

This meeting will be conducted via electronic conferencing using Zoom <https://www.zoom.us/> or by phone +1 646 558 8656 (New York), Meeting ID: 891 1354 7943 Passcode: 578389

Direct link: <https://us02web.zoom.us/j/89113547943?pwd=UDVjKytZUW5UTjczWENKVnZRdEs0Zz09>

In addition, members of the public may send questions or comments for inclusion during the public portion to the Borough Clerk at ewallace@capemaypoint.org by 12:00 Noon the Monday before the meeting.

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

BOROUGH MEETING OF JANUARY 28, 2025 – 12:00 PM

MEETING CALLED TO ORDER / SUNSHINE STATEMENT / FLAG SALUTE

In compliance with the Open Public Meeting Act, Chapter 231, Public Laws of 1975, this meeting was properly advertised in the annual notice and this agenda was properly distributed and duly posted on the Borough Hall bulletin board as the required notice under law.

ROLL CALL: Commissioner Geiger, Mayor vanHeeswyk, Commissioner Yunghans

COMMISSIONERS' DISCUSSION/REPORTS

- Commercial and Construction Trailer Parking

ADMINISTRATOR'S REPORT

PUBLIC QUESTIONS ON RESOLUTIONS ONLY

APPROVAL OF MINUTES

January 2, 2025
January 15, 2025

ORDINANCES FOR INTRODUCTION AND PUBLICATION:

01-2025 An Ordinance Amending the Code of the Borough of Cape may Point Chapter 76 "Construction Site Standards"
Public Hearing/Consideration for Adoption – Feb. 25, 2025 at 12 pm

RESOLUTIONS

- 29-25 Resolution Committing the Borough of Cape May Point to Comply with DCA's Fourth Round Affordable Housing Present Need and Prospective Need Numbers
- 30-29 Approval of Bill List
- 31-25 Authorizing Executive/Closed Session in Accordance with the Provisions of the Open Public Meetings Act N.J.S.A. 10:4-12(b) – Potential Litigation – Lighthouse Avenue water/sewer damage

ORDINANCES FOR SECOND READING / PUBLIC HEARING / ADOPTION: None

MAYORAL APPOINTMENTS

Planning Board

Andy Rusnak – Class IV – unexpired 4-year term expiring April 8, 2028
Dee Shaw – Alt. #1 – unexpired 2-year term expiring April 8, 2026

PUBLIC PORTION

ADJOURNMENT

The Board of Commissioners welcomes the participation of interested parties during the public portions of its meetings. For the Board to conduct the business of the Borough in the most productive and open manner possible, questions and comments may be limited to four (4) minutes per person. In addition, each person may only speak once per meeting on a single topic. If you wish to address the Board, please raise your hand and the moderator will try to accommodate everyone in the order in which they are recognized.

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

**RESOLUTION COMMITTING THE BOROUGH OF CAPE MAY POINT TO
COMPLY WITH DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT
NEED AND PROSPECTIVE NEED NUMBERS**

RESOLUTION 29-25

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 *et seq.*) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Borough of Cape May Point's ("Borough") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 and a Prospective Need or New Construction Obligation of 5; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments as well as durational adjustments; and

WHEREAS, based on the foregoing, the Borough accepts the DCA calculations of the Borough's fair share obligations and commits to its fair share of 0 units present need and 5 units prospective need subject to any vacant land and/or durational adjustments it may seek as part of the Housing Plan element and Fair Share Plan element it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough also reserves the right to adjust its position in the event of any rulings in the *Montvale* case (MER-L-1778-24) or any other such action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

WHEREAS, considering the above, the Commissioners of the Borough of Cape May Point finds that it is in the best interest of the Borough to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner"; and

WHEREAS, seeks a certification of compliance with the FHA and, therefore, directs its legal counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Cape May County.

NOW, THEREFORE, BE IT RESOLVED on this 28 day of January, 2025, by the Commissioners of the Borough of Cape May Point as follows:

1. All the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. The Borough of Cape May Point hereby commits to the DCA Round 4 Present Need Obligation of 0 units and the Round 4 Prospective Need Obligation of 5 units described in this resolution, subject to all reservations of rights set forth above.
3. The Borough of Cape May Point hereby directs its legal counsel to file a declaratory judgment complaint in Cape May County within 48 hours after adoption this resolution, attaching this resolution.
4. The Borough of Cape May Point authorizes its legal counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. This resolution shall take effect immediately, according to law.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Geiger						
vanHeeswyk						
Yunghans						

CERTIFICATION

I, Elaine Wallace, Clerk of the Borough of Cape May Point, County of Cape May, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Commissioners of the Borough of Cape May Point at a meeting held on January 28, 2025.

Elaine Wallace, *Borough Clerk*

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

RESOLUTION 30-25

APPROVAL OF BILL LIST

WHEREAS, the Borough of Cape May Point has received certain claims against it by way of voucher, which have been duly reviewed by the Board of Commissioners.

NOW THEREFORE BE IT RESOLVED, by the Board of Commissioners of the Borough of Cape May Point, County of Cape May, State of New Jersey that the attached claims are hereby approved for payment in the total amount of \$66,449.60.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Geiger						
vanHeeswyk						
Yunghans						

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 January 28, 2025.

