

**WORKSESSION/REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Tuesday, March 3, 2015, 1:00 P.M.**

Present: Councilmember Jerome E. Inderwies, Jr.
Mayor Edward J. Mahaney, Jr.
Councilmember Shaine P. Meier
Councilmember Beatrice Gauvry-Pessagno
Deputy Mayor Terri L. Swain

Also Present: City Attorney Anthony Monzo
City Manager Bruce MacLeod
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.

COUNCIL COMMENTS

Mayor Mahaney asks for a moment of silence in remembrance of Nicholas Fedoroff.

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

73-03-2015 – Resolution Authorizing Application for a Loan from the New Jersey Environmental Infrastructure Financing Program – **ADDED TO AGENDA**

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

69-03-2015 – 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-Contract Negotiations-Municipal Engineer; **ADDED - Investigation Police Department; Fire Department Personnel**

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

PROCLAMATION

Read Across America

City Clerk, Louise Cummiskey, reads a Proclamation commemorating Read Across America in the City of Cape May.

Mayor Mahaney reports that the first and second graders at Cape May City Elementary School have read 578 books with a goal of 1,000 books.

ENGINEER REPORT

City Engineer, Ray Roberts, presents the engineer report as follows:

USDA Water Tank and Standpipe Expanded Improvements – The Lime Silo access has been completed and the exterior painting will begin this week. The concrete foundation fuel tank and conduit have been installed. Emergency generators have been installed. The generator is scheduled to be inspected on Monday, March 9, 2015.

FY2014 Road and Utility Improvement Program – The City has been awarded grant money in the amount of \$174,501.00 for Cape May Avenue and Delaware Avenue to extend the curbing. The construction on Hughes Street will begin on March 9, 2015. The Philadelphia Avenue storm drain bid opening is scheduled for March 10, 2015 and will be awarded on March 17, 2015.

FY2014 NJDCA Small Cities Grant Application – East Lyle Lane and Mansion Street underground water line has been installed. The curbing at Island Grill and the middle island at Mansion Street is complete.

Mr. Roberts reports that the Canning House Lane standpipe will be inspected by an independent agency on Friday, March 6, 2015. This project will be closed out if the project passes inspection.

Mayor Mahaney asks if a lift has been procured for the inspection and Mr. Robert's advises that the contractor made the arrangements.

Mr. McLeod would like the engineer to have a plan in place to complete the Hughes Street project before Memorial Day.

Mr. Roberts's replies that the project will be substantially complete for Memorial Day. The contractor will be excavating the entire road following the utility work.

Projects in Close-Out Phase are FY2013 Road and Utility Improvement for Cape May Avenue (Reading Avenue to Trenton Avenue) and Delaware Avenue (Trenton Avenue to Pittsburgh Avenue). Also, in Close-Out Phase is FY2012 NJDOT Municipal Aid for Cape May Avenue (Madison to Reading Avenue).

CITY MANAGER ITEMS

Mr. MacLeod talks about the City's new, advanced software for reading residential water meters.

CLERK'S ANNOUNCEMENTS

Regular Meeting in March will take place on March 24, 2015 at 7:00 P.M.

Free Rabies Clinics in Cape May County through March 2015 will be cancelled.

Blood Drive for the City of Cape May, Tuesday, May 12, 2015 between 10 A.M. and 3 P.M.

REGULAR MEETING BUSINESS:

RESOLUTIONS:

64-03-2015 – Resolution Approving Refund of Overpaid 2014 Taxes

65-03-2015 – Resolution Approving Refund of Overpaid 2015 Taxes

66-03-2015 – Resolution Authorizing Refund of Maintenance Guarantee

67-03-2015 – Resolution Authorizing Refund of Maintenance Guarantee

68-03-2015 – Resolution Opposing New Jersey Senate bill S2076/Assembly Bill A3358 Regarding Class I Renewable Energy Certificate Multiplier Program for Unprofitable Landfill Gas to Electricity Facilities

69-03-2015 – 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-Contract Negotiations-Municipal Engineer; Investigation Police Department: Fire Department

70-03-2015 – Resolution Appointing Municipal Engineer – **Removed from Consent Agenda**

71-03-2015 – Payment of Bills "A"

71-03-2015 – Payment of Bills "B" – **Removed from Consent Agenda**

72-03-2015 – Resolution Pertaining to Robert E. Sheehan, Jr. as the Cape May City Chief of Police – **Removed from Consent**

73-03-2015 – Resolution Authorizing Application for a Loan from the New Jersey Environmental Infrastructure Financing Program – **Added to Consent Agenda**

Motion: Mahaney

Second: Swain

Roll Call:

Inderwies Yes

Meier Yes

Pessagno Yes

Swain Yes

Mahaney Yes

71-03-2015 – Payment of Bills “B” – **Removed from Consent Agenda**

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

Mayor Mahaney asks the City Attorney to explain Resolution 72-03-2015.

