

**REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Tuesday, March 22, 2011 – 1:00 P.M.**

The regular meeting of City Council of the City of Cape May was called to order by Mayor Mahaney at 1:00 P.M. on Tuesday, March 22, 2011, in the Cape May City Hall Auditorium. The Clerk called the roll.

The following attended the regular meeting of City Council:

Present: Councilmember Deanna Fiocca
Mayor Edward J. Mahaney, Jr.
Councilmember William H. Murray
Councilmember Terri L. Swain
Deputy Mayor Jack Wichterman

Also Present: City Attorney Anthony Monzo
City Manager Bruce MacLeod
City Clerk Diane L. Weldon
Deputy Clerk Louise Cummiskey

Mayor Mahaney announced that under the Open Public Meetings Law, notice of this meeting was sent to the Cape May Star and Wave and The Press and a copy of the agenda was delivered to each Member of Council and was posted on the City Hall Bulletin Board.

2011 CAPE MAY CITY BUDGET:

65-03-2011 Resolution approving introduction of 2011 City of Cape May Local Municipal Budget

City Auditor Leon Costello advises that this budget is the same budget that was submitted on March 1, 2011 for introduction. This budget proposes a one-cent tax increase and includes the cuts made by the City Manager as proposed by the administration. If this Budget is introduced today, we will be scheduled for a public hearing on April 20, 2011, which is a Wednesday. The City is \$277,000.00 under the levy cap, and \$700,000.00 under the spending cap, so the City is legally able to proceed with this Budget.

Motion: Wichterman

Second: Murray

City Clerk reads the Resolution.

Councilmember Fiocca reads a statement, a copy of which is attached to these minutes.

Councilmember Murray reads a statement, a copy of which is attached to these minutes.

Councilmember Swain states for the reasons previously stated, she is voting “no” for the introduction of the budget.

Deputy Mayor Wichterman explains why he was not here on March 1, 2011 when the budget was presented for introduction. Mr. Wichterman comments that he previously submitted some ideas to help reduce the current budget and he votes “yes” for introduction.

Mayor Mahaney advises he is voting “no” and will stand behind the documents he previously submitted. He feels there should be no tax increase this year and he feels that the current budget does not take into account the future needs of this community. The Mayor states that council will meet on March 24, 2011 to discuss ideas and changes to the current proposed budget.

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	No
Wichterman	Yes
Mahaney	No

City Auditor Leon Costello advises that from a procedure standpoint, from now until April 20th, whatever is decided by Council will be written in some form and provided to the City Manager. The implementation of any changes will be handled on April 20, 2011.

Councilmember Murray requests that the budget be put on the website as soon as possible.

City Clerk Diane Weldon asks for clarification regarding discussion once the roll call has begun. City Solicitor Monzo advises that there can be no discussion between council; however, council is allowed to state the reason for the vote they cast.

COUNCIL COMMENTS

AGENDA ADDITION/DELETION OF LATE AGENDA ITEMS TO BE CONSIDERED FOR ACTION:

ORDINANCE FOR SECOND READING AND CONSIDERATION FOR ADOPTION:

228-2011 Ordinance amending Chapter 310 of the Cape May City Code – licenses and permits

Mayor asks for motion to adopt Ordinance 228-2011.

Motion: Wichterman

Second: Swain

City Manager Bruce MacLeod explains this Ordinance creates three new classifications under our Mercantile License. Lawn cutting and maintenance, described as “lawn cutting and maintenance except for services provided by self-employed individuals without employees and without the use of any vehicle for the transporting of equipment used in connection with such services” at a fee of

\$175.00; property maintenance services which is self-explanatory for a fee of \$175.00; and house cleaning services for a fee of \$175.00.

Mayor Mahaney opens the meeting for a public hearing.

