

**REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Tuesday, March 24, 2015, 7:00 P.M.**

Present: Mayor Edward J. Mahaney, Jr.
Councilmember Meier
Councilmember Gauvry Pessagno
Deputy Mayor Swain

Also Present: City Attorney Anthony Monzo
City Manager Bruce MacLeod
City Auditor Leon Costello
CFO Neil Young
City Clerk Louise Cummiskey
Deputy Clerk Patricia Harbora

Mayor Mahaney announced that under the Open Public Meetings Law, notice of this meeting was sent to the Cape May County Herald 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.

Minutes do not reflect the actual order in which the events occurred.

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

Councilmember Meier moves to add a Resolution reappointing Robert E. Sheehan, Jr. as the Cape May City Chief of Police.

NO SECOND

Councilmember Meier moves to delete Resolution 83-03-2015 appointing the Municipal Engineer. Mr. Meier explains that the New Jersey State Statute sets forth a Municipal Engineer appointment for a period of one year.

NO SECOND

City Solicitor, Anthony Monzo, advises that Council approved the appointment of a Municipal Engineer at the last Council meeting. Mr. Monzo will review the statute and report on his findings at the next Council Meeting.

84-03-2015 Resolution of the City of Cape May approving and authorizing the Execution of a Professional Service contract with Barker, Gelfand & James. **ADDED**

Motion: Mahaney
Second: Swain

Councilmember Meier asks Mr. Monzo of the cost for this Special Counsel.

Mr. Monzo replies that the cost will be based upon an hourly fee of \$150.00.

Roll Call:

Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

77-03-2015 – Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12 - **Topic-Project Design and Construction Management Services Lafayette Street Park DELETED – Topic-Approving and Authorizing the Execution of a Professional Service Contract with Barker, Gelfand & James ADDED**

Motion: Mahaney
Second: Swain
Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

2015 CAPE MAY CITY BUDGET

City Auditor, Leon Costello, explains the Budget Process and the budget items on tonight's Agenda

ORDINANCES FOR SECOND READING AND CONSIDERATION FOR ADOPTION:
290-2015 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATIONS
LIMITS AND TO ESTABLISH A CAP BANK

MOTION TO OPEN PUBLIC HEARING

Motion: Meier
Second: Swain

CLOSE PUBLIC HEARING

Motion: Swain
Second: Pessagno
Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

74-03-2015 Resolution Authorizing the Reading of the 2015 Annual Municipal Budget by Title Only

Motion: Swain
Second: Pessagno

Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

OPEN THE PUBLIC HEARING ON THE CITY OF CAPE MAY 2015 MUNICIPAL BUDGET

Motion: Meier
Second: Swain

Patricia Hendricks, 106 Trenton Avenue, Cape May, requests an explanation of the Legal fees and the operating costs for Convention Hall in the 2015 Budget.

Neil Young, City CFO gives a breakdown of the numbers in the 2015 Budget regarding legal fees, operating costs at Convention Hall, and the Public Utility revenues. Mr. Young advises that a copy of the budget, with the breakdown, is available in the City Clerk's Office.

Mr. MacLeod advises Ms. Hendricks that a Special Meeting was held on January 16, 2015 to present the 2015 Budget to Council. At that meeting, which was very lengthy, an overview of each line item was discussed and public questions were answered after the presentation.

Mayor Mahaney asks Mr. Costello to explain the parameters regarding a "Utility," which must be self-liquidating, for the benefit of the public.

Mr. Costello explains that the term "self-liquidating" refers to the fact that cash receipts from fees, rents or other charges in a fiscal year must meet operating costs, maintenance costs, and interest and debt redemption charges payable or accruing during the same year.

Charles Hendricks, 106 Trenton Avenue, Cape May asks Mr. Monzo for an explanation of the \$350,000 item in the budget for Legal fees for Convention Hall.

Mr. Monzo replies that the City has Special Council for this matter and he cannot discuss legal defenses or potential causes of action.

