

**BOROUGH OF Cape May POINT  
BOARD OF COMMISSIONERS MEETING MINUTES  
May 12, 2011**

**OPEN PUBLIC MEETINGS ACT STATEMENT**

A meeting of the Board of Commissioners of the Borough of Cape May Point was called to order on Thursday, May 12, 2011 at 7:00 p.m. in the Fire House Meeting Room at 412 Yale Avenue. Mayor Carl Schupp announced that this meeting having been properly posted and advertised, was being held in accordance with the Open Public Meetings of 1975 (N.J.S.A. 10:4-6) also known as the Sunshine Law.

**ROLL CALL**

<b>Commissioner Henderson</b>	<b>PRESENT</b>
<b>Commissioner vanHeeswyk</b>	<b>PRESENT</b>
<b>Commissioner Schupp</b>	<b>PRESENT</b>

**FLAG SALUTE**

Mayor Schupp led the audience in the Flag Salute.

**PUBLIC HEARINGS**

**ORDINANCE NO. 596 -11  
AN ORDINANCE OF THE BOROUGH OF CAPE MAY POINT,  
COUNTY OF CAPE MAY, STATE OF NEW JERSEY AMENDING  
CAPE MAY POINT ORDINANCES CHAPTER 120 ENTITLED "PEACE AND GOOD ORDER"**

**PUBLIC COMMENT**

There were no comments made.

Upon Motion by Commissioner vanHeeswyk seconded by Commissioner Henderson seconded this ordinance was adopted upon final hearing. The Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**MINUTES**

Commissioner Henderson made a motion to approve the minutes (as previously read by the governing body) of the meetings April 12, April 14, and April 26, 2011. Commissioner vanHeeswyk seconded the motion and the Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**VOUCHERS**

Commissioner vanHeeswyk made a motion to approve the vouchers as presented for payment. (Bill list attached) Commissioner Henderson seconded the motion. Commissioner Schupp seconded the motion and the Clerk took a roll call vote as follows:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**TREASURER'S REPORT**

Commissioner vanHeeswyk made a motion to approve the Treasurer's Report as presented. Commissioner Henderson seconded the motion. Commissioner Schupp seconded the motion and the Clerk took a roll call vote as follows:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

## REPORTS OF THE COMMISSIONERS

**Commissioner vanHeeswyk** reminded everyone that the 2011 rental Permits are due by the end of May in order to avoid a penalty. She mentioned on June 1<sup>st</sup> the permit fee increases. She added that applications were mailed a while ago, but applications can also be downloaded from the borough website.

Commissioner vanHeeswyk stated that the final County Tax Equalization Table shows us slightly above the required 100% assessment. She explained that the County uses a formula to equalize the amount we pay so that it is in line with the other municipalities. She gave the example that we will pay the county about 2% less than assessments on record, while in comparison, West Cape May will pay about 8 1/2% more than their assessments on record.

Commissioner vanHeeswyk stated that it has been two years ago (this month) that the borough was anticipating being Plan Endorsed by the State Planning Commission at the DCA. She stated that we are now on the agenda for our Bi-annual Review in a few weeks, but it is not State Planning Commission at DCA; it is now Office for Planning Advocacy under the Department of State. Commissioner vanHeeswyk announced that she was invited to be part of a Steering Committee that met with The Director and Deputy Director today. She reported that there were about 10 local officials from Cumberland, Atlantic and Cape May County. She explained that each County sent their Planner, and for Cape May County there was Leslie Gimeno, Marty Teller from the County and Planner Liz Terenik, representing Middle Township and herself. She explained that this was the last of 16 meetings held around the state. The goal of the Committee was to find a strategic vision for responsible growth and that that all state agencies will be aligned to be consistent with the final strategic vision. She stated that the reports of the Steering committee are expected on the Governor's desk by the end of June. She stated that at this meeting there was a lot of concern here in the southern part of the state with environmental issues, farming, and the cost on taxpayers of keeping open space. She added that our counties are aligned with others in the state with our frustration that municipalities are stuck with the *unpredictability* of DEP mapping, decisions, water issues, and of course COAH set into motion a flurry of comments. Commissioner vanHeeswyk explained that the good news for us is that we are already Plan Endorsed and the frustrations today by the other counties on behalf of their municipalities had to do with trying to get thought that process. She stated that the costs are prohibitive for most and one town has been working on it for 16 years without DEP budging on some issues while another town has spent 12 years and still another town just spent \$35,000 to have their required mapping done. She ended her remarks by stated that by making meaningful changes, it will be like turning a ship around! She stated that this local steering committee having input directly to our policy makers is a positive start.

