

**AGENDA
BOROUGH OF CAPE MAY POINT
BOARD OF COMMISSIONERS**

BOROUGH MEETING – FEBRUARY 14, 2019 – 6:00 PM

MEETING CALLED TO ORDER / SUNSHINE STATEMENT

In compliance with the Open Public Meeting Act, Chapter 231, Public Laws of 1975, this meeting was properly advertised in the annual notice and duly posted at the Borough Hall bulletin board.

FLAG SALUTE

ROLL CALL: Commissioner Mullock, Commissioner vanHeeswyk, Mayor Moffatt

RESOLUTION FOR CLOSED SESSION

- 33-19 Authorizing Executive/Closed Session in Accordance with the Provisions of the Open Public Meetings Act, Specifically N.J.S.A. 10:4-12(b) – Attorney/Client Privilege – Administrator Contract and Personnel Matters

DISCUSSION ABOUT ADMINISTRATOR’S CONTRACT

COMMISSIONERS’ REPORTS

APPROVAL OF MINUTES

- November 6, 2018 Work Session
- November 6, 2018 Closed Session
- November 8, 2018 Regular Meeting
- November 20, 2018 Work Session
- December 4, 2018 Work Session
- December 6, 2018 Regular Meeting
- December 18, 2018 Work Session

ORDINANCES FOR INTRODUCTION / PUBLICATION – *None*

RESOLUTIONS

- 34-19 Governing Body Certification of Compliance with the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964”
- 35-19 Reappointing Louis J. Belasco, Jr. as Judge of the Cape May Point Municipal Court
- 36-19 Award of Contract for Lake Lily Park Bulkhead Contract #1

ORDINANCES FOR SECOND READING / PUBLIC HEARING / ADOPTION

PUBLIC PORTION

ADJOURNMENT

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

RESOLUTION NO. 33-19

Authorizing Executive/Closed Session in accordance with the provisions of the Open Public Meetings Act, specifically N.J.S.A. 10:4-12(b)

WHEREAS, the Open Public Meetings Act (N.J.S.A. 10:4-6 et. seq.) requires all meetings of the Board of Commissioners of the Borough of Cape May Point to be held in public, except that N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in “Executive or Closed Session,” i.e., without the public being permitted to attend; and

WHEREAS, the Board of Commissioners of the Borough of Cape May Point has determined that **ONE (1)** issue is permitted by N.J.S.A. 10:4-12(b) to be discussed without the public in attendance during the Executive or Closed Session to be held on **Thursday, February 14, 2019 at approximately 6:00 PM.**; and

WHEREAS, the nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b) are listed below, and next to each exception is a box within which the number of issues to be privately discussed that fall within that exception shall be written, and after each exception is a space where additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written:

_____ **“(1) Any matter which, by express provision of Federal law, State statute or rule of court shall be rendered confidential or excluded from public discussion.”** The legal citation to the provision(s) at issue is: _____ and the nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **“(2) Any matter in which the release of information would impair a right to receive funds from the state or federal government.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **“(3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual’s personal and family**

circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly." The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

“(4) Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body.” The collective bargaining contract(s) discussed are between the Borough and _____

“(5) Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

“(6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

X

“(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.” The parties to and docket numbers of each item of litigation and/or the parties to each contract discussed are Attorney/Client Privilege discussion about administrator contract and personnel matters

“(8) Any matter involving the employment, appointment, termination of employment, terms and conditions or employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request, in writing, that such matter or matters be discussed at a public meeting.” Subject to the balancing of the public’s interest and the employee’s privacy rights under *South Jersey Publishing Co. v. New Jersey Expressway Authority*, 124 N.J. 478, the employee(s) and nature of the discussion, described as specifically as possible without undermining the need for confidentiality is _____.

_____ **“(9) Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the responding party bears responsibility.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is

WHEREAS, the Board of Commissioners shall reconvene the public meeting at the conclusion of the authorized closed or executive session, which may or may not include formal action as a result of the discussion(s) held.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Cape May Point, assembled in public session on the date of the meeting of the governing body set forth herein above, that a closed session shall be held for the discussion of matters relating to the specific items designated above involving the Borough of Cape May Point. The governing body shall convene a closed session discussion immediately upon passage of this resolution and it is anticipated that the deliberations conducted in closed session shall be disclosed to the public upon conclusion of the matter and/or after determination of the Board of Commissioners that the public interest will no longer be served by such confidentiality and that the meeting will return to open session at the conclusion of the discussion and formal action may be taken if/as authorized.

BE IT FURTHER RESOLVED that the Municipal Clerk, at the present public meeting, shall read aloud enough of this resolution so that members of the public in attendance can understand, as precisely as possible, the nature of the matters that will be privately discussed.

BE IT FURTHER RESOLVED that the Municipal Clerk, on the next business day following this meeting, shall furnish a copy of this resolution to any member of the public who requests one at the fees authorized by N.J.S.A. 47:1A-1, et. seq.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mullock						
vanHeeswyk						
Moffatt						

I hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on February 14, 2019.

