

**WORKSESSION/REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Tuesday, October 1, 2013 1:00 P.M.**

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. Tuesday, October 1, 2013 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 Clerk Louise Cummiskey
Deputy Clerk Patricia Harbora

Absent: City Manager Bruce MacLeod

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.

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

233-10-2013 Payment of Bills A (Add to Consent Agenda)

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

WORK SESSION DISCUSSION

Energy Aggregation Opportunities: Presentation by Gary E. Finger, Ombudsman, N.J. Board of Public Utilities

Mr. Finger advises that he is the Energy Aggregate for the State of New Jersey and that New Jersey is one of five states to introduce Government Energy Aggregation since the 1999 Electric

Discount and Energy Competition Act (EDECA.). Mr. Finger provides a power point presentation regarding third party energy (Electric and Gas) suppliers and explains that the EDECA allows municipalities to aggregate the purchase of power to secure energy at lower costs. A Municipality may establish a government energy aggregation program by ordinance or resolution advises Mr. Finger and if approved, local businesses/residents may opt out if they so desire.

PUBLIC DISCUSSION:

Jerry Gaffney, 810 Columbia Avenue, Cape May asks if the energy is both gas and electric and how much will be saved in a year.

Mr. Finger confirms that the program could be for both gas and electric and that the savings will depend on the usage.

Jay Schatz, Cape May comments that Cape May County residents are served by Atlantic City Electric and South Jersey Gas as their supplier. Mr. Schatz would like to know if a separate bill will be sent if you choose a third party supplier and asks if the resident will be locked into a contract with a fixed rate for a certain number of years or if the rate will vary.

Mr. Finger advises that the third party cost will be included on the same bill and it is a fixed rate.

Charles Hendricks, 106 Trenton Avenue, Cape May asks where the residents can get more information on this energy program.

Mayor Mahaney advises that the information will be on Cape May City's web site.

Kate Wyatt, 292 Windsor Avenue, Cape May asks if there will be a cost to the City.

Mr. Finger replies that the City does have a cost, but the third party supplier pays for the cost.

James Penn, Purchasing Agent for the City of Cape May explains that the City of Cape May belongs to a South Jersey Co-Op group called the South Jersey Power Consortium which bids for energy on an annual basis. The concept has worked well for the City, comments Mr. Penn.

Resort House Rentals

Mayor Mahaney addresses resort house rentals in the City of Cape May. Although no resolution will be approved today, the Mayor states that he would like to discuss the way the City of Cape May handles properties that are offering amenities that were not offered in the past. The bigger houses are being rented out for weddings, corporate retreats, reunions and other large events, advises the Mayor, which is becoming a problem in the City. Mayor Mahaney is concerned about public safety and believes the problem needs to be addressed before the 2014 summer season. Council is trying to be fair to the property owners that are seeking new forms of revenue without having neighbor issues, advises the Mayor and he describes resort house rentals as a gray area between residential and commercial uses of property. The Mayor advises that a Committee of ten members will be established which will include Council, City Officials and members of the community to include a property event member, a Victorian home/bed/breakfast member and

a residential homeowner and the meetings will be open to the public. Public Safety, Zoning Licensing and public good will be considered and if change is proposed, it will be brought before the public advises the Mayor.

City Solicitor, Tony Monzo, comments that Council will be discussing when a whole house rental becomes a residential home used for commercial purposes and what location in the City would be permitted for said use. Also, Mr. Monzo advises that there are a number of issues with regard to fire safety, life safety, ADA compliance, parking, lot size, setbacks and taxes that will be considered.

Deputy Mayor Murray comments that other communities have this problem but Cape May will identify specifically, the City community problem. We want to take advantage of the good things and avoid the bad things advises Mr. Murray.

Councilmember Swain feels that the City should establish occupancy levels.

Following is the list of members appointed to the committee:

Code Enforcement
Zoning Officer
Police Captain
Mayor
Deputy Mayor
City Manager
City Solicitor
Bonnie Pontin
John Van de vaarst
Mary McKenney

Mayor Mahaney advises that periodic meetings will be held before any legislation is passed.