**Commissioner Henderson** reported that pre-season beach tags are currently on sale. Hours of operation are daily from 9 am to noon, He mentioned that he met with the Beach Patrol Chief and Beach Program Supervisor over the weekend to plan for the summer.

**Mayor Schupp** announced that the Cape May County MUA is currently expanding the landfill in Woodbine. He stated that this expansion will ensure capacity requirements for Cape May County until 2067.

Mayor Schupp stated that the energy audit results are in and that it was suggested that the heating and air conditioning unit at Municipal Building be replaced with a more efficient unit. He also stated that the windows in the Public Works building need upgrading for better efficiency and that the pump house will require new pumps and a natural gas heating and air conditioning.

The Mayor also gave an update on natural gas installation in Cape May Point. He stated that he spoke to a representative of South Jersey Gas who estimated that the work would begin in the fall.

**CORRESPONDENCE**

None

**NEW BUSINESS**

None

**LEGISLATION**

**RESOLUTION NO. 54-11**

**Resolution Authorizing A Shared Services Agreement  
With The Cape May County Municipal Utilities Authority  
For Solid Waste Disposal and Recycling Services**

WHEREAS, the Cape May County Municipal Utilities Authority ("CMCMUA"/"Authority") owns and operates a solid waste system ("System") which presently serves the entire County of Cape May in the State of New Jersey, for the disposal, transfer, and recycling of solid waste; and

WHEREAS, the System includes the CMCMUA Secure Sanitary Landfill which is located on the Upper Township/Borough of Woodbine border, County of Cape May, and the Solid Waste Transfer Station located in the Township of Middle, County of Cape May, as well as several recycling operations and programs; and

WHEREAS, the Borough of Cape May Point has utilized and desires to continue to utilize the services of the CMCMUA's Solid Waste System; and

WHEREAS, there presently exists a contract between the Borough of Cape May Point and the Cape May County Municipal Utilities Authority ("CMCMUA") for the use of the CMCMUA's solid waste disposal, transfer and recycling facilities which will expire on December 31, 2011 entitled "JOINT INTER-GOVERNMENTAL AGREEMENT FOR SOLID WASTE DISPOSAL" (hereinafter the "Existing Agreement"); and

WHEREAS, there also presently exists, as an integral component of the Existing Agreement, a supplemental contract between the Borough of Cape May Point and the CMCMUA entitled Joint Inter-Governmental Agreement on Source Separation and Recycling (the "2005 Joint Recycling Agreement") which expires on December 31, 2011; and

WHEREAS, the Borough of Cape May Point and the CMCMUA desire to enter into a new Shared Services Agreement for Solid Waste Disposal, which shall also include the provisions of a new Shared Services Agreement for Source Separation and Recycling as a supplement to said Agreement, and to fix the expiration date of said Agreements to occur on December 31, 2018 in order to enable long term planning for the proper disposal and recycling of the Cape May Point solid waste; and

WHEREAS, renewal of the basic provisions and responsibilities of the parties, as set forth in the Existing Agreement for solid waste disposal with the municipalities within Cape May County, will enable the CMCMUA to stabilize and guarantee a maximum solid waste disposal fee for each of the next seven (7) years; and

WHEREAS, the basic provisions of the proposed Shared Services Agreement for Source Separation and Recycling will enable the CMCMUA to continue to more efficiently provide recycling services, most of which are without cost or financial risk, to the municipalities within Cape May County; and

WHEREAS, the CMCMUA has offered to extend the term of the above noted contracts with the Cape May Point in order to more efficiently provide and continue to offer municipalities within Cape May

County the use of the CMCMUA's Sanitary Landfill, Transfer Station and recycling facilities and services for an extended period through December 31, 2018; and