Municipal Clerk

Range of Checking Accts: OTHER to OTHER Range of Check Ids: 18447 to 18469
Report Type: All Checks Report Format: Condensed Check Type: Computer: Y Manual: Y Dir Deposit: Y

Check #	Check Date	Vendor	Reconciled/Void	Ref Num
PO #	Description	Amount Paid	Contract	
18447	01/28/25	ANJ01 A N J E C 25-00036 ENV COMMISSION 2025 DUES	500.00	1942
18448	01/28/25	ATL01 ATLANTIC CITY ELECTRIC 25-00053 5500 4460 774	2,446.30	1942
18449	01/28/25	CAP03 CAPE MAY STAR & WAVE 25-00038 LEGAL ADVERTISING	39.50	1942
18450	01/28/25	CAP14 CAPE MAY COUNTY MUA 25-00037 SOLID WASTE DUMP FEE DEC 2024	1,182.47	1942
18451	01/28/25	CAS01 CASA PAYROLL SERVICE 25-00051 PAYROLL	135.00	1942
18452	01/28/25	CASAR005 CASA REPORTING SERVICE 25-00050 SET UP 1095 FORMS	179.50	1942
18453	01/28/25	CIT03 CITY OF CAPE MAY 25-00056 DECEMBER 2024 WATER	5,457.90	1942
18454	01/28/25	CMC03 CM CO LEAGUE OF MUNICIPALITIES 25-00019 2025 DUES	700.00	1942
18455	01/28/25	COM01 COMCAST 25-00033 INTERNET 3 MONTHS 25-00065 215 LIGHTHOUSE INTERNET 3 MTHS	1,021.29 410.70 <u>1,431.99</u>	1942
18456	01/28/25	COU02 COURT HOUSE OFFICE SUPPLIES 25-00058 OFFICE SUPPLIES	222.44	1942
18457	01/28/25	DAVID010 DAVID GRAY 25-00039 SNOW REMOVAL	200.00	1942
18458	01/28/25	GARDE005 GARDEN STATE LABORATORIES, INC 25-00041 WATER TESTING	280.00	1942
18459	01/28/25	GREEN005 GREENMAN-PEDERSEN, INC. 22-00349 Eng-PW Building Addition/Reno 23-00330 Lehigh and Ocean Ave WaterMain 24-00448 Construction Services 24-00632 Design PHII Alexander/Surf 25-00055 BOROUGH ENGINEER 25-00057 24024-01 VARIANCE APP	1,909.23 740.00 751.77 5,426.25 2,360.36 289.50 <u>11,477.11</u>	1942
18460	01/28/25	JOSEP020 JOSEPH REMY 25-00059 REIMBURSEMENT	40.00	1942

Check #	Check Date	Vendor	Reconciled/Void	Ref Num
PO #	Description	Amount Paid	Contract	
18461	01/28/25	NAT04 VAN EMBDEN, NATHAN, ESQUIRE 25-00040 SOLICITOR ADMIN BILLING	406.00	1942
18462	01/28/25	NJS01 NJ ST. LEAGUE OF MUNICIPALITIE 25-00031 BUDGET CLASS/ELISE GEIGER	75.00	1942
18463	01/28/25	PUB01 PUBLIC WORKS ASSOC OF NJ 25-00035 DUES 2025	75.00	1942
18464	01/28/25	REE01 REEL FIRE PROTECTION INV. 25-00034 CLEAN FIRE SUPPRESSION SYST	170.00	1942
18465	01/28/25	RMAXW005 R. MAXWELL CONSTRUCTION CO,INC 24-00225 PUBLIC WORKS BUILDING ADD/RENO	38,710.00	1942
18466	01/28/25	SOU09 SOUTH JERSEY GAS 25-00052 GAS BILLS	2,017.05	1942
18467	01/28/25	VER01 VERIZON 25-00048 TELEPHONE BILL	330.27	1942
18468	01/28/25	VER03 VERIZON WIRELESS 25-00046 CELL PHONE	332.43	1942
18469	01/28/25	XTE01 XTEL COMMUNICATIONS INC 25-00045 TELEPHONE BILL	41.64	1942

Report Totals	<u>Paid</u>	<u>Void</u>	<u>Amount Paid</u>	<u>Amount Void</u>
Checks:	23	0	66,449.60	0.00
Direct Deposit:	0	0	0.00	0.00
Total:	23	0	66,449.60	0.00

Totals by Year-Fund					
Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
CURRENT	4-01	1,588.47	0.00	0.00	1,588.47
	4-05	<u>5,457.90</u>	<u>0.00</u>	<u>0.00</u>	<u>5,457.90</u>
	Year Total:	7,046.37	0.00	0.00	7,046.37
CURRENT	5-01	9,756.93	0.00	0.00	9,756.93
	5-05	<u>1,819.55</u>	<u>0.00</u>	<u>0.00</u>	<u>1,819.55</u>
	Year Total:	11,576.48	0.00	0.00	11,576.48
	C-04	46,797.25	0.00	0.00	46,797.25
	G-02	740.00	0.00	0.00	740.00
TRUST ACCOUNT EXPENDITURES	T-13	289.50	0.00	0.00	289.50
Total Of All Funds:		<u>66,449.60</u>	<u>0.00</u>	<u>0.00</u>	<u>66,449.60</u>

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

RESOLUTION 31-25

**AUTHORIZING EXECUTIVE/CLOSED SESSION IN ACCORDANCE WITH THE
PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT 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 **Tuesday, January 28, 2025 at approximately 12:30 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 is _____

Potential Litigation: Lighthouse Avenue Water/Sewer Damage

“(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
Geiger						
vanHeeswyk						
Yunghans						

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 January 28, 2025.

Elaine L. Wallace, Municipal Clerk