PUBLIC PORTION:

Lois Vietri , representing the Devonshire Condominium Association, Lafayette Street, Cape May, thanks Council for taking the time to discuss this issue. Ms. Vietri advises that residents at the Devonshire Condominiums are complaining and are impacted by the noise from a resort house nearby. Ms. Vietri suggests an additional member be added to the committee, representing homeowners affected by noise.

Jerry Gaffney , 810 Columbia Avenue, Cape May advises that there was an article in the Cape May Gazette that stated that the Regional School District would lose \$4 million if the change proposed by the City of Cape May should take place.

Councilmember Wichterman advises that the City of Cape May is trying to change the funding formula to make it more equitable for the residents of Cape May City and the article in the Gazette regarding the \$4 million is not correct. Mr. Wichterman advises that the City will soon be mailing a letter to all residents setting forth the facts.

Kate Wyatt, 292 Windsor Avenue, Cape May asks what the time line will be for the Resort House Rental Committee, and if the meetings will be open to the public and where the meetings will take place.

Mayor Mahaney advises that the changes will be in effect by the 2014 summer season, that the Committee Meetings will be open to the public, and that they Committee Meetings will be held in the City Hall Auditorium. Council is working on the dates and time which will be available on the city web site, advises the Mayor.

George Schu, 29 Gurney Street, Cape May, owner of a private property in Cape May, agrees with Mayor Mahaney that this is a complex issue. Mr. Schu feels that we need to maintain the special nature of the environment in the City of Cape May. Noise does impact the quality of life, advises Mr. Schu and we need to control and enforce the law.

Patricia Hendricks, 106 Trenton Avenue, Cape May advises that she is in the real estate industry in the City of Cape May. Ms. Hendricks comments that both sides need to come together on this issue and she would like a real estate broker to be placed on the committee. Also, Ms. Hendricks feels that there is a breakdown in code enforcement. Finally, Ms Hendricks advises that the real estate agencies are receiving rental requests for the year 2015, and she hopes that this issue can be resolved quickly.

Isaac Tillman, 34 Gurney Street and 24 Ocean Street, Cape May advises that he does not envy the job of the Committee. Mr. Tillman owns a former bed and breakfast that is now a whole-house rental and he held his first wedding at the house a few weeks ago. Mr. Tillman feels that weddings bring revenue to the City and asks Council to look at both sides of this issue.

Deputy Mayor Murray asks Mr. Tillman if he is the owner of the Abby House.

Mr. Tillman replies in the affirmative.

Kevin Soler, 1018 Stockton Avenue, Cape May advises that he owns a large family rental which sleeps 22 people and he does not offer event rentals. Mr. Soler feels that renters should be responsible for any problems that occur during the term of their lease. Mr. Solar comments that it will be impossible to phase-in new legislation by 2014.

Mayor Mahaney advises Mr. Soler that the City has the responsibility to amend the Ordinance because the people of this town shouldn't have to go through another summer with this problem.

ENGINEER REPORT

City Engineer, Ray Roberts, presents his report as follows:

The Cape May City Hall Rehabilitation Facade Improvements, Phase 2 Contract was awarded to the lowest bidder, Jones Masonry Restoration Corporation.

Canning House Lane Standpipe – A pre-construction meeting was held on September 20, 2013 and the wireless carriers have commenced work.

FY 2012 Road and Utility Improvement Program, Phase 1 – The City is working on the surety company to get the job completed. Cape May Avenue is complete but there is outstanding sod work and pavement repair on Pennsylvania Avenue.

Mayor Mahaney asks Mr. Roberts to complete Pennsylvania Avenue as quickly as possible because it is the main access to the Coast Guard Base.

Gurney Street Storm Drain – The design work is proceeding with construction to begin January, 2014.

FY 2013 Road and Utility Improvement Program – The project is under design from Cape May Avenue (north side) Reading to Trenton Avenue and Delaware Avenue from Trenton to Pittsburg Avenue. Also, the sanitary sewer replacement is under design on Beach Avenue from Howard to Madison Avenue. Also under design is Carpenters Lane from Jackson to Decatur Street. Construction on these projects will begin January 6, 2014 and completed by Memorial Day 2014.