Tim Gay, 518 Elmira Street, Cape May, is here tonight representing the IAFF Union, and asks Council to reconsider the Fire Department's 2015 budget by adding \$70,000.00. Mr. Gay feels that the Fire Department needs more manpower and asks Council to hire adequate staff for the safety of the community.

Kate Wyatt, Taxpayers Association, asks about the proposed 2015 Budget increase on property tax and feels it can be adjusted through Public Utility tax revenue. Ms. Wyatt asks Mr. MacLeod questions regarding the 2014 Seafood Festival, the City Guide Book, the management of overtime, the cost of overtime related to Tourism and whether the City will study the overtime issue again.

Mr. MacLeod responds to Ms. Wyatt's questions.

John Cook, 223 Congress Place, Cape May asks if the previous Marketing Director's salary and the costs for 2015 concert contracts are included in the 2015 Budget.

Mr. MacLeod advises that the 2015 concert contracts have all been approved by Resolution at past Council Meetings.

Mr. Young explains the fund balance and the increase in revenue for the Public Utility tax appropriation.

Mike Quinn, Pittsburgh Avenue, Wildwood Crest asks about the budgeted amount for legal fees at Convention Hall and whether they are paid from the Tourism Utility or the Current Fund.

Mr. Young explains.

Councilmember Meier makes a motion to amend the 2015 Budget by taking \$20,000.00 from the legal fees set aside for the School Funding matter and \$50,000.00 from the legal fees for Special Council to restore \$70,000.00 to the Fire Department budget. **NO SECOND**

Councilmember Pessagno states that City Council has spoken to Chief Coulter at a prior Council meeting and Council understands the importance of safety for the fire fighters. Ms. Pessagno reports that Council is conducting a study on the matter.

Councilmember Meier agrees with Ms. Pessagno's comment.

75-03-2015 Resolution to Adopt the Budget

Motion:	Pessagno
Second:	Swain
Roll Call:	
Meier	No
Pessagno	Yes
Swain	Yes
Mahaney	Yes

Mayor Mahaney reports that the study conducted on the Fire Department will include personnel, equipment and facilities.

76-03-2015 Resolution Declaring Eligibility to Conduct Self-Examination of 2015 Budget

Mr. Costello explains that New Jersey State Law allows municipalities to self-examine their budget every three years. The CFO signs the Budget confirming that the City has followed the rules and regulations.

Motion: Meier
Second: Swain
Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

ORDINANCES FOR SECOND READING AND CONSIDERATION FOR ADOPTION:

291-2015 ORDINANCE APPROVING AGREEMENT OF SALE BY AND BETWEEN CITY OF CAPE MAY AND MARY JANE BARRETT AUTHORIZING THE ACQUISITION OF REAL PROPERTY KNOWN AS BLOCK 1061, LOT 44, ON THE TAX MAP OF THE CITY OF CAPE MAY

Mr. Monzo explains that the funding on this ordinance has been approved for 50% of the acquisition cost with the appraised value based on negotiation with the property owner. A Bond Ordinance was adopted last year to approve the funding.

OPEN THE PUBLIC HEARING

Motion: Meier
Second: Pessagno

CLOSE THE PUBLIC HEARING

Motion: Swain
Second: Pessagno
Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

RESOLUTIONS:

77-03-2015 – Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12-Topic Project Design and Construction Management Services Lafayette Street Park
DELETED – Topic Approving and Authorizing the Execution of a Professional Service Contract with Barker, Gelfand & James **ADDED**