Nels Johnson 16 Englewood Road, Townbank, New Jersey, Cape May comments that after listening to council every municipality is in some sort of trouble. He represents numerous landscapers and lawn cutters that could not be here today. Mr. Johnson states that the rates of the landscapers/lawn cutters have not been raised in four years. Gas prices are rising that they already pay a State license fee. Mr. Johnson feels that if the City of Cape May passes this Ordinance, every other Municipality in the area will pass a similar Ordinance. He asks that council vote against this Ordinance.

Mayor Mahaney closes the public hearing and asks for a roll call vote.

Councilmember Fiocca asks the City Manager how City of Cape May will enforce this Ordinance on the week-ends and late afternoon/early evening hours. Mr. MacLeod advises that the Code Enforcement Official works a flexible schedule when he needs to during the spring, summer and fall.

Councilmember Murray asks how the fee for the license was determined and whether there was anything in the statute stating that the fee for the license should cover the cost of preparing and issuing the license. Mr. MacLeod advises that Mercantile License Statues have the license fees set at levels that would not generate additional income beyond cost to operate the program for Mercantile Licenses. That includes enforcement, advises Mr. MacLeod. However, the City Manager comments that the fees for Mercantile Licenses should be revisited since it has been five or six years since they have been reviewed. Councilmember Murray thinks the fees are unfair and the City should look at them in the effort of fairness.

Deputy Mayor Wichterman comments says that should this Ordinance pass today, it will not effect this years budget at all.

Roll Call:

Fiocca	No
Murray	No
Swain	Yes
Wichterman	Yes
Mahaney	Yes

229-2011 Ordinance amending Chapter 276 of the Cape May City Code – games of chance

Mayor asks for motion to adopt Ordinance 229-2011

Motion: Wichterman

Second: Swain

Deputy Mayor Wichterman explains that through this Ordinance, the City of Cape May is waiving their fee for raffle licenses.

Mayor Mahaney opens the meeting for a public hearing.

William (Jerry) Gaffney, 810 Columbia Avenue, Cape May, NJ disapproves of this Ordinance. He does not believe that Council should pass this Ordinance in these times of financial hardship and he urges council to vote “no.”

Bob Heavey, 608 Washington Street, Cape May, NJ advises that the passage of this Ordinance will not give money away but rather, it will not collect the money in the first place.

Close public portion.

Councilmember Murray comments that the City of Cape May benefits from their local charities.

Deputy Mayor Wichterman states that in the past four years, the Kiwanis have given out over \$100,000.00 in scholarship money to young men and women going to college from this area.

Councilmember Fiocca believes the City find other revenue sources in the budget to be able to compensate for this loss of income.

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	No

Mayor Mahaney advises he voted no because it is not the money but the principal.

230-2011 Bond ordinance providing for various water and sewer utility improvements of the City of Cape May, in the County of Cape May, New Jersey appropriating the aggregate amount of \$1,350,000 therefor and authorizing the issuance of \$ 1,350,000 bonds or notes of the City for financing the cost thereof

City Manager MacLeod provides information as to where the money appropriated in this Ordinance will be spent.

Mayor asks for motion to adopt Ordinance 230-2011.

Motion: Wichterman

Second: Swain

Mayor Mahaney opens the meeting for a public hearing.

Hearing no public comment, Mayor Mahaney closes the public hearing and asks for a roll call vote.

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

231-2011 Bond ordinance providing for various beach utility improvements of the City of Cape May, in the County of Cape May, New Jersey appropriating the aggregate amount of \$200,000 therefor and authorizing the issuance of \$ 200,000 bonds or notes of the City for financing the cost thereof

Mr. MacLeod advises as to the areas that will benefit from the money on this Bond Ordinance.

Mayor asks for motion to adopt Ordinance 231-2011.

Motion: Wichterman

Second: Swain

Mayor Mahaney opens the meeting for a public hearing.

Jay Schatz, 25 Gurney Street, Cape May, NJ asks if the pay back on these bonds is coming from the Beach Utility and the Mayor responds that it is. He asks whether we have enough money in the Beach Utility fund without floating bonds. Mr. MacLeod advises that the City will pay these down before they become long term debt.