Councilmember Wichterman asks about the equipment and the destroyed grass on the 1300 block of Cape May Avenue (south side of the Island) that was supposed to be cleaned up.

Mr. Robert's replies that the contractor repaired and put new sod down in that area but there is no irrigation and the grass turned brown. The City is working with the surety company on this matter.

Mayor Mahaney states that on the Agenda today is the second reading and adoption of the Bond Ordinance for the Gurney Street Storm Sewer improvement project. The Mayor questions whether the paint will be touched up on the Water Tower as there are some areas that need attention.

Mr. Roberts advises that Allied Painting will be back to touch up the entire tank.

CLOSED SESSION

Motion made by Mayor Mahaney, seconded by Councilmember Wichterman to go into closed session.

OPEN SESSION

Motion made by Councilmember Wichterman, seconded by Councilmember Fiocca to go back into open session at 3:40 P.M.

CLERK'S ANNOUNCEMENTS

The City Clerk announces that the Worksession/Regular Meeting in November will take place on Monday, November 4, 2013 at 1:00 P.M. due to the General Election which will take place on Tuesday, November 5, 2013. The Regular Meeting in November will take place on Monday, November 18, 2013 at 7:00 P.M., due to the NJ League of Municipalities which will begin on November 19, 2013. Also on October 16, 2013, a Special General Election for a U.S. Senate Position will be held. Polls will open at 6:00 A.M. and close at 8:00 P.M.

225-10-2013 – Resolution Designating October 2013 as “Breast Cancer Awareness month” in the City of Cape May

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

ORDINANCES FOR SECOND READING AND ADOPTION:

270-2013 – Bond Ordinance Providing for Improvements to the Storm Water Collection System in and by the City of Cape May, in the County of Cape May, New Jersey, appropriating \$275,000 Therefor and Authorizing the Issuance of \$261,250 Bonds or Notes of the City to Finance Part of the Cost Thereof

Motion to Open Public Hearing

Motion: Wichterman
Second: Fiocca

Motion to Adopt Ordinance 270-2013

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

RESOLUTIONS:

224-10-2013 – Resolution Approving Settlement of Tax Appeal Litigatin Known as Varma, Pratibha @ Ashok K. Varma v. Cape May City

225-10-2013 – Resolution Designating October 2013 as “Breast Cancer Awareness month” in the City of Cape May (**Removed from Consent**)

226-10-2013 – Resolution Regarding Trick-or-Treat Night

227-10-2013 – Resolution Providing for the Insertion of a Special Item of Revenue in the Budget Pursuant to Chapter 159 PL 1948

228-10-2013 – Resolution Approving the Refund of Overpaid 2013 Taxes

229-10-2013 – Resolution Authorizing the City Clerk to Issue Bingo and Raffle Licenses Throughout the Year to Qualified Organizations

- 230-10-2013 – 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
- 231-10-2013 - Resolution Approving Professional Services Contract between Polistina and Associates, LLC and the City of Cape May for Development of a Public Access Plan
- 232-10-2013 – Resolution to Award Bid – Cape May City Hall Exterior Façade Repairs-Phase 2
- 233-10-2013 - Payment of Bills A (**Added to Consent Agenda**)

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

MINUTES:

- City Council Worksession/Regular Meeting Minutes dated September 3, 2013
- City Council Closed Executive Session Meeting Minutes dated September 3, 2013
- City Council Closed Executive Session Meeting Minutes dated September 17, 2013

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

REPORTS RECEIVED BY THE CLERK:

- Occupancy Tax Budget Projection Report dated September 19, 2013
- Environmental Commission Meeting Minutes dated September 24, 2013

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

NEW BUSINESS:

- A) City Attorney
- B) City Manager
- C) City Clerk
- D) Councilmembers - Mayor Mahaney announces that a new beach replenishment project will begin on November 1, 2013 and will cover the area between the Coast Guard Base and the 2nd Avenue Jetty. The Mayor advises that the City will keep the residents informed by mail on the pumping operation. The total cost of the replenishment will be paid for by the Federal Government, advises the Mayor. Also, Mayor Mahaney advises that there will be discussion at the next meeting on the Best Practice report and questions will be answered at that time. Finally, the U.S. Coast Guard will be sponsoring a Memorial Run at Pittsburg Avenue on October 5, 2013 starting at 8:30 A.M.