Municipal Clerk

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

RESOLUTION 34-19

**GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S
"Enforcement Guidance on the Consideration of Arrest and Conviction Records in
Employment Decisions Under Title VII of the Civil Rights Act of 1964"**

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, that the Board of Commissioners of the Borough of Cape May Point, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mullock						
vanHeeswyk						
Moffatt						

Certification

I hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on February 14, 2019.

Municipal Clerk

**GOVERNING BODY CERTIFICATION PURSUANT TO P.L. 2017, C.183 OF
COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION'S "Enforcement Guidance on the Consideration of Arrest and
Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of
1964"**

**GROUP AFFIDAVIT FORM FOR MUNICIPALITIES AND COUNTIES
NO PHOTO COPIES OF SIGNATURES**

STATE OF NEW JERSEY
COUNTY OF CAPE MAY

We, members of the governing body of the Borough of Cape May Point being duly sworn according to law, upon our oath depose and say:

1. We are duly elected members of the Board of Commissioners of the Borough of Cape May Point in the county of Cape May;
2. Pursuant to P.L. 2017, c.183, we have familiarized ourselves with the contents of the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012);
3. We are familiar with the local unit's hiring practices as they pertain to the consideration of an individual's criminal history;
4. We certify that the local unit's hiring practices comply with the above-referenced enforcement guidance.

(L.S.)	(L.S.)
_____	_____
(L.S.)	(L.S.)
_____	_____
(L.S.)	(L.S.)
_____	_____
(L.S.)	(L.S.)
_____	_____
(L.S.)	(L.S.)
_____	_____

Sworn to and subscribed before me this
14th day of February 2019.

Clerk

The Municipal Clerk (or Clerk of the Board of Chosen Freeholders as the case may be) shall set forth the reason for the absence of signature of any members of the governing body.

IMPORTANT: This certificate must be executed before a municipality or county can submit its approved budget to the Division of Local Government Services. The executed certificate and the adopted resolution must be kept on file and available for inspection.

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

RESOLUTION NO. 35-19

**REAPPOINTING LOUIS J. BELASCO, JR. AS JUDGE OF
THE CAPE MAY POINT MUNICIPAL COURT**

WHEREAS, it is the desire of the Board of Commissioners of the Borough of Cape May Point to reappoint Louis J. Belasco, Jr. as Municipal Court Judge for the established Cape May Point Shared Services Court commencing on February 28, 2019; and

WHEREAS, pursuant to N.J.S.A. 2A:8-5 said appointment must be made by resolution and holds a three year term.

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 Louis J. Belasco, Jr. is hereby appointed to a three (3) year term commencing February 28, 2019 as Judge of the Cape May Point Municipal Court.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mullock						
vanHeeswyk						
Moffatt						

I hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on February 14, 2019.

Municipal Clerk

**BOROUGH OF CAPE MAY POINT
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

RESOLUTION NO. 36-19

**AWARD OF CONTRACT
FOR LAKE LILY PARK BULKHEAD
CONTRACT #1**

WHEREAS, a request for bids for the Lake Lily Park Bulkhead Contract #1 was advertised in the January 16, 2019 edition of the Cape May Star and Wave; and

WHEREAS, in response to said request, sealed bids were received, opened and publicly read by Borough Clerk Elaine Wallace and Borough Engineer Bruce Graham at 10:00 a.m. February 6, 2019; and

WHEREAS, Harold Arenberg, Inc. submitted the lowest of nine (9) bids received, which are summarized as follows:

Bidder	Bid Amount
Harold Arenberg, Inc.	\$352,848.35
Albert Marine Construction	\$369,960.00
Walters Marine Construction	\$445,000.00
Midlantic Construction LLC	\$481,000.00
R.A. Walters & Son, Inc.	\$483,000.00
R.E. Pierson Construction Co.	\$498,500.00
Marbro, Inc.	\$591,117.00
South State, Inc.	\$655,000.00
Atlantic Marine Construction	\$674,700.00

WHEREAS, the Chief Financial Officer certifies that funds are available for this Contract in accordance with N.J.A.C. 5:30-5.4; and

WHEREAS, the bid of Harold Arenberg, Inc. has been submitted in proper form and the contractor appears qualified to perform the work anticipated under this contract;

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the Borough of Cape May Point, that the award of said contract is hereby made to Harold Arenberg, Inc. in the amount of \$352,848.35.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized and directed to execute the Contract for same; and

BE IT FURTHER RESOLVED that the Municipal Clerk is hereby authorized and directed to return the certified checks or bid bonds for the following unsuccessful bidders:

Walters Marine Construction
Midlantic Construction LLC
R.A. Walters & Son, Inc.
R.E. Pierson Construction Co.
Marbro, Inc.
South State, Inc.
Atlantic Marine Construction

and that the certified checks or bid bonds of the successful bidder (Harold Arenberg, Inc.) and the next lowest bidder (Albert Marine Construction) are to be returned upon receipt of a fully executed Contract and other required documents.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Mullock						
vanHeeswyk						
Moffatt						

I hereby certify that the foregoing is a true copy of a Resolution duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of Cape May Point, County of Cape May, New Jersey, at a meeting held on February 14, 2019.

Municipal Clerk