

BOARD OF COMMISSIONERS
MEETING MINUTES
October 27, 2011

OPEN PUBLIC MEETINGS ACT STATEMENT

A meeting of the Board of Commissioners was called to order at 9:30 on Thursday, October 27, 2011 in the Conference Room at the municipal building located at 215 Lighthouse Avenue. Mayor 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. The Municipal Clerk took the following roll call vote:

ROLL CALL

Commissioner Henderson	PRESENT
Commissioner vanHeeswyk	PRESENT
Commissioner Schupp	PRESENT

VOUCHERS

The Board discussed the layout of the bill list. Commissioner vanHeeswyk made a motion to approve the vouchers as presented for payment as amended to include the JIF 4th quarter assessment and upon review of QC Laboratories from September. (Bill list attached) Commissioner vanHeeswyk seconded the motion and the Clerk took a roll call vote as follows:

Commissioner Henderson	YES
Commissioner vanHeeswyk	YES
Commissioner Schupp	YES

Commissioner Henderson

Commissioner Henderson stated that he surprised at a recent comment by Bill Gibson that the pole barn would be delivered shortly. He stated that goes against a prior agreement among the governing body members that no labor be hired or contract authorized without proper indemnification language and a certificate of insurance naming the Borough as "additional insured" being provided. He stated that the Mayor would be defying Jif recommendations by allowing the pole barn to be built without these items being secured. Mayor Schupp stated that the Borough would be saving \$50,000 by having the pole barn constructed by DEPCOR.

Commissioner Henderson stated for the record that he was opposed to this project for concerns of public protection/liability. Commissioner vanHeeswyk agreed. Commissioner Henderson asked the solicitor how to stop the project. Solicitor Russell stated that the governing would have to rescind the prior resolution.

Solicitor Russell stated that DEPTCOR is self insured so without a contract we would be "flying naked." He added that prisoners do not have much to do besides file law suits and they clearly could sue the Borough for negligence as to the public property. Commissioner Henderson made a motion to not go ahead with the Pole Barn. No second was offered because discussion continued. Solicitor Russell asked for more information on the progress of the pole barn and cautioned the governing body that they may have a verbal contract with DEPTCOR.

Mayor Schupp stated that in every conversation he has ever had with the ACMJIF they have assured him that we are covered even without a contract or hold harmless.

Commissioner Henderson stated that if we can get something in writing from the JIF stating that this project is covered he would withdrawal any objections to the project.

Solicitor Russell instructed the Clerk/Administrator to send an email to Paul Miola (ACMJIF Executive Director) stating that we need a response in writing as to our coverage without items listed. He asked that the answer be copied to all commissioners.

Commissioner Henderson asked that his previous motion to stop the project be removed from the floor pending a written answer from the JIF.

Commissioner Henderson stated that budgeting for the Beach Patrol/Beach Tag Program is problematic because the potential for unemployment claim liability is unknown. The board discussed the issue. Commissioner vanHeeswyk stated that she has researched the subject and as she sees it we

have two options. She stated that we can do it as we do now, which is per claim or pay into unemployment fund by percentage. Commissioner vanHeeswyk stated that the rate is based on # of claims. She added that this is the time of year to evaluate which option is best for the borough.

Commissioner Henderson reported that the estimated beach revenue for 2011 is \$140,000 while expenses should come in around \$153,000. He stated that this means the amount of general tax dollars used to subsidize the beach program is down to \$13,000 not counting future unemployment expenses.

Commissioner vanHeeswyk congratulated Commissioner Henderson this great news.

Commissioner Henderson stated that the Environmental Commission is very concerned about water in the circle as many plants have died and it is clearly discouraging the volunteers. He stated that the Environmental Commission suggested a well with iron staining filters to prevent discoloration of bricks.

Mayor Schupp responded that the game plan is to go out to get quotes for well drilling. He stated that he anticipates that the Capital Budget for these well maybe \$50,000. Go out to public bid for options two options: 1.) Deep well w/ little iron content 2.) Shallow well.