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.

Jules Rausch, 1010 New York Avenue, Cape May is here today representing the Taxpayers Association. Mr. Rausch reads a letter of recommendation which includes the results of a study performed by the Taxpayers Association regarding Residential Mercantile Licenses. See copy attached hereto and made a part hereof.

Charles Hendricks, 106 Trenton Avenue, Cape May asks City Solicitor, Tony Monzo, about the negotiations with Kimmel Bogrette and Fralinger & Company regarding Convention Hall and asks if the City is close to a settlement or litigation.

Mr. Monzo replies that special council has been hired to review this matter and the City is moving forward aggressively trying to realize a resolution of the matter.

Kevin Soler, 1018 Stockton Avenue, Cape May asks if the fan outside at the Ocean Club has been replaced and how quickly the City is moving on the agreement with the Ocean Club because noise is a big issue.

Mr. Monzo replies that an inspection was done by a hired consultant, a recommendation report of the changes needed to be performed was provided, and a fine has been paid. A construction permit for a new fan has not been submitted and as there is a timeline in place, Mr. Monzo advises that the Construction Official may continue to seek compliance through enforcement.

Mayor Mahaney advises that the Planning Board Engineer was asked to go to the property and perform an inspection, approximately one week ago, on a number of issues.

ADJOURNMENT

Motion made by Councilmember Swain, seconded by Councilmember Wichterman to Adjourn. The meeting adjourned at approximately at 4:15 P.M.

TO: CITY OF CAPE MAY – OCTOBER 1, 2013

Attached hereto is the Residential Mercantile License Study, a study the Taxpayers Association of Cape May conducted to objectively compare the City of Cape May and the surrounding seaside communities of Wildwood Crest, Stone Harbor, Avalon, Sea Isle City, and Ocean City. The study was conducted this summer, examining existing ordinances and discussing the issues with various municipal and fire officials. This information was reduced to incorporate the major issues for comparison.

We believe the suggestions set forth by the TPA are fair, in keeping with maintaining a high level of habitability, preserving historic characteristics, conforming to environmental standards, improve fire prevention and safety standards, and consideration of quality of life issues that make The City of Cape May a quality vacation and residential community. The TPA supports the business community and their objectives. We believe the proposed changes are a balance and will further to equalize the sharing of increasing costs of the City seasonal operating expenses and enable more detailed management of rental property. All of these issues are compatible with and concur with the City Master Plan and Vision Statement. They will also improve the stability of real estate values, strengthen the tax base and improve the financial management of the City.

TPA RECOMMENDATIONS:

Residential Management and Mercantile Licensing and Fire Inspections:

The standard for renting a single family residential home is dependant upon the number of permitted occupants and the suggested Mercantile License Fee is \$100 for a home of 8 occupants, any additional number of permitted occupants the suggested fee is \$20 for each occupant thereafter.

The term of the license is one (1) year, June 1st to May 31st.

The owner of every residential home offered for rent or lease shall complete an application, and inspected for a Mercantile License. The inspection shall be conducted by the City one (1) time during a three (3) year period; the cost for the inspection to be \$50 for an eight (8) occupant application, and increasing thereafter at the rate of \$10 for each additional permitted occupant. A re-inspection fee of \$25 for compliance.

It is suggested the city be divided in three (3) districts for the purpose of defining the Mercantile License inspection districts.

It is further recommended that all residential rental homes having a Mercantile License for 13 or more occupants be required to install an interior fire suppression sprinkler system within 18 months of adoption of this ordinance. The potential for fire increases substantially as the number of occupants increase, particularly if they are unrelated adults, which is the case in "party houses".

An Annual Fire Inspection of each residential rental home is a prerequisite to approval of a Mercantile License, and the suggested Inspection Fee is \$50.00 and a re-inspection fee of \$25 for compliance. The importance of this inspection cannot be over emphasized. The fact that building density, frame construction, and wood shingles prevail, plus a windy environment is an established danger.

We do not believe a tenant registration requirement from the city is required, but probably an owner issue.

