

**REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Tuesday, February 7, 2012, 1:00pm**

The regular meeting of City Council of the City of Cape May was called to order by Mayor Mahaney at 1:00 P.M. Tuesday, February 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 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.

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:

Mayor Mahaney requests that Resolution #54-02-2012 be removed from the Consent Agenda and added to the Closed session resolution.

Motion: Murray

Second: Fiocca

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

Councilmember Murray asks to discuss the Seat Advisor Resolution. Mayor Mahaney advises that Mr. Chait will provide a presentation prior to voting on that Resolution.

WORK SESSION DISCUSSION ITEMS

Smoking on the beaches of Cape May – Deputy Mayor Wichterman comments that he is in favor of passing an Ordinance which would ban smoking on the beaches in the City of Cape May. The Deputy Mayor comments that he has received many favorable comments regarding this proposed Ordinance and he asks for the opinions of his fellow Councilmembers.

Councilmember Swain advises the feedback she has received is very different and most people she has heard from are not in favor of a smoking ban. There is concern regarding enforcement and talk of fixing something that is not “broke.” She will not support a City Ordinance banning smoking on the beach.

Councilmember Murray echoes Ms. Swain’s comments and advises that most of the comments he received were negative. Mr. Murray would like to see a more definitive proposal and he also believes that enforcement would be a problem. He is not in favor of this Ordinance.

Councilmember Fiocca says that although she supports this Ordinance, she has received a mix of opinions regarding the ban. Ms. Fiocca foresees the problem of people smoking at the entrance to the beach if they are banned from smoking on the beach. She believes that would be more harmful than people smoking on the beach.

Mayor Mahaney applauds Mr. Wichterman’s efforts in pursuing this issue and believes it has some merit; however, the Mayor’s opinion today is similar to his three counterparts. The Mayor suggests that Mr. Wichterman work with the City Manager, a representative from the beach taggers, the beach patrol and the Police Department to look at this proposal through the 2012 summer season and see what might be feasible for 2013. The Mayor believes we should conduct a study and then educate the people.

Deputy Mayor Wichterman advises he will Chair the committee.

ENGINEER REPORT

Ray Roberts of RV approaches the table and offers his report, as follows:

Sanitary sewer repair on Washington Street – Mr. Roberts advises he has spoken to the Contractor who has advised that the work will be completed by the end of February.

FY 2011 Road Program – All utilities have been installed in Jefferson Street and the work is scheduled to be completed by February 10, 2012. The project is continuing down Corgie Street and three trees have been removed at the entrance to the Post Office. Some investigation has been performed as to services in the area and as a result, a Change Order will be prepared to reduce the quantities of material. Said Change Order will be presented to the City Manager by the end of the week.

Storage Tanks at Canning House Lane – Case #23 has been completed and a corrective Deed Notice and all final paperwork has been submitted to the NJDEP. As to Case #48, a Deed Notice

is being prepared and should be submitted to the City within two weeks. Thereafter, a Response Action Outcome will be completed for filing with the County by the end of March, 2012.

Water Tank – Bid Documents are being prepared and the advertisement for bids will be published on March 24, 2012 with the bid opening on April 26, 2012. Several phases will follow with a construction completion date of May 13, 2013.

Carpenters Lane – The Contractor is in the process of opening up the concrete and sidewalk for installation of the electrical conduit. Thereafter, he will install the new curb and sidewalk. The Contractor will concentrate on completing Carpenters Lane, then Franklin Street Community Center and then the two ramps at the beach.

Grants – We are awaiting award determination on the 2012 Small Cities Grant and the 2012 Municipal Aid Grant.

2012 Road Utility Program – This project will be done in two phases. The first phase will be Cape May Avenue from Madison to Reading. We will be advertising for bids tomorrow and the work is anticipated to be complete by Memorial Day.

City Hall Rehabilitation – Discussions have been ongoing and a contract has been submitted to the City for consideration. The intent is to have the building renovation complete by the end of this year. This renovation includes the roof, the windows and the masonry work.

Beach Maintenance Permit – Forms have been completed and a full application has been submitted to the DEP. We are awaiting approval.