Jim Wyatt 292 Windsor, Cape May, NJ asks Mr. MacLeod about money for restrooms for the National Lifeguard Races to be held this summer in the City of Cape May. Mr. MacLeod advises that there is no money in this particular Ordinance for that event as the funding is not coming out of Capital Funding. The money for the restrooms, advises Mr. MacLeod, is part of the operating budget and the cost is shared with the National Lifeguard's Association as part of their participation in putting on the event.

Mr. Wyatt then inquires as to keeping personnel on the beach until later in the afternoon. Mr. MacLeod advises that in the past, the City performed research and calculated that it was not economical to do so.

Mayor Mahaney closes the public hearing and asks for a roll call vote.

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes

Wichterman Yes
Mahaney Yes

232-2011 Bond ordinance providing for various capital improvements of the City of Cape May, in the County of Cape May, New Jersey appropriating the aggregate amount of \$1,500,000 therefor and authorizing the issuance of \$ 1,425,000 bonds or notes of the City for financing the cost thereof

Mr. MacLeod points out that as a General Capital Ordinance, there is the statutory requirement of a downpayment which equates to \$75,000 on the \$1.5 million total. That amount will be funded through existing capital fund monies on hand. Mr. MacLeod then outlines the areas of spending for this Ordinance.

Mayor Mahaney asks for motion to adopt Ordinance 232-2011.

Motion: Wichterman
Second: Swain

Mayor Mahaney opens the meeting for a public hearing.

Hearing no public comment, Mayor Mahaney closes the public hearing and asks for a roll call vote.

Councilmember Fiocca asks Mr. MacLeod about improvements to Rotary Park and if they were part of the Temple Plan. Mr. MacLeod advises they are and that the City has been setting aside some money for those improvements for the past few years.

Roll Call:

Fiocca Yes
Murray Yes
Swain Yes
Wichterman Yes
Mahaney Yes

Consent Resolutions

RESOLUTIONS: Council will accept questions from the public on resolutions:

- 55-03-2011 Resolution of the City of Cape May approving bids for award of Beach Concession Agreements
- 56-03-2011 Refund of overpaid 2011 taxes – 1134 Lafayette St.
- 57-03-2011 Refund of overpaid 2011 taxes – 817 Columbia Ave.
- 58-03-2011 Refund of overpaid 2010 taxes – 1318 New York Ave.
- 59-03-2011 Refund of overpaid 2010 taxes – 10 North St.
- 60-03-2011 Refund of overpaid 2011 taxes – 21 Gurney St.
- 61-03-2011 Resolution authorizing final payment to Lewandowski Construction Industries, LLC for the 2009 Road Program Improvements
- 62-03-2011 Temporary Budget Amendment for 2011

63-03-2011 Award of contract for the supply and delivery of one (1) new beach tractor
64-03-2011 Payment of bills

Consent Agenda Vote:

Motion: Wichterman
Second: Swain

Roll Call:
Fiocca Yes
Murray Yes
Swain Yes
Wichterman Yes
Mahaney Yes

MINUTES:

City Council meeting minutes dated March 1, 2011
City Council special meeting minutes dated March 15, 2011
City Council closed executive session meeting minutes dated March 15, 2011

Motion: Fiocca
Second: Swain

Roll Call:
Fiocca Yes
Murray Yes
Swain Yes
Wichterman Abstain
Mahaney Yes

REPORTS RECEIVED BY THE CLERK:

CMCMUA meeting minutes dated January 5th, January 19th, February 2, February 16
Assessors office monthly report dated March 4, 2011
Fire Department monthly report for February, 2011
Planning Board meeting minutes dated November 23, 2010 and January 11, 2011
Construction permit activity report for February, 2011
Tax Collector's annual statement of receipts
WSM Mgmt. Co., Inc. meeting minutes dated February 7, 2011

Motion: Wichterman
Second: Fiocca

Roll Call:
Fiocca Yes
Murray Yes
Swain Yes

Wichterman Yes
Mahaney Yes

UNFINISHED BUSINESS:

City Solicitor Monzo advises that the RFP for the contract for the survey of historic resources is due this week and it will be on the agenda for April 5, 2011 council meeting.