78-03-2015 – Resolution Authorizing Tax Title Lien Redemption

- 79-03-2015 – Resolution of the City of Cape May Authorizing Change Order No. 1 for Contract with Fred Schiavone Construction, Inc. for FY 2014 Utility and Road Program – Contract No. 2 – Hughes Street
- 80-03-2015 – Resolution of the City of Cape May Authorizing Change Order No. 1 for Contract with Landberg Construction, LLC for FY 2014 Utility and Road Program – Contract No. 1 – Delaware Avenue and Cape May Avenue
- 81-03-2015 – Payment of Bills “A”
- 81-03-2015 – Payment of Bills “B” **REMOVED FROM CONSENT AGENDA**
- 82-03-2015 – Resolution to Award bid FY 2014 Utility and Road Program – Contract No. 3 Philadelphia Avenue Storm Drain Replacement (Beach Avenue to New York Avenue)
- 83-03-2015 – Resolution Appointing Municipal Engineer and Approving Professional Services Agreement April 1, 2015 – December 31, 2017

Motion: Mahaney
 Second: Swain
 Roll Call:
 Meier No
 Pessagno Yes
 Swain Yes
 Mahaney Yes

81-03-2015 – Payment of Bills “B”

Motion: Mahaney
 Second: Pessagno
 Roll Call:
 Meier Yes
 Pessagno Yes
 Swain Abstain
 Mahaney Yes

MINUTES:

City Council Regular Meeting Minutes dated February 17, 2015

Motion: Meier
 Second: Pessagno
 Roll Call:
 Meier Yes
 Pessagno Yes
 Swain Yes
 Mahaney Yes

REPORTS RECEIVED BY THE CLERK:

City of Cape May Fire Department Incident report and EMS Report dated February, 2015
City of Cape May Assessor's Office Monthly Report dated March 2, 2015
City of Cape May Occupancy Tax Report dated January, 2015.

Motion: Meier
Second: Pessagno
Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

NEW BUSINESS:

- A) City Attorney
- B) City Manager – Mr. MacLeod announces that information has been received from the Federal Emergency Management Association regarding the new preliminary flood maps. The information will be advertised in the Cape May Star and Wave and Press of Atlantic City newspaper on March 25, 2015 and April 12, 2015 for the review process. Mr. MacLeod advises that the Tax Collector's Office has been notified by the State that the Homestead Rebate refunds for eligible property owners will be credited on their 2nd quarter tax bill.
- C) City Clerk – Ms. Cumiskey reminds everyone about the Cape May City Blood Drive at Convention Hall on Tuesday, May 12, 2015 between 10:00 A.M. and 3:00 P.M.
- D) Councilmembers – Councilmember Meier talks about the Engineer appointment and would have liked to rehire RV&W. Mr. Meier feels the City should support the Police and Fire Departments.

Deputy Mayor Swain comments that this is her second term on City Council and she feels it is her job to support the community. Ms. Swain advises that the facts presented to Council warrant that the investigation needs to be completed before any decisions can be made.

Mayor Mahaney explains that there is no such document as an unwritten policy. When an employee violates his contract and takes compensatory time worth thousands of dollars, this is considered an unlawful receipt of public funds. Mr. Sheehan claims he didn't know about the matter, tried to stop the investigation, and then would not cooperate in the investigation. Mayor Mahaney comments that he supported Mr. Sheehan's appointment as Chief last year but that he now feels that the Chief mishandled this matter in the Police Department. The Mayor reports that the County Prosecutor is reviewing the matter and has extended the investigation. The Mayor reports that Council has received factual information and must do the right thing by the taxpayers of the City of Cape May. Mayor Mahaney advises that if Mr. Sheehan is cleared from the investigation, Council will reconsider Mr. Sheehan's reappointment as Chief.

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.

Ray Hayducka, 540 Ridge Road, Monmouth Junction, NJ spoke in favor of reappointing Rob Sheehan as Police Chief for the City of Cape May.

Thomas D'Intino, Sea Isle City Police Chief, spoke in favor of reinstating Rob Sheehan as Police Chief in the City of Cape May.

Jerry Gaffney, 810 Columbia Avenue, Cape May spoke in favor of reappointing Rob Sheehan as Police Chief in the City of Cape May.