We suggest an annual Tourist Utility Fee be \$100 per each rental unit for up to 8 occupants, increasing by \$20 for each additional occupant. The same Tourist Utility Fee of \$100 shall be applied to all Mercantile Licenses.

All applications, fees and inspections shall be submitted and inspected from Jan 1st to April 30th, and the approved licenses issued on or before May 31. Any application and inspection not completed on or before April 30th shall be considered Late, and a Late Fee of \$10. Both the Mercantile License and Fire Inspection shall be on display in each property, and be apart of all rental and lease agreements.

It is suggested that a detailed set of applications and compliance standards be established for a Mercantile License and Fire Inspection. These compliance standards should also be distributed to all property owners as basic information and safety suggestions for all to incorporate in their home maintenance. The compliance standards are the first line of life and property safety issues for the benefit of all residents and visitors.

The City will need to revisit and revise a set of code regulations, standards and procedures for non-compliance and violation. The penalties for violations should not be just a small monetary amount that the owner will consider a "cost of doing business"; but incident frequency accrual that would result in their Mercantile License revocation.

Separate but a part of these suggested changes is the need to develop a set of standards for the actual use and occupancy of all rental properties; and in particular the large "party houses"; dealing with the parking, noise, trash, recyclables, un-registered tenants/occupants/ visitors, outside parties/lighting/entertainment/hours/tents/catering/alcohol, etc.; and the potential for requiring separate permits; setting forth additional restrictions, controls and violations to protect and preserve the local area.

Time is of the essence, and a "Call To Action" is needed. We suggest the City appoint a committee to complete the study in 60 days and make recommendations for the Mayor and Council to consider. The goal being to adopt new Residential Mercantile License and Fire Inspection Ordinances that are effective for 2014.

Respectfully submitted:
Taxpayers Association of Cape May

Residential Mercantile License Study – South Jersey 2013

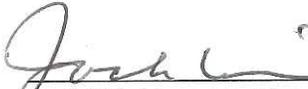
Prepared by Taxpayers Association of Cape May

Subject	CM	WC	SH	AV	SI	OC
ML Required	Y	Y	Y	Y	Y	Y
Term	1 yr	1 yr	1 yr	1 yr	1 yr	1 yr
Cost						
1 unit	\$75@	\$20@	\$100	\$150@	\$150@	\$30
2 units		#1	\$190		\$200	\$60
multi						\$125 #8
ML Inspection						
Required	N	Y/N	Y	Y	Y	Y/N
Fee		#2	\$50	#5	#6	#9
Reinspection Fee			\$25			
Late Fee			#4			
Fire Inspection						
Required	N	Y	Y	Y	Y	Y
Minimum Standards		Y	Y	Y	Y	Y
Fee		\$35 \$75 2-4	\$50	\$50-1 \$65-2	\$50	\$50
Reinspection Fee			\$25	\$25	\$25	\$25
Late Fee						\$10
Tenant Registration	N	N	Y	Y	N	N
Tourist Dev. Fee	\$50@	\$100@	N	N	\$50@	\$145-1 \$290-2 \$425-3-5
		#3			#7	

Special Notes:

- #1 - \$20 per each bedroom and/or sleeping area
- #2 – Mercantile Inspection; accuracy based on Fire Inspection and Assessor details
- #3 – Tourism Fee based on 50% of ML Fee not to exceed \$100, and 10% Late Fee
- #4 – Min. of 70sq.ft. for 1 occupant and min. of 50sq.ft. per occupant thereafter
- #5 – Based on Fire Inspection
- #6 – ML Application includes-Self-Inspection Form; physical inspection 1@ 10 years
- #7 – 33-1/3% of ML Fee not to exceed \$50
- #8 - ML Fee and Tourism Fee must be paid at same time
- #9 - \$100 Inspection Fee for Zoning Compliance on construction after 1996
subject to errors, omissions, and municipal changes

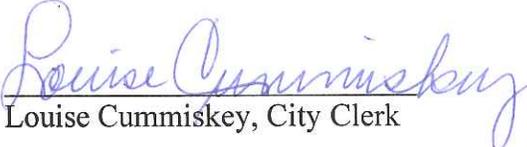

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