WHEREAS, the CMCMUA has submitted the same proposed form of Agreement to all Cape May County Municipalities which will provide for both solid waste disposal and certain recycling services through December 31, 2018; and

WHEREAS, N.J.S.A. 40A:65-1 et seq. authorizes a municipality to enter into a contract with any other local unit for the sharing of governmental services.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Cape May Point, County of Cape May, and State of New Jersey, that the Borough of Cape May Point shall enter into a contract with the CMCMUA entitled "Shared Services Agreement for Solid Waste Disposal", effective January 1, 2012, in the form to be maintained on file in the office of the Municipal Clerk, and that the appropriate Cape May Point officials are hereby authorized and directed to execute said Agreement and the accompanying Shared Services Agreement for Source Separation and Recycling.

Upon Motion by Commissioner vanHeeswyk, seconded by Commissioner Henderson this resolution was approved. The Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

#### **RESOLUTION NO. 55-11**

#### **AUTHORIZING THE AWARD OF CONTRACT FOR CODIFICATION AND REVISION OF BOROUGH ORDINANCES TO CODED SYSTEMS LLC.**

**WHEREAS**, it has been determined by the Board of Commissioners that it would be in the public interest to have the general and permanent ordinances of the Borough of Cape May Point codified and revised; and

**WHEREAS**, it has been determined by the Board of Commissioners pursuant to N.J.S.A.40A:4-56 that the services to be rendered are of a special technical nature.

**NOW THEREFORE BE IT RESOLVED**, by the Board of Commissioners of the Borough of Cape May Point, in the County of Cape May And State of New Jersey that Coded Systems LLC, a limited liability company of the State of New Jersey, whose principal offices are in the Borough of Spring Lake Heights, Monmouth County, State of New Jersey, is hereby designated to codify and revise the general and permanent ordinances of the Governing Body of the Borough of Cape May Point in accordance with the provisions of a certain agreement about to be executed and dated simultaneously with the adoption of this resolution. Said agreement provides for the work to be performed in accordance with the proposal as submitted. A copy of the agreement shall be on file in the office of the Municipal Clerk.

**BE IT FURTHER RESOLVED**, that the aforesaid agreement heretofore referred to is hereby made part of this resolution and the terms and provisions set forth therein are adopted as legal and binding on all parties concerned; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be transmitted to Coded Systems LLC with directions that the work on the codification shall be commenced immediately and a copy of this Resolution be advertised according to the law.

**BE IT FURTHER RESOLVED** that the Mayor and Municipal Clerk be authorized to execute the agreement on behalf of the Borough of Cape May Point.

Upon motion by Commissioner vanHeeswyk, seconded by Commissioner Henderson this resolution was approved. The Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**RESOLUTION NO. 56-11**

**AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE OF A JCB MODEL 4CX-14 BACKHOE LOADER TO FARM-RITE INC.**

**WHEREAS**, it has been determined by the Board of Commissioners that it would be in the public interest to purchase a 4-wheel drive backhoe loader; and

**WHEREAS**, said purchase was publically bid on Wednesday, April 20, 2011 pursuant to the Local Public Contracts Law; and

**WHEREAS**, the Borough received only one bid in the amount of \$79,195.00 from Farm-Rite Inc of Shiloh, New Jersey.

**NOW THEREFORE BE IT RESOLVED**, by the Board of Commissioners of the Borough of Cape May Point, in the County of Cape May And State of New Jersey that Farm-Rite Inc. of Shiloh, in the County of Cumberland, State of New Jersey, is hereby instructed to deliver a JCB Model 4CX-14 Backhoe Loader in accordance with the provisions of the bid specifications as previously executed. A copy of the original bid proposal including such specifications shall be on file in the office of the Municipal Clerk.

**BE IT FURTHER RESOLVED**, that the aforesaid bid document heretofore referred to is hereby made part of this resolution and the terms and provisions set forth therein are adopted as legal and binding on all parties concerned; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be transmitted to Farm-Rite Inc. and a copy of this Resolution be advertised according to the law.

**BE IT FURTHER RESOLVED** that the Mayor and Municipal Clerk be authorized to execute the agreement on behalf of the Borough of Cape May Point.

