

**BOROUGH OF CAPE MAY POINT
COMMISSIONER'S MEETING
November 8, 2011**

OPEN PUBLIC MEETINGS ACT STATEMENT

A meeting of the Board of Commissioners of the Borough of Cape May Point was called to order by Mayor Carl Schupp on Tuesday, November 8, 2011 at 9:30 a.m. in the Conference Room at the Cape May Point Municipal Building located at 215 Lighthouse Avenue. Mayor Schupp announced that this meeting having been properly posted and advertised in the Cape May Star & Wave, 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. The Municipal Clerk took the following roll call vote:

ROLL CALL

Commissioner Henderson	PRESENT
Commissioner vanHeeswyk	PRESENT
Commissioner Schupp	PRESENT

REVIEW UPCOMING MEETING AGENDA FOR NOVEMBER 10, 2011

The Board of Commissioners reviewed Agenda with some discussion.

REPORTS OF THE COMMISSIONERS AND GENERAL DISCUSSION

Commissioner vanHeeswyk stated that the Zoning Board of Adjustment requires an ordinance increasing the number of alternate board members to 4. She explained that the zoning board was established by ordinance when General Code's original codification was completed. She stated that subsequent to that the Zoning Board intended to increase the number of alternate members to four. She stated that Ordinance 600-11 is intended to accomplish this. The Board reviewed the proposed ordinance. Solicitor Russell stated that an ordinance is necessary for the additional alternate members but not for the members of the Planning Board to sit on the board in the case of conflict. Commissioner vanHeeswyk asked if we can ever just simply cite the MLUL so that as it changes additional ordinance amendments are not required. Solicitor Russell stated that it is his opinion that the way we handling this ordinance is correct.

Commissioner Henderson stated that the County has announced additional free flu shots and asked the Clerk to post it for the public.

Commissioner Henderson asked about the ACMJIF's letter regarding the Pole Barn. He asked Solicitor Russell to explain. Solicitor Russell explained personal injury liability, damages, and coverage. He stated that negligence is a key factor to liability. A breach of the standard of care would cause negligence to be proven. He gave an example. Solicitor Russell explained the possibility of liability and cited examples of possible liable situations by using prison labor. He suggested that larger cities would be capable of providing security and more capable of following guidelines provided for loss prevention. Commissioner vanHeeswyk objected to the use of prison labor in this small, isolated town.

Commissioner Henderson stated that the use of prison labor creates a potential liability but it appears that the ACMJIF will in-fact cover any loss incurred. He added that even with that said, it still doesn't seem like a responsible thing to do. Commissioner vanHeeswyk stated that she opposes the use of prison labor in such a small town with an elderly population.

Mayor Schupp stated that the materials to construct the pole barn are currently on the way and questioned if the contract could be breached at this late hour. He added that at the last meeting the entire board agreed that if the ACMJIF would put in writing that the project is covered then they would allow the project to continue. According to Mayor Schupp the prison will provide armed guards to secure and supervise the prisoners. Solicitor Russell warned the governing body that just because a written contract is not in the file there still may be an oral contract. He stated that the issue of breaching a contract would need to be investigated further.

Commissioner vanHeeswyk asked if other estimates were provided for the pole barn building. Mayor Schupp stated that he received a quote of approximately \$100,000 in 2010 for the same building. He

stated that the savings are astounding. Commissioner Henderson stated the following reasons why he is not comfortable moving ahead with this project: 1) Lack of contract 2) Lack of Hold Harmless Indemnification 3) Lack of information on supervision provided by DEPTCOR 4) use of prisoners and liability created by doing so 4) the Borough's inability to follow guidelines provided by the ACJIF to limit liability.

Commissioner Henderson made a motion to suspend resolution No 66-10 Authorizing the Construction of a Pole Barn. The motion was seconded by Commissioner vanHeeswyk. The Municipal Clerk took a roll call vote as follows

Henderson	YES
vanHeeswyk	YES
Schupp	YES

Commissioner Henderson stated that unemployment costs that must be budgeted for are unknown for the coming year; however, using the calculation provided by the State is a benchmark for budgeting for each department. Commissioner vanHeeswyk stated that the amount the state would have charged us this year by paying in to the Unemployment insurance is almost what we will actually pay doing it the way we always have. She stated that the losses can be limited by limiting the time the seasonal employees can work and hiring practices can be tailored to fit that need. Commissioner vanHeeswyk stated that the Unemployment Line Item may be outside of the CAP.