City Manager Bruce MacLeod advises that the City will receive the RFPs for historic surveys on March 23, 2011 at 2:00 P.M. in this auditorium.

NEW BUSINESS:

A) City Attorney

B) City Manager – There will be a special meeting of City Council on Thursday, March 24, 2011 at 10:00 A.M. to discuss the budget. The most recent occupancy tax payment was recently received and for the months of November, December and January, we are marginally ahead of last year by \$2,500.00 on a year by year comparison. The sale of preseason beach tags will conclude on March 31, 2011. The Ocean Drive Marathon is this weekend, March 27, 2011. The Homestead Rebate payment will go directly to the municipality as payment toward taxes due and will show up as a credit toward the next payment.

C) City Clerk – There will be a special budget meeting on March 24, 2011 @ 10:00 A.M. and the next Worksession/Regular meeting will be held on April 5, 2011 at 1:00 P.M.

Councilmembers – Ms. Fiocca advises that recently, there were two accidents caused by people using their cell phone while operating a motor vehicle. She would like to know if the City of Cape May could become a zero tolerance town for cell phone while operating a motor vehicle. Mr. MacLeod will research the issue.

Mayor Mahaney asks Mrs. Steger to stand and commends her for her success during the recent Beach Concession Auction and for her help to other bidders who were unsure of the process. The Mayor then thanks the City Employees who participated in the Read Across America program at the Elementary School.

PUBLIC PORTION: Those wishing to publicly comment shall come forward, give their name and address and speak into the microphone. Each speaker will be limited to five (5) minutes.

Jim Wyatt, 292 Windsor Street, Cape May, NJ reads from a statement which in essence questions the City Manager about the budget process and urges council to collaborate to find solutions to the budget problems. Mr. Wyatt is concerned about and against any cuts to Public Safety.

Harry Heavey, 608 Washington Street, Cape May, NJ advises that he was a fire fighter in Philadelphia for over twenty-five years and he is against any cuts to public safety.

William Jerry Gaffney, 810 Columbia Avenue, Cape May, NJ asks if the public will have a chance to ask questions at the meeting on Thursday at 10:00 A.M. He would like to look at the

budget document before Thursday and he is disappointed that council introduced the budget with a one-cent increase. Mr. Gaffney hopes and urges council to get the tax rate down to zero.

Linda Steenrod, 1011 Washington Street, Cape May, NJ asks about the Mercantile License requirements pursuant to the new Ordinance and specifically about a cleaning service. Ms. Steenrod then comments about the fairness of costs for mercantile licenses and she believes that council needs to look at fees. Ms. Steenrod believes that realtors do check their clients to make sure they have a mercantile license and lastly, she speaks about the importance of our public safety personnel.

Bernie Haas, 1016 Illinois Avenue, Cape May, NJ talks about whole house rentals at capemayrentals.com and advises that any house that goes on that site by a private person must prove that they have a mercantile license before they will accept them. Mr. Haas asks about a new law suit by the Franks against the City. Mr. Monzo advises there is and that it is too premature to discuss the action.

COUNCIL & CITY MANAGER COMMENTS

Motion made by Deputy Mayor Wichterman, seconded by Councilmember Swain to adjourn the meeting. Meeting adjourned at approximately 2:43 P.M.

Edward J. Mahaney, Jr., Mayor

Jack Wichterman, Deputy Mayor

Deanna Fiocca, Councilmember

Terri L. Swain, Councilmember

William H. Murray, Councilmember

Diane L. Weldon, City Clerk