Upon Motion by Commissioner Henderson, seconded by Commissioner vanHeeswyk this resolution was approved. The Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**RESOLUTION NO. 57-11**

**RESOLUTION IN OPPOSITION TO SENATE BILL NO. 1351**

**WHEREAS**, Senate Bill No. 1351 (hereinafter referred to as S-1351) would amend the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq., to include many new requirements that are unnecessary to protect

the public's interest in open and transparent government, and which would unduly burden municipalities; and,

**WHEREAS**, S-1351 would impose new procedural requirements on municipalities which will be time consuming and costly, at a time when municipalities are facing unprecedented financial constraints; and,

**WHEREAS**, S-1351 would impose new procedural requirements on municipalities that are impractical and wasteful, and which would result in longer meetings and less efficient governance; and,

**WHEREAS**, among the time consuming, costly, impractical and wasteful new requirements of S-1351 are the following:

- A. new requirements pertaining to subcommittees, including notice of subcommittee meetings and the preparation of minutes, which would, among other things, necessitate additional administrative support for all meetings of subcommittees so that minutes can be prepared; and,
- B. new requirement that agendas provide a description of all agenda items, including the names of the parties to and approximate dollar amounts of any contracts to be acted upon, which would increase preparation time for agendas; and,
- C. new requirement that agendas include estimated starting times for the public portion of the meeting and the portion of the meeting from which the public is to be excluded, though this information would be purely speculative and unreliable; and,
- D. new requirement that no public body be permitted to act upon or discuss a matter that is not listed on the agenda except in emergencies, which requirement would be impractical and unnecessarily inhibit the operations of municipal government, as it is often necessary for the effective and efficient administration of municipal governmental purposes to discuss or act on matters for which three business days' notice may not be possible; and this would effectively prevent discussion of items brought forward by the public; and,
- E. new requirement that a public body provide for public comment on emergency items that are added to a meeting agenda, adding unnecessary and time-consuming process to meetings; and,
- F. new requirement that a public body provide for public comment before taking final action on any matter at any meeting of at least three minutes per person, which requirement, as written, would result in an unworkable series of public comment periods on every action of the governing body, from appointments to resolutions to approval of minutes, thereby adding substantial time to every meeting of the public body; and,
- G. new requirement eliminating attorney-client privilege as a basis for excluding the public from a portion of the meeting, which will inhibit the public body's ability to obtain needed legal advice, which is contrary to the public interest; and,
- H. new requirement that public bodies be permitted to exclude the public from discussion of personnel matters only with the written consent of the potentially affected employee, thereby inhibiting the public body's ability to take necessary actions on personnel matters; and,
- I. new requirements for more extensive minutes of public body meetings, such as the inclusion of each member's stated reasons for his or her actions or vote, the identity of each member of the public who spoke and a summary of what was said, which shall cause the preparation of minutes to be more time consuming and costly; and,
- J. confusing new requirements pertaining to disclosure of recordings of meetings, including making recordings promptly available after meetings, and somehow incorporating such recordings with meeting minutes; and,
- K. new requirements that minutes would include electronic communications concerning public business among an effective majority of the members that occurred prior to a meeting, which would be an unworkable and ineffective imposition on municipalities, and would purport to make pre-meeting communications somehow become part of the meeting itself, an unprecedented expansion of the meeting concept; and,

- L. new requirements for maintaining on the municipal website schedules of meetings, agendas, notices of emergency meetings, minutes, resolutions and ordinance to the extent not already set forth in the minutes, and closed meetings resolutions, for a period of at least five years, which would result in additional costs for posting and maintaining website information;

**WHEREAS**, there is no justifiable basis for the imposition of the burdensome and cost generative provisions of S-1351; and,

**WHEREAS**, portions of S-1351 place financial, time, manpower and other burdens on municipalities at a time when municipalities are constrained to layoff municipal employees, impose furloughs, and reduce departmental budgets so that municipalities can meet strict CAP requirements even when revenues are decreased and operating costs continue to climb; and,

**WHEREAS**, the cost generative provisions of S-1351 are unfunded mandates that violate the “State Mandate, State Pay” amendment to the New Jersey Constitution

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of the Borough of Cape May Point, County of Cape May, and State of New Jersey, for the reasons stated above, do hereby opposes Senate Bill No. 1351 in its current form, and urge the New Jersey State Senate and Assembly to oppose this Bill; and,

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to State Senator Loretta Weinberg, State Senator Stephen Sweeney, the members of the Senate and Budget Appropriations Committee, the legislators of the 1st State Legislative District, the New Jersey State League of Municipalities, and the Municipal Clerks’ Association of New Jersey.