Mayor Mahaney asks for a projected date for the receipt of the DEP approval. Mr. Roberts advises he will check and get back to us.

Deputy Mayor Wichterman requests that if any trees are involved in future road work projects, that RV notify the Shade Tree Commission.

CITY MANAGER ITEMS

Discussion regarding Jazz Aerobics. Mr. MacLeod advises that effective January 1, 2012, the City increased its fee for all exercise classes from \$4.00 to \$5.00. Prior to said increase, the Jazz Aerobics participants were permitted to purchase a punch card at a cost of \$30.00 that allowed them to attend ten classes for the \$30.00 fee. Part of the change on January 1, 2012 was to eliminate the punch card which increased the fee by \$2.00 for the people who formerly purchased the punch card and as a result, some members of the Jazz Aerobics class attended the January 17, 2012 City Council Meeting to express their concerns. Mike Chait and Jean Whalen met with the class participants on at least two separate occasions, to gather information in an effort to resolve the matter. Alternative venues were offered to the participants but the class members advised there was a social aspect that they enjoyed when attending class. They also like the instructor. Mr. MacLeod advises that the City must manage all of the recreation programs in such a way as they will achieve a self-liquidating status. He confirms that the City

researched what neighboring municipalities charge to feel comfortable with the \$5.00 fee currently being charged.

Based upon the aforementioned review process and in conjunction with discussions with the class participants, Mr. MacLeod proposes the institution of a pre-paid class card whereby a person may purchase a sheet of tickets that can be cut out and turned in each time they attend a class at a pre-paid price of \$40.00 for ten classes. The cards may not be carried over and the year will be divided into two six month periods: January 1st through June 30th and July 1st through December 31st. The aforementioned compromise was appreciated by the Jazz Aerobics participants.

Mayor Mahaney allows for 15 minutes of public comment on the issue.

Dottie Rogers 201 South Broadway, Cape May, NJ advises that the issue of the increased fee for Jazz Aerobics was stressful for her and she decided to join Miracle Fitness. She advises that Miracle Fitness is cheaper and she has fifteen classes to choose from and she also has the option of using all of the equipment.

Claudia Von Savage, West Cape May, NJ advises that she has been an instructor at Cape May Jazzercise for 16 years. She is very happy for the compromise and thanks Jean and Mike for taking the time to talk to them.

ATTORNEY ITEMS

E-mail policy – City Solicitor Monzo offers an overview of his suggestion to adopt a City policy concerning emails. He believes the City should be proactive regarding this issue and he has prepared a Resolution which would provide Council with guidance as to the appropriateness of certain emails.

Councilmember Murray believes it is a good idea to have a policy concerning emails.

Mayor Mahaney asks council to contact either Mr. Monzo or Ms. Weldon with any comments or concerns.

CLERK'S ANNOUNCEMENTS

Ms. Weldon announces that the School Board is meeting on February 9, 2012 and they have a Resolution on their agenda, which if adopted, will change School Board Elections from April to November. Also, the City has been able to consolidate our voting districts so districts one, two and three will all be located at Our Lady Star of the Sea Parish Hall.

REGULAR MEETING BUSINESS:

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

46-02-2012 Resolution approving settlement of Tax Appeal Litigation known as Robert C. Rumsey v. Cape May City

- 47-02-2012 Release of performance guarantee for 718 Madison Avenue
- 48-02-2012 Resolution authorizing utility bill adjustments due to catastrophic occurrences
- 49-02-2012 Resolution declaring certain items as surplus property and authorizing sale of same
- 50-02-2012 Resolution providing for the insertion of a special item of revenue in the budget pursuant to Chapter 159, PL 1948
- 51-02-2012 Resolution of the City of Cape May providing for a meeting not open to the public in accordance with the provisions of the NJ Open Public Meetings Act, *NJSA10:4-12* – Contract negotiations for the acquisition of real estate formally known as Vance’s Bar; rental agreements for the use of Convention Hall
- 52-02-2012 Resolution to approve submission of grant application for Coastal Blue Acres Post Storm acquisition project
- 55-02-2012 Resolution supporting application of East Cape May Associates for approval by U.S. Army Corp. of Engineer
- 56-02-2012 Payment of Bills
- 57-02-2012 Resolution authorizing Change Order No. 4 for Contract with Ogren Construction for Construction of New Convention Hall

Motion: Murray

Second: Wichterman

Roll Call:

Fiocca	Yes
Murray	Yes
Swain	Yes
Wichterman	Yes
Mahaney	Yes

Mayor Mahaney asks Mike Chait to come to the podium to explain the ticketing system.