Commissioner vanHeeswyk stated that she sent information out to the Environmental Commission that she received from Pierre La Combe (USGS Hydrologist who did the water study in CM County known as the Gibson study.) She stated that his suggestion that two wells be drilled to the approxiamte 40ft. level would give a predictable water output. Mr. La Combe had said that 20ft.well would give an unpredictable water output. Mr. La Combe suggested drilling 2 wells with a 40-ft depth and using filters to neutralize the water color. He recommended that the governing body seek a price quote from Roger Smith who is a reputable well-driller. Commissioner vanHeeswyk suggested that Pierre La Comb meet with Bill Gibson to gather information.

Commissioner Henderson stated that he would report back to the Environmental Commission that plans are underway.

Commissioner vanHeeswyk stated that Planning Board is also recommending irrigation of Lake Lily be addressed. She read a resolution from Planning Board.

Commissioner vanHeeswyk

Commissioner van Heeswyk presented the Capital Plan review by the Planning Board. She also presented a resolution by the Planning Board requesting that the governing body pursue the re-grading Lincoln Avenue. She asked that the board review it for discussion at a later date.

Commissioner vanHeeswyk stated that Dale Foster, County Engineer has addressed traffic issues near the General Store. She presented different traffic pattern and calming alternatives for this area for the board's consideration. She also stated that it appears that Mr. Foster has done preliminary work on planning the reconstruction of Lincoln Avenue and stated that she is hopeful that recently awarded County grant money would be used for this project.

Commissioner vanHeeswyk stated that Dale Foster mentioned to her that there are no new sewers along Lincoln & Whilldin Avenue. She state that she spoke to him at a Count May County League of Municipalities dinner the other night. She stated that she thought that it was strange and offered to forward copies of Van Note-Harvey's sewer outlet plan to the County Engineer's office.

The Board of Commissioners discussed Lincoln Avenue and determined to pursue the County Engineer to reconstruct Lincoln Avenue by drafting a resolution to the Board of Chosen Freeholders asking for the project with special consideration given to management of flooding, sand encroachment, and traffic calming.

Commissioner vanHeeswyk asked that the Clerk write a formal letter to the CMPT Fire Department from the governing body explaining that the Borough paid for last elevator inspection but now the fire dept. must pay for future maintenance and inspections. She also asked the clerk to include a list of items to be fixed on the elevator. The Clerk suggested that the lease agreement be reviewed by our solicitor.

Commissioner vanHeeswyk asked about the meeting attended by Mayor Schupp and Liz Shay regarding the Bayshore Heritage Byway. She asked if the opportunity to ask for bike path along Lighthouse Avenue might be a possibly at an upcoming meeting.

Commissioner Schupp

Mayor Schupp announced that Cape May City recently banned smoking on their beaches. The board briefly discussed the ban and decided to wait to see and how Cape May handles this before determining if it would be appropriate for Cape May Point.

Mayor Schupp stated that the Zoning Board has asked to increase the number of alternates on the Zoning Board to 4 by ordinance to ensure proper attendance at future meetings. Solicitor Russell stated that Planning Board members can serve on the Zoning Board when necessary. Solicitor Russell stated that a joint board would give the opportunity for more members but in the case of a D variance the 2 governing body members would not be able to hear the case. Commissioner vanHeeswyk asked that the Land Use law be reviewed.

The clerk reminded the Board that she needed to get back to South Jersey Gas on their request to have hours of operation for natural gas installation from 7:00 am – dark. The Board agreed but reserves the right to rescind this approval subject to complaint.

The Clerk asked if the board would like to have a rain date for the Halloween Hayride as it is supposed to rain on Saturday. The board agreed to make the rain date Sunday evening if possible. They agree that Monday would be fine if Sunday is unavailable.

