of New Jersey advises Mr. Crowley and we should oppose the bill totally.

Bernie Haas speaks on the Mercantile Licenses for private rentals and advises that Cape May rentals.com requires every private advertiser to obtain a Mercantile License from the City before they will post the add.

Motion made by Councilmember Swain to go into closed session at approximately 3:00 P.M.  
Mayor Mahaney opens the Worksession at approximately 6:05 P.M.

Deputy Mayor Wichterman moves to come out of Closed Session, seconded by Councilmember Murray.

Motion made by Deputy Mayor Wichterman, seconded by Councilmember Murray to adjourn.  
Meeting adjourned at approximately 6:07 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