

**City of Cape May Planning Board Meeting Minutes
Tuesday, March 31, 2015**

Opening: The meeting of the City of Cape May Planning Board was called to order by Vice Chairman Harley Shuler at 7:00 PM. In compliance with the Open Public Meetings Act, adequate notice was provided.

Roll Call:	Mr. Bezaire, Chairperson	Absent - Excused
	Mr. Shuler, Vice Chairperson	Present
	Mr. Jones	Present
	Mayor Dr. Mahaney	Present
	Mr. Elwell	Present
	Dr. France	Absent - Excused
	Mr. Meier	Absent
	Mr. Winkworth	Absent - Excused
	Mr. VanDeVaarst, 1 st Alternate	Present
	Mr. Macciocchi, 2 nd Alternate	Present

Also Present: George Neidig, Esquire – Board Solicitor
Craig Hurless, PE, PP, CME Associate – Polistina & Associates
Jill Devlin, Board Assistant

Minutes, January 13, 2015

Motion made by Mr. VanDeVaarst to approve the minutes of January 13, 2015, seconded by Mr. Jones and **carried 6-0**. Those in favor: Mr. Elwell, Mr. Jones, Mayor Mahaney, Mr. VanDeVaarst, Mr. Macciocchi and Mr. Shuler. Those Opposed: None. Those abstaining: None.

Resolutions

03-31-2015:1

Board Attorney

Vice Chairman Shuler made a comment before the vote, noting that wording in the Resolutions for Board Engineer and Board Attorney needed to be changed to reflect the Cape May County Herald as the official paper.

Motion made by Mayor Mahaney to approve Resolution Number 03-31-2015:1, Board Attorney, with the change made to reflect the Cape May County Herald, seconded by Mr. Elwell and **carried 6-0**. Those in favor: Mr. Elwell, Mr. Jones, Mayor Mahaney, Mr. VanDeVaarst, Mr. Macciocchi and Mr. Shuler. Those opposed: None. Those abstaining: None.

03-31-2015:2
Board Engineer

Motion made by Mayor Mahaney to approve Resolution Number 03-31-2015:2, Board Engineer, with the change made to reflect the Cape May County Herald, seconded by Mr. VanDeVaarst and **carried 6-0**. Those in favor: Mr. Elwell, Mr. Jones, Mayor Mahaney, Mr. VanDeVaarst, Mr. Macciocchi and Mr. Shuler. Those opposed: None. Those abstaining: None.

Applications

La Mer Beachfront Inn
1317 Beach Avenue
Block 1146, Lot(s) 6, 7, 10-24

Vice Chairman Shuler asked before the application for the La Mer Beachfront Inn was to proceed that Attorney Kauffman and Attorney Hluchan approach the table as Board Attorney George Neidig wished to address them regarding letters that were sent that morning.

George Neidig stated that the Board was aware that during the course of the day, two separate letters were received, one from Attorney Kauffman and another letter subsequently received from Attorney Hluchan, at which point Attorney Neidig asked the Board Secretary to forward both letters to all the Board members. Attorney Kauffman's letter raised the issue of *res judicata*. He feels the board has already decided this application and it shouldn't be heard. To the contrary, Attorney Hluchan feels this hasn't been decided before, there are new items to be heard and the Board should decide. Both letters quote the criteria for deciding whether or not *res judicata* applies and that criterion is very strict. He noted basic case law states that you can't really decide if *res judicata* applies until you hear the application. There are cases that say you can hear the case and reserve the decision until the end and if the Board decides *res judicata* does apply that would be the end of the application. His opinion was that it could be heard unless the Board finds it truly to be *res judicata*, or, the Board can decide based on some members comments that they need additional time to review the letters that were distributed.

Vice Chairman Harley Shuler stated that the policy of the Board is not to accept further documentation for a case unless it is received by close of business the Friday preceding the scheduled Planning Board meeting. He felt it was unfair to the members of the Board to receive the letters the day of the meeting as not all members would have had the opportunity to review them thoroughly before the meeting. Harley opened the floor to the Board members to see if they had an opportunity to read the letters.

Attorney Hluchan asked if he could address the Board. He stated they were told there would be seven members of the Board at the meeting and there were only six present. Given that fact he asked that the matter be put off until next month, they would not have to re-notice and the Board members would have more time to read the letters they received.

George Neidig stated to the Board that they did not have to postpone the application but it was up to the members. Some of the members stated they would like more time to review the additional materials and agreed to postpone the application to Thursday, April 28, 2015.

A member of the public, Albert Fralinger, asked if he could submit his objections to the board since he would not be able to attend the April 28, 2015 meeting. Since the application was not actually heard Mr. Fralinger was only able to submit his written rejections to be part of the Board file.

Motion made by Mr. Elwell to postpone the La Mer application to the April 28, 2015 meeting, seconded by Mr. VanDeVaarst and **carried 6-0**. Those in favor: Mr. Elwell, Mr. Jones, Mayor Mahaney, Mr. VanDeVaarst, Mr. Macciocchi and Mr. Shuler. Those opposed: None. Those abstaining: None.

George Neidig announced to the public that there would not be a second notice sent out for the April 28, 2015 meeting.

After the application portion of the meeting, Mayor Mahaney addressed the board regarding Jessie Weeks. When the Board last met Jessie had just passed away and there was discussion about what could be done to honor Jessie. A decision was made to place some large caliper trees in Rotary Park when the park is redone with one of the trees being dedicated to her. A plaque will be placed there as well commemorating her service to the City.

Mayor Mahaney then discussed the National Disaster Preparedness Training Center, combined with FEMA, coming to Cape May for a two day high end technical HurriPlan planning conference. The conference goes beyond storm planning, focusing on sustainability and resiliency. He asked if members have not yet registered to please do so and if they had any trouble registering to contact Kate O'Connell, 884-9565 at Convention Hall. There is also a half day resiliency seminar which is an overview of the process on May 7, 2015.

Motion made by Mr. Jones to adjourn the meeting at 7:27 PM, with all in favor.

A verbatim recording of said meeting is on file at the Construction/Zoning Office.

Respectfully submitted: Jill Devlin, Board Secretary.