RESOLUTION NO. 87-11

Requesting Cape May County Freeholders consider submitting a New Jersey Department of Environmental Protection Green Acres Program Local Government Assistance Application for Land Acquisition and Park Development

WHEREAS, Cape May County is eligible to receive up to 900,000 for land acquisition and park development for the County Open Space and Farmland Preservation Program by applying for a matching grant offered through NJDEP Green Acres Program; and

WHEREAS, Green Acres matching grant funding can be used to acquire land for recreation and conservation purposes including ocean, bay and/or river waterfront, or a lake, pond, beach or stream that provides opportunity for physical and visual public access, swimming, water sports, fishing and/or boating; a natural area such as wildlife preserve, forest and/or wetland that provides opportunity for conservation, nature observation, water quality and water supply protection, camping and/or hiking; an historic property; or land suitable for playgrounds, athletic fields, and other types of active and passive outdoor recreation facilities or opportunities; and

WHEREAS, Green Acres matching grant funds may be used to assist in efforts to complete the Cape May National Wildlife Refuge, which has only acquired 11,800 acres of the 21,820 acres that congress envisioned necessary to protect wetlands and wildlife resources of international importance; and

WHEREAS, Green Acres loan funding can be used for the development of land for outdoor recreation and conservation purposes, which must be accessible to the public; and

WHEREAS, nineteen other counties in the state regularly apply for and receive matching funds from the State Green Acres Program; and

WHEREAS, on November 9, 1989, Cape May County voters approved, by a two to one margin, a ballot question endorsing the establishment of a trust fund to preserve open space and agricultural lands; and

WHEREAS, the Trust is funded by a county property tax of one cent per \$100 of assessed valuation and raised \$5.5 million toward land preservation last year; and

WHEREAS, the 2007 Cape May County Open Space and Recreation Plan recognizes that open space is of special importance to the County's future

WHEREAS, the 2007 Cape May County Open Space and Recreation Plan recognizes that the County has an open space deficit of 4,001 acres and is in need of additional public recreational land and open space and therefore, recommends the maintenance and expansion of the existing County Park System, and the continuation of the County's Open Space Preservation Program in conjunction and coordination with other public and private open space preservation programs; and

WHEREAS, the County Comprehensive Plan states that the County Open Space and Farmland Preservation Program, in conjunction with State Green Acres and other programs and land trusts, is expected to reduce the County open space deficit; and

WHEREAS, two goals of the Open Space and Recreation Plan are to encourage coordinated open space and recreation planning, acquisition and development initiatives of state, county, and local governments and conservation organizations; and to effectively use funds from the Cape May County Open Space and Farmland Preservation Program, and other sources of funding that may become available; and

WHEREAS, Cape May County residents voted 52% in favor of the 2009 Statewide Open Space Bond Referendum and therefore urge the County to leverage dedicated tax dollars with voter-approved Garden State Preservation Trust dollars to support open space projects; and

WHEREAS, County Trust fund monies should be equally allocated towards farmland preservation and open space projects; and

WHEREAS, ecotourism in Cape May County generates over \$522 million annually; and

WHEREAS, over \$260 million was approved through the last funding round of the "2009 Green Acres Bond Act" for local government open space acquisition and park development projects; and

Now therefore, be it resolved by the Board of Commissioners of the Borough of Cape May Point that they request Cape May County Freeholders to consider submitting an NJDEP Green Acres Program Local Government Assistance Application for Land Acquisition and Park Development.

Upon motion by Commissioner vanHeeswyk, seconded by Commissioner Schupp, a unanimous roll vote was taken as follows:

Commissioner Henderson
Commissioner vanHeeswyk
Commissioner Schupp

Commissioner vanHeeswyk made a motion to allow the governing body to go into executive session to discuss possible litigation. Commissioner Henderson seconded the motion and the Municipal Clerk took a roll call. The vote was unanimous. She read the following resolution:

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

Upon motion by Commissioner vanHeeswyk, seconded by Commissioner Schupp, a unanimous roll vote was taken as follows:

Commissioner Henderson
Commissioner vanHeeswyk
Commissioner Schupp

The board reconvened the regular meeting at 12:52 pm.

PUBLIC PORTION

No members of the public were present.

ADJOURNMENT

Upon motion by Commissioner Henderson, seconded by Commissioner vanHeeswyk the meeting was adjourned at 1:45 pm.

Constance A. Mahon, Municipal Clerk

John G.N. Henderson, Commissioner

Anita vanHeeswyk, Commissioner

Carl F. Schupp, Commissioner