City Attorney, Anthony Monzo, advises that the subject matter of this Resolution was initially a personnel matter. Police Chief, Robert Sheehan, was given the opportunity to discuss the matter in open or closed session through a Rice Notice. The matter was sent to the Cape May County Prosecutor’s Office for review. The City of Cape May received a letter from the Cape May County Prosecutor instructing the City not to discuss this matter in a public meeting because of a pending investigation. The Closed Session today is not a personnel matter but an investigative matter.

Motion made by Councilmember Pessagno, seconded by Deputy Mayor Swain to go into closed session.

Motion: Pessagno
Second: Swain

OPEN SESSION

72-03-2015 – Resolution Pertaining to Robert E. Sheehan, Jr. as the Cape May City Chief of Police

Councilmember Inderwies makes a motion to reaffirm Chief Sheehan’s appointment to Police Chief.

Motion: Inderwies
Second: Meier

City Attorney, Anthony Monzo explains the state laws in this matter. Mr. Monzo advises that Chief Sheehan’s contract requires a Council vote to rescind the appointment, so voting “No” on affirming the appointment will not have an effect on rescinding the appointment. Mr. Monzo advises that in order to rescind, there would have to be a motion to approve the resolution for a rescission of the appointment.

Mayor Mahaney explains a “Yes” vote is for a permanent approval of Chief Robert Sheehan as Police Chief and a “No” vote will rescind the appointment of Robert Sheehan as Police Chief.

Roll Call:
Inderwies Yes
Meier Yes
Pessagno No
Swain No
Mahaney No

Councilmember Pessagno explains her vote and comments on her great affection for Chief Sheehan and his family. Ms. Pessagno's vote is based on the pending investigation.

Mayor Mahaney explains his vote based on the eloquent presentation by Ms. Pessagno.

Deputy Mayor Swain makes a motion to rescind the appointment of Robert Sheehan as Police Chief.

Motion: Swain
Second: Mahaney

Roll Call:
Inderwies No
Meier No
Pessagno Yes
Swain Yes
Mahaney Yes

MINUTES:

City of Cape May Worksession/Regular Meeting Minutes dated February 3, 2015

Motion: Mahaney
Second: Swain

Roll Call:
Inderwies Yes
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

REPORTS RECEIVED BY THE CLERK:

City of Cape May Occupancy Tax Report for the month of December, 2015

Nature Center of Cape May Annual Report dated February 17, 2015

City of Cape May Environmental Commission Meeting Minutes dated February 24, 2015

Motion: Meier
Second: Pessagno
Roll Call:

Inderwies Yes
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

NEW BUSINESS:

- A) City Attorney
- B) City Manager
- C) City Clerk
- D) Councilmembers – Councilmember Meier advises that council needs more information on the Police Department investigation. Mr. Meier feels that everyone is innocent until proven guilty.

Councilmember Pessagno comments that this Council is not a Court of Law and this is not about an individual but absolute justice. Ms. Pessagno feels the Cape May City Police Department cannot be compromised in any way.

Deputy Mayor Swain advises that the Closed Session did not sway her vote. Ms. Swain's determination is based on her experience in the past year.

Councilmember Inderwies asks Mr. MacLeod if he has performed an official evaluation on Chief Sheehan during the past 12 months, pursuant to the Chief's contract.

Mr. MacLeod replies that no evaluations have been conducted on any City employee. Mr. MacLeod advises that Mr. Sheehan's contract carries a provision for a one year probationary period. Mr. MacLeod advises that the Chief of Police is an appointment of City Council following the Civil Service rules and regulations. This matter was scheduled for Closed Session with a "Rice Notice" to Mr. Sheehan and Mr. Sheehan chose to have the discussion in "Open Session".