Upon Motion by Commissioner Henderson, seconded by Commissioner vanHeeswyk this resolution was approved. The Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**RESOLUTION NO. 58-11**

**RESOLUTION CANCELLING CHARGES TO WATER/SEWER UTILITY**

**ACCT # 199**

**WHEREAS**, due to a billing error it is necessary to cancel the amount of \$112.60 billed to the 1<sup>st</sup> quarter of 2011 on the water/sewer utility account # 199.

**NOW THEREFORE BE IT RESOLVED**, by the Board of Commissioners of the Borough of Cape May Point, in the County of Cape May And State of New Jersey that the Water/Sewer Utility Clerk is hereby authorized to adjust the amount of \$112.60 from said account.

Upon Motion by Commissioner Henderson, seconded by Commissioner vanHeeswyk this resolution was approved. The Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**RESOLUTION NO. 59-11**

**AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT FOR CONTINUATION OF COMMODITY  
RESALE SYSTEM WITH THE COUNTY OF CAPE MAY**

**WHEREAS**, the Borough of Cape May Point entered into a commodity resale agreement in May of 2006;  
and

**WHEREAS**, it is best interest of the taxpayers of the Borough of Cape May Point to continue such  
agreement in order to spare them of the excessive cost of storing and dispensing fuel in-house and also  
save thousands of dollars in purchasing fuel from a local retail agency at full retail price; and

**WHEREAS**, the governing body desires to continue this mutually beneficial agreement with the County of  
Cape May as stated in the attached agreement until June 6, 2016.

**NOW THEREFORE BE IT RESOLVED**, by the Board of Commissioners of the Borough of Cape May  
Point, in the County of Cape May And State of New Jersey that the Mayor is hereby authorized to  
execute the attached agreement for commodity resale of gasoline and diesel fuel.

**BE IT FURTHER RESOLVED**, that the aforesaid bid document heretofore referred to is hereby made part  
of this resolution and the terms and provisions set forth therein are adopted as legal and binding on all  
parties concerned; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be transmitted to the Board of  
Chosen Freeholders of the County of Cape May.

Upon motion by Commissioner Henderson seconded by Commissioner Schupp this resolution was approved.  
The Municipal Clerk took the following roll call vote:

<b>Commissioner Henderson</b>	<b>YES</b>
<b>Commissioner vanHeeswyk</b>	<b>YES</b>
<b>Commissioner Schupp</b>	<b>YES</b>

**PUBLIC PORTION**

**Mr. Patton** asked if the Borough owns the chipper he has seen around town. The Mayor answered yes. Mr.  
Patton asked if the area in front of his property where a bench sits facing the lake could be trimmed back. He  
stated that people like to sit on that bench and watch the ducks. The Mayor stated that he would address the  
issue.

**Marie Rice** asked if the codification would be on the website when complete. Commissioner vanHeeswyk  
answered yes and mentioned that there is a lot information on the website already.

**Tom Graham** asked when the natural gas installation would take place. Mayor Schupp stated that the Borough  
of Cape May Point can expect work to commence in the fall.

**Meghane Smith** asked for more information on Senate Bill S-1351. The Municipal Clerk explained.

**Chris Weinberg** asked what are current population is in Cape May Point. Commissioner vanHeeswyk answered  
that the current 2010 Census number is 249. This is up from 2000's Census number of 241. She explained that  
this increase may be of some concern with COAH numbers.

**ADJOURNMENT**

Upon motion to adjourn by Commissioner vanHeeswyk, seconded by Commissioner Henderson the meeting was  
adjourned at 7:45 pm.

ATTEST:

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Constance A. Mahon, Municipal Clerk

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Commissioner Anita vanHeeswyk

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Commissioner John G. N. Henderson

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Commissioner Carl Schupp