Jerry Inderwies, Sr., 911 Philadelphia Avenue, Cape May, spoke in favor of reappointing Mr. Sheehan as Police Chief in the City of Cape May.

William Murray, 1012 Kearney Avenue, Cape May spoke in favor of reinstating Rob Sheehan as Police Chief in the City of Cape May. Mr. Murray asks the City Manager if he knew about the accumulation of compensatory time.

Mr. MacLeod advises that he is unable to comment due to pending investigation.

Robert Kugler, Saddle Brook Township Police Chief, spoke in favor of reinstating Rob Sheehan as Police Chief in the City of Cape May.

Councilmember Pessagno advises that the investigation has too many red flags. Ms. Pessagno advises that her interests lie with the benefit of the community of Cape May and will be the first to reinstate Mr. Sheehan if all charges have been cleared.

Deputy Mayor Swain agrees with Ms. Pessagno's statement.

Patricia Hendricks, 106 Trenton Avenue, Cape May thanks Mr. MacLeod for moving the meeting to Convention Hall to accommodate the large crowd. Ms. Hendricks asks Ms. Swain to explain her position about Mr. Sheehan based upon her previous experience. Also, Ms. Hendricks asks Councilmember Meier if he made his decision regarding Mr. Sheehan prior to the March 3, 2015 Council Meeting. Ms. Hendricks is in favor of reappointing Rob Sheehan as Police Chief in the City of Cape May.

Ms. Swain has no comment due to the pending investigation and will stand by her decision.

Ms. Pessagno advises that Council had tried to resolve the matter prior to going to the Prosecutor's Office.

Chad DeSatnick, 1307 Trenton Avenue, Cape May spoke in favor of reinstating Rob Sheehan as Police Chief in the City of Cape May. Mr. DeSatnick asks Ms. Pessagno why she didn't table her decision.

Ms. Pessagno advises that due to the probationary contract date, this matter could not be tabled.

Mr. Meier advised that his decision was an individual decision.

Chris Bezaire, 273 5th Avenue, West Cape May is in favor of reinstating Rob Sheehan as Police Chief in the City of Cape May. Mr. Bezaire asks Council if the current Council vacancy will be filled.

Mayor Mahaney advises that Council will receive notification tomorrow on the vacancy process.

Mr. Bezaire asks the City Attorney if Mr. Sheehan can be suspended, with pay, based upon the probationary contract.

Mr. Monzo advises that Council cannot suspend the Chief without a disciplinary process.

Charles Hendricks, 106 Trenton Avenue, Cape May announced his e-mail address so that members of the public can contact him if they would like to communicate with him about matters like tonight. Mr. Hendricks talks about the March 3, 2015 Council meeting and comments that Mr. MacLeod stated that no employee evaluations have been done. Mr. Hendricks read the City Personnel Manual which states that a performance evaluation is to be completed each year.

Mr. MacLeod replies that the City has a Personnel Policy which was amended in the year 2015 to reinstate employee performances each year. The City is moving forward with the Departments Heads and Supervisors on training sessions regarding employee evaluations.

Harry Heavy, 608 Washington Street, Cape May asks why, if Mr. Sheehan was under investigation, wasn't he removed sooner? Mr. Heavy talks about Councilmember Pessagno's vote to remove the Chief. Mr. Heavy is in favor of reappointing Rob Sheehan as Police Chief in the City of Cape May.

Ms. Pessagno replies that her vote to remove Mr. Sheehan as Chief was a combination of information received and the pending investigation.

Mr. Heavy asks why the City of Cape May has not applied for grant money for the Fire Department.

Mayor Mahaney replies that the City has applied for many grants but needs to create a budgetary capacity to apply for a Grant for the Fire Department.

Richard Buzby, Chief of Police in Little Egg Harbor Township, speaks in favor of reinstating Rob Sheehan immediately as Police Chief in the City of Cape May.