Mr. Inderwies feels that the Police Department is in good condition and Mr. Sheehan deserves the Chief appointment.

Mr. Inderwies makes a motion for an Official investigation as to why the City Manager, Bruce MacLeod, did not follow Mr. Sheehan's contract regarding an evaluation.

Motion: Inderwies
Second: Meier

Roll Call:
Inderwies Yes
Meier Yes
Pessagno No
Swain No
Mahaney No

Councilmember Inderwies removes himself and resigns effective immediately from Cape May City Council.

Motion to accept the resignation of Councilmember Jerome E. Inderwies, Jr.

Motion: Pessagno
Second: Swain

Roll Call:
Meier Yes
Pessagno Yes
Swain Yes
Mahaney Yes

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.

Chief Robert Sheehan advises Council that the City Attorney misrepresented the investigation and explains that the investigation is Administrative and not Criminal. Mr. Sheehan requests an investigation to be completed of the Police Department in the City of Cape May.

Mr. Monzo advised Council, following a discussion with Mr. Sheehan, that the matter was an Administrative Investigation.

Chief Chris Leusner, Cape May County Chiefs of Police Association, strongly supports Chief Sheehan.

Diane Sorentino, Retired Cape May City Police Chief, is disappointed in the demotion of Mr. Sheehan and feels that Council should have had more information before a decision was made.

Councilmember Pessagno responds that she investigated this matter as much as possible before making her decision.

Jerry Gaffney, 810 Columbia Avenue, Cape May asks why Council removed the Chief of Police from his position.

Mr. MacLeod explains that due to Council's vote, Mr. Sheehan will return to the position of Captain and will officially be the officer in charge of the Cape May City Police Department. Mr. MacLeod advises that Council will review all information provided in the investigation to reconsider the reinstatement of Mr. Sheehan as the Chief of Police in the City of Cape May.

Mr. Monzo advises that Mayor and Council are not permitted to discuss facts in this matter with the underlying investigation. Mr. Monzo reads a portion of a letter from Rob Johnson of the Cape May County Prosecutor's Office.

Mr. Gaffney is in favor of reappointing Mr. Sheehan to the position of Chief.

Dorann Heminway, Administrative Assistant, has worked with Mr. Sheehan for the past ten years. Ms. Heminway feels Mr. Sheehan should be reappointed as Chief of Police.

Cathy Sauerzopf, Cape May Chamber of Commerce, comments that Mr. Sheehan is one of the finest people she knows and has been wonderful to the Chamber employees and the community. Ms. Sauerzopf feels Council should reappoint Mr. Sheehan to Chief.

CLOSED SESSION

Motion made by Mayor Mahaney, seconded by Deputy Mayor Swain, to go into Closed Session at 3:00 P.M.

OPEN SESSION AT 5:19 P.M.

70-03-2015 – Resolution Appointing Municipal Engineer

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

ADJOURNMENT

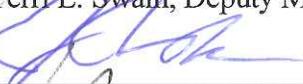
Motion made by Councilmember Meier seconded by Deputy Mayor Swain to adjourn. The meeting adjourned at 5:21 P.M.



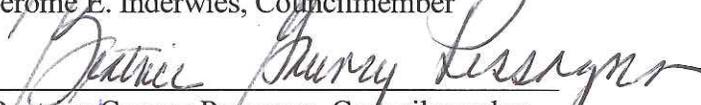
Edward J. Mahaney, Jr., Mayor



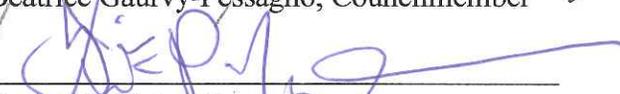
Terri L. Swain, Deputy Mayor



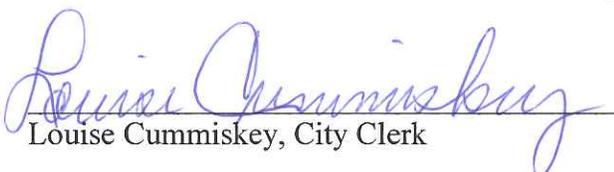
Jerome E. Inderwies, Councilmember



Beatrice Gaurvy-Pessagno, Councilmember



Shaine P. Meier, Councilmember



Louise Cumiskey, City Clerk