Commissioner vanHeeswyk stated that the Borough is obligated to set a Flexible Spending Plan under the new pension/healthcare reform bill. She stated that she and Connie Mahon met with an AFLAC sales person and found out that AFLAC would waive the \$1000 set up fee if three employees purchase an AFLAC product thereby making us an AFLAC customer. Commissioner Henderson stated that he is in favor of having a presentation to our employees. He stressed the importance of allowing the employees to make their own decision regarding this insurance.

Commissioner vanHeeswyk reported that construction department has collected \$5690.00 this past month.

Commissioner vanHeeswyk stated that the Proposed Beach Access Rules have been released.

Commissioner Henderson stated that the rules require 10-ft access every quarter of a mile.

Commissioner vanHeeswyk stated that these are the old rules. She stated that the new rules do have this requirement. She added that State Planning officials are good with what the Borough currently has. She stated that our plan will be submitted prior to year-end.

Commissioner vanHeeswyk stated that the new State Strategic Plan is available on-line. She stated that the tone of everything in planning is about the financial situation our State faces. She stated that the old DCA State Planning Commission is now the State Strategic Planning Commission. They seen fine our current approved plan.

Mayor Schupp stated that he will be out of town on Friday, November 11, 2011 and cannot attend the Veteran's Day ceremony in the morning. Commissioner vanHeeswyk offered to attend.

PUBLIC PORTION

Irene Schreiner stated that remnants of beach boxes were found during the beach clean-up. She asked if these beach boxes belonged to the Borough. Commissioner vanHeeswyk stated that the boxes were from Cape May.

Irene Schreiner asked why the recommendations of the JIF would be taken lightly in the case of the pole barn while the Taxpayers Association and Civic Club are expected to follow their guidelines at all times. She added that she always had a problem with the use of prisoners in Cape May Point because of the age of the residents and vulnerability. She stated that she and many other taxpayers would prefer the use of a local builder vs. the prison labor (especially with the current state of our economy.)

Megane Smith stated that she read an article recently that the American Littoral Society has convinced the County to use open space money to fund ... Green Acres money does not come back to Cape May County.

Irene explained that the Pavilion Circle was deeded to the Borough by the Whilldin family in the 1980's. She stated that we own it with no restrictions.

Sally Sachs stated that County Open Space money was used to purchase Triangle Park.

She asked if the governing body would be responding to the Environmental Commission's request to put wells in the Pavilion Circle. She also asked the governing body if they are interested in pursuing open space money for the purchase of the Gilbert property. The governing body agreed to do so. She asked if upon a response from Barbara Earnst that the county was interested, if the Borough should contact the owner or if the Borough would do so. The Clerk responded that she did not know but would ask County officials.

Irene Schreiner asked if the Zoning and Planning Boards could be merged. Commissioner vanHeeswyk stated that she is not sure that the volunteers would be interested in the additional work load and she added that the way it is now encourages more citizens to participate.

**RESOLUTION NO. 88-11
EXECUTIVE SESSION RESOLUTION**

WHEREAS, NJSA 10:4-12 Allows for a Public Body to go into closed session during Public Meeting; and

WHEREAS, the Governing Body of Cape May Point has deemed it necessary to go into closed session to discuss certain matters are exempted from the Public; and

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 will go into closed session for the following reason(s) as outlined:

Potential Litigation

Commissioner vanHeeswyk made a motion to enter into executive session. Commissioner Henderson seconded the motion. The Clerk took a unanimous roll call vote:

Commissioner Henderson YES
Commissioner vanHeeswyk YES
Commissioner Schupp YES

The board reconvened the meeting at 11:46 am.

ADJOURN

Upon motion by Commissioner Henderson, seconded by Commissioner vanHeeswyk the meeting was adjourned at 11:50 am. The Municipal Clerk took a final roll call vote.

ATTEST:

Constance A. Mahon, Municipal Clerk

Commissioner Henderson

Commissioner vanHeeswyk

Commissioner Schupp