Mike Keoski, 509 Cape Avenue, Cape May Point, talks about the shared services agreement between the City of Cape May and Cape May Point respecting Police, Fire and Emergency Services. Mr. Keoski is a member of the Cape May Point Planning Board and spoke about the traffic there in the Point and the increase of police patrols that Mr. Sheehan provided. Mr. Keoski spoke in favor of Rob Sheehan being reappointed as Police Chief for the City of Cape May.

Mr. Keoski asks the City Attorney where the investigation stands in the County Prosecutor's Office at this time. Also, Mr. Keoski asks the City Manager if he is responsible to complete a performance evaluation on Mr. Sheehan.

Mr. Monzo advises that the City of Cape May will make a decision when the investigation is completed by the County Prosecutor's Office.

Mr. MacLeod advises that based upon the City moving forward on performance evaluations, all department head evaluations, including the Chief of Police, will be completed by the City Manager.

Bill Causey, West Cape May feels Council should fill the vacant seat on City Council and hire more personnel for the Fire Department. Mr. Causey spoke in favor of reappointing Mr. Sheehan as Police Chief in the City of Cape May.

Jerry Inderwies, Jr. 1159 Indiana Avenue, Cape May, spoke in favor of reinstating Rob Sheehan as Police Chief in the City of Cape May. Mr. Inderwies is very disappointed in Council.

Mayor Mahaney comments that Council made the right decision for the taxpayers of the community.

Mr. Inderwies comments that by State Statute, Mayor and Council should evaluate the City Manager in May and November of each year. Mr. Inderwies asks if proper procedure has been followed regarding Mr. Inderwies' resignation as a councilman and if the vacancy has been filled.

Mr. Monzo explains the New Jersey State Municipal vacancy law.

Doran Heminway, Assistant to the Police Chief, spoke in favor of reinstating Rob Sheehan as Police Chief in the City of Cape May.

Bernie Haas, 1016 Illinois Avenue, Cape May asks Council to amend the budget to return \$70,000 back to the Fire Department. Mr. Haas asks whose duty it is to fill the vacant seat on Council.

Mayor Mahaney confirms that Council fills the vacancy.

Mayor Mahaney thanks everyone for attending the Council meeting to voice their opinions.

CLOSED SESSION

Motion: Pessagno

Second: Swain

Motion to go back into open session made by Councilmember Pessagno, seconded by Deputy Mayor Swain at 10:50 P.M.

84-03-2015 Resolution of the City of Cape May approving and authorizing the Execution of a Professional Service contract with Barker, Gelfand & James.

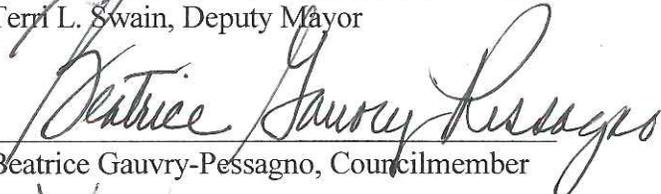
Motion: Swain
Second: Pessagno
Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

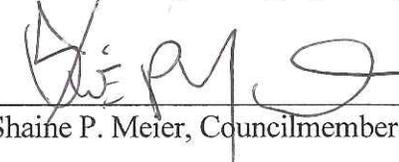
ADJOURNMENT

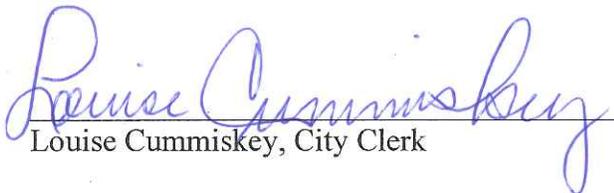
Motion made by Councilmember Meier seconded by Councilmember Pessagno to adjourn. The meeting adjourned at 11:05 P.M.


Edward J. Mahaney, Jr., Mayor


Terri L. Swain, Deputy Mayor


Beatrice Gauvry-Pessagno, Councilmember


Shaine P. Meier, Councilmember


Louise Cummiskey, City Clerk