

**WORKSESSION/REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Wednesday, November 7, 2012, 1:00pm**

The worksession/regular meeting of City Council of the City of Cape May was called to order by Mayor Mahaney at 1:00 P.M. Wednesday, November 7, 2012 in the Cape May City Hall Auditorium. The Clerk called the roll and the Pledge of Allegiance was recited.

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 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 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.

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

COUNCIL COMMENTS

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

260-11-2012 - Resolution providing for a meeting not open to the Public in Accordance with the Provisions of the New Jersey Open Public Meeting Act, N.J.S.A. 10:4-12 – School Funding, Summit Risk Management

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

WORK SESSION DISCUSSION ITEMS

Beach Tag increase for 2013 season

School Funding – Vito Gagliardi, Esquire

Deputy Mayor Wichterman sets forth the events which led to today's meeting with Vito Gagliardi, Esquire, an expert in the State of New Jersey on school funding. Over the past few months, Mr. Wichterman has attended meetings in Long Beach Township with Mayors of Municipalities who find themselves in the same position as the City of Cape May with regard to school funding. Mr. Gagliardi was asked to attend today's worksession to explain how the City can move forward to lower the school funding cost for the City of Cape May.

Mr. Gagliardi explains that the City of Cape May is one of sixty-six (66) limited purpose regional school districts in the State of New Jersey which have a high tax base with a small population. This occurs when you subsidize the education of children in another community. In 1956 the City passed a referendum to fund the contribution per pupil sent from the City to the Regional School District. The State Legislators changed the law in the mid 1970's and the formula for contribution changed to what it is today. Mr. Gagliardi has been successful in having the formula changed in North Haledon which saved the taxpayers of that town \$4,000,000.00 per year. Mr. Gagliardi explained what the process would involve if the City of Cape May were interested in pursuing this matter.

Councilmember Murray asks Mr. Gagliardi if he can assess a reasonable probability of success and Mr. Gagliardi replies that initially, he would perform a feasibility study which would analyze the educational options in our community. Only after the study would he be able to offer an opinion.

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.

William Gaffney states that some years ago, the City had to rely on other members of the school district to help with this matter and asks if that is still true today and if the City chooses to pursue this matter, if it will go into Court.

Mr. Gagliardi replies that the statute provides several solutions before litigation. The first is to ask for a Referendum to change the school funding formula and all three districts must agree. This is not likely to occur. The second option is to place a question on the ballot to dissolve the school district. A third option is to ask to be removed from the School District. The aforementioned remedies must be exhausted before you can go to Court.

Tony Williams asks if West Cape May and Lower Township would be included if they agree to the referendum. Mr. Gagliardi replies that if the other municipalities were to pursue withdrawing from the Regional School System then no cooperation would be needed.

Victoria Zelnick states that she understands referendums and communities not being part of the solution but asks of the options.

Mr. Gagliardi replies that if the City of Cape May exhausts their Administrative remedies and proves that there is a disparity in funding and a constitutional impediment which is creating this problem, the Court may grant them some relief. Mr. Gagliardi also advises that the Commissioner of Education can modify the funding formula.

John Leo ask how long this process will take and Mr. Gagliardi replies that North Haledon began the process in 2001 and argued before the Supreme Court in 2004. In 2005, their funding formula was changed.

Jerry Gaffney feels that participating in protracted litigation will not help the city and inquires as to the cost of Mr. Gagliardi's services.

Deputy Mayor Wichterman replies \$48,000.00 of which one-half can be paid this year and one-half can be paid in 2013.

Mr. Monzo asks if the Administrative process of a referendum vote will require the approval of the Regional School Board before it gets placed on a ballot for a referendum vote. Mr. Gagliardi replies that there are two Referenda, one to change the funding formula and one to ask the Regional School Board to put the question on the ballot.

ENGINEER REPORT

Raymond Roberts, Remington, Vernick & Walberg offers his report as follows:

FY 2011 Road and Utility Improvement Program is complete other than the remediation of a section of pavement opposite the Post Office on Corgie Street.

Underground Storage Tank - Canning House Lane – We are awaiting a permit from the NJDEP and upon receipt, will submit the Response Action Outcome to the State.

Water Tank and Standpipe – the project is underway and work has begun on the Water Tank on Madison and Columbia Avenues. Once complete, work will begin on the Canning House Lane Tank with an estimated completion date of December, 2013.

FY2011 NJDCA Small Cities ADA improvement project is complete.

FY2012 NJDCA Small Cities Grant Application for ADA Improvements – RV is currently preparing construction documents for bidding.

FY2012 NJDOT Municipal Aid - Funds were awarded and are being used for the reconstruction of Cape May Avenue from Madison to Reading Avenue.

FY2012 Road and Utility Improvement Program Phase 1 (Cape May Avenue from Madison to Reading Avenues) is scheduled to be completed by December 14, 2012. Phase II (Washington Street from Ocean to Franklin Streets) has been bid and an award of contract is anticipated to be given on December 4, 2012. Construction will begin in January 7, 2013 with a May 2013 date of completion.

City Hall Rehabilitation is currently in progress with a completion date scheduled for May 2013.

FY2013 NJDCA Small Cities Grant Application – A final application has been submitted by Mark Blauer.

FY2013 NJDOT Municipal Aid for the North side of Cape May Avenue – The application has been submitted.

Harbor Lane Bulkhead – The Field Survey has been completed and it is anticipated that construction will begin in the Spring/Summer of 2013.

CITY MANAGER ITEMS

Best Practices Report – CY 2012/SFY 2013 - Mr. MacLeod announced that the Annual Best Practices Report has been completed and the City received a 96% rating which qualifies for the City to receive State Aid funding.

Beach Tag increase – The City Manager informs us that he met with Deputy Mayor Wichterman regarding Mr. Wichterman's idea to increase the City's beach tag fees. Mr. MacLeod advises that the current weekly beach tag fee is \$15.00 and if the price is increased to \$20.00 per week, the City would realize an increase of \$142,000.00 in revenue based upon 2012 sales. That revenue could be used to relocate and renovate the restrooms in the former Oasis facility.

Deputy Mayor Wichterman comments that the residents of the City of Cape May would not be penalized with this increase in the cost of weekly beach tag fees.

Councilmember Murray agrees with Mr. Wichterman.

Mayor Mahaney asks Mr. Monzo if there would be a risk of litigation if the charge for a weekly tag is \$20.00, and the preseason fee is only \$15.00.

Mr. Monzo replies that the seasonal tags benefits anyone that spends time here for the length of the season including non residents, vacationers and owners of summer homes. The beach tags are available to everyone through the City's web site.

Mayor Mahaney asks if this Ordinance change would be introduced at the meeting of November 20, 2012 with the second reading at December's meeting and whether the effective date would be in the beginning of January 2013. In addition, Mayor Mahaney asks if this money would be included in the 2013 budget.

Mr. MacLeod replies that if the Ordinance is adopted in December 2012, the proceeds may be included in the 2013 budget. Also, in order to make the Capital improvements to the restrooms, the City would have to go through a Bond Ordinance and by the end of the summer of 2013, we would know the result of the revenue stream.

Mayor and Council agree to increase the weekly Beach tag for the year 2013.

Parking Tickets Increase – Mr. MacLeod states that presently, a parking ticket fee is \$32.00. Of that amount, the city retains \$20.50, and the balance of \$11.50 goes to the State of New Jersey. Mr. MacLeod researched the parking fees in surrounding communities and found that \$35.00 per ticket is currently being charged. The City Manager recommends a \$3.00 increase. Mayor and Council agree to said increase.

ATTORNEY ITEMS

CLERK'S ANNOUNCEMENTS

ORDINANCE FOR INTRODUCTION

258-2012 An Ordinance to Update the Uniform Salary and Classification Plan for the Department of Personnel Positions in the City of Cape May

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

Resolutions are offered by Consent.

RESOLUTIONS: Council will accept questions from the public on Consent Agenda Resolutions

- 247-11-2012 – Resolution Authorizing the Purchase of Portable and Base Radio Equipment Installation for use by Public Works and Water/Sewer Utility Under State Contract No. A53766 (\$8,540.00)
- 248-11-2012 – Resolution Authorizing the Purchase of Portable and Base Radio Equipment for use by Public Works and Water/Sewer Utility Under State Contract No. A53804 (\$16,966.65)
- 249-11-2012 – Resolution Authorizing Utility Bill Adjustment due to Catastrophic Occurrence
- 250-11-2012 – Resolution Authorizing Utility Bill Adjustment due to Catastrophic Occurrence
- 251-11-2012 – Resolution Providing for the Insertion of a Special Item of Revenue in the Budget Pursuant to Chapter 159 PL 1948
- 252-11-2012 – Resolution Authorizing the Re-Bid for lease of Cape May Convention Hall Retail Store B
- 253-11-2012 – Resolution Approving Change Order No. 6, Mount Construction Company, Inc., USDA Sanitary Sewer Improvement Project Phase 2
- 254-11-2012 – Release of Performance Guarantee
- 255-11-2012 – Resolution Designating November 10, 2012 as Cape May County Community Disabilities Awareness Day
- 256-11-2012 – Resolution Authorizing Utility Bill Adjustment due to Catastrophic Occurrence

- 257-11-2012 – Resolution Authorizing Utility Bill Adjustment due to Catastrophic Occurrence
- 258-11-2012 – Resolution Authorizing Final Payment to Axios, Inc.
- 259-11-2012 – Payment of Bills

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

MINUTES:

REPORTS RECEIVED BY THE CLERK:

- Cape May Police Department monthly report for the period 9/1/2012 through 9/30/2012
- 2% Occupancy Tax Projection dated October 22, 2012
- Monthly Report of Tax Collections for the period June 30, 2012
- Shade Tree Meeting Minutes dated October 11, 2012
- 2% Occupancy Tax projection dated September 19, 2012

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

UNFINISHED BUSINESS:

NEW BUSINESS:

- A) City Attorney - Mr. Monzo reminds all that the Sole Run for Character in honor of Gene Sole will be held on November 10, 2012, with registration at 7:30 A.M.
- B) City Manager – The removal of the sand on Beach Avenue resulting from Hurricane Sandy is being worked on by the City of Cape May in conjunction with the County of Cape May. It is anticipated that the project will be complete by November 10, 2012. Mr. MacLeod thanks the members of the City of Cape May Fire Department for volunteering their time to help residents in Seaside Heights affected by the storm. Mr. MacLeod announces that the balance of the Small Cities money is \$673,831.00.
- C) City Clerk – Ms. Cumiskey shares a thank you letter from a reporter covering the Hurricane Sandy storm in the City of Cape May.
- D) Councilmembers – Deputy Mayor Wichterman thanks all the reporters at this Council meeting for their support in writing about the School Funding issue.

Councilmember Murray thanks the Public Works employees for all their clean-up effort resulting from Hurricane Sandy. Also, Mr. Murray asks if the Promenade Barrier had been breached on Howard Street. Mayor Mahaney advises that there was no breach in the barrier but rather there was street surface damage which will be corrected immediately.

Councilmember Fiocca thanked the City employees and public works employees for a job well done during Hurricane Sandy.

Mayor Mahaney thanked all employees from the Police, Fire, Rescue, Public Works, OEM, and Water and Sewer Departments for their support and hard work during the Hurricane. The Mayor reminds everyone that the Veteran's Day Ceremony will be held on Sunday, November 11, 2012 at 11:00 A.M. at the monument on Columbia Avenue. Finally, the Mayor asks Mr. MacLeod to let everyone know of the status of the CRDA funds.

Mr. MacLeod advises that the City recently received a check in the amount of \$1,458,000.00. Of the total amount of \$1,500,000.00, administrative fees were deducted leaving the aforementioned balance.

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.

Charles Hendricks – 106 Trenton Avenue, Cape May, NJ thanked the city employees for their hard work during the Hurricane. Mr. Hendricks asks Mr. MacLeod if the city has flood insurance.

Mr. MacLeod replies that the City does not currently have flood insurance but that an application has been made to FEMA. Mr. MacLeod explains that the city has been attempting to obtain flood insurance since July 2012.

Mr. Hendricks asks if the Pilings are set too low.

Mr. MacLeod replies that there were surveys and details provided which may have an impact on the premium value. Mr. Hendricks asks Mayor Mahaney if he knew that the city did not have flood insurance.

Mayor Mahaney replied that he was not aware of this fact until the weekend of the storm.

Kevin Soler – 1005 New Jersey Avenue and 1018 Stockton Avenue, Cape May, NJ asks the height of the elevation on the building. Mr. MacLeod replies that the primary structure is at 15.2' and that there is a sump pump facility which is 10' X 12' space which is set at a lower elevation.

Mr. Soler then talks about a parking matter at the Ocean Club and Mayor Mahaney asks Mr. Soler to talk to the City Manager after the meeting so that he can look into the matter.

Patricia Gray Hendricks - 106 Trenton Avenue, Cape May, NJ asks if the City has a Certificate of Occupancy for the Convention Hall building. The City Manager advises that the City currently has a Temporary Certificate of Occupancy. Mrs. Hendricks is upset over the fact that currently, there is no flood insurance in place on the Convention Hall building.

COUNCIL & CITY MANAGER COMMENTS

ADJOURNMENT

Motion made by Mayor Mahaney, seconded by Deputy Mayor Wichterman to go into closed session. The regular meeting adjourned at 3:35 P.M.

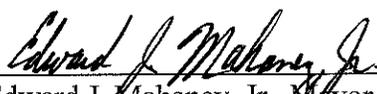
CLOSED: School Funding and Summit Risk Management

Motion made by Deputy Mayor Wichterman, seconded by Councilmember Murray to open the closed executive session of the meeting and to go back into open session.

Motion authorizing the Mayor and City Clerk to sign the proposal from Porzio, Bromberg & Newman, P.C. regarding their preparation of a feasibility study which will analyze educational options for the City of Cape May.

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

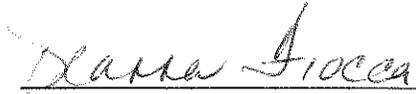
Motion made by Deputy Mayor Wichterman to adjourn. The meeting adjourned at approximately 4:05 P.M.



Edward J. Mahaney, Jr., Mayor



Jack Wichterman, Deputy Mayor



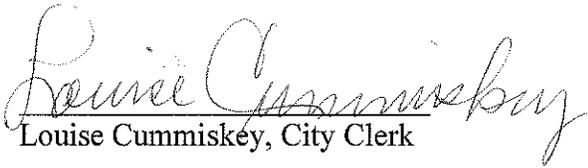
Deanna Fiocca, Councilmember



Terri L. Swain, Councilmember



William H. Murray, Councilmember


Louise Cumiskey, City Clerk