Mr. Chait advises that he performed a multitude of research with a variety of different companies that offer ticketing services and as a result, Seat Advisor, Inc. offered the best fit for the City’s needs. Seat Advisor is an internet based, box office management system which is very similar to other internet based systems. A customer will be able to purchase their ticket(s) with cash and/or a credit card and once purchased, the Seat Advisor component will capture the data from the purchaser and will have the ability to issue a wide variety of reports. Those reports will aide the City in the promotion of the events which will be offered at Convention Hall. This website will offer customized packages, bundled packages and will be ADA compliant and will offer a shopping cart option. Seat Advisor, Inc. will offer full 24/7 customer service support.

Councilmember Murray thanks Mr. Chait for a great presentation. He asks if Stockton is using Seat Advisor and whether the equipment we purchase will be the property of the City of Cape May and the response is yes to both questions.

Mayor Mahaney asks Mr. Chait to explain the importance and benefit of scanners in terms of data development and he complies.

53-02-2012 Resolution approving an agreement between the City of Cape May and Seat Advisor, Inc. to provide ticketing services for Convention Hall.

Motion: Wichterman

Second: Fiocca

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

MINUTES:

Worksession/Regular Cape May City Council meeting minutes dated January 17, 2012

City Council Closed Session Meeting Minutes dated January 17, 2012

Special City Council meeting minutes dated January 18, 2012

Motion: Mahaney

Second: Wichterman

Roll Call:

Fiocca Yes

Murray Yes

Swain Yes

Wichterman Yes

Mahaney Yes

Special Joint Cape May City Council and the Cape May City Planning Board meeting minutes dated January 24, 2012

Motion: Mahaney

Second: Fiocca

Roll Call:

Fiocca Yes

Murray Abstain

Swain Yes

Wichterman Abstain

Mahaney Yes

Special City Council meeting minutes dated January 26, 2012

Motion: Wichterman

Second: Swain

Roll Call:

Fiocca Abstain

Murray Abstain

Swain Yes

Wichterman Yes
Mahaney Yes

REPORTS RECEIVED BY THE CLERK:

Planning Board Meeting Minutes dated January 10, 2012
Zoning Board of Adjustment Meeting Minutes dated November 10, 2011
Zoning Board of Adjustment Meeting Minutes dated October 27, 2011
Housing Authority Regular Meeting Minutes dated December 19, 2011

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

UNFINISHED BUSINESS:

NEW BUSINESS:

- A) City Attorney
- B) City Manager – Mr. MacLeod advises that there will be two bid openings for Convention Hall, one on Thursday February 9, 2012 for the installation of Solar Panels and the second on February 22, 2012 for the acquisition and delivery of the Portable Stage. As a reminder, the 2012 Budget will be introduced at the Council Meeting on February 21, 2012.
- C) City Clerk – Ms. Weldon advises that there will be a Public Hearing for Blue Acres at the meeting of February 21, 2012.
- D) Councilmembers – Mr. Wichterman thanks the AC Press and the Herald for the excellent articles about our new Convention Hall.

Ms. Fiocca asks about our AM radio station and Mr. MacLeod advises that we are currently in the process of relocating the distribution point of the information placed on that station. There are several specific pieces of equipment that are needed to do that and Mr. MacLeod is hoping that active service will be restored within the next several weeks.

Mayor Mahaney advises that two additional concerts have been booked at Convention Hall. On July 7, 2012, the Fralinger String Band will perform and on September 1, 2012, the South Philadelphia String Band will perform.

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.

Daniel Kurkowski, 807 Corgie Street, Cape May, NJ comments about smoking on the beach. Mr. Kurkowski agrees that cigarette butts are bad for the environment and believes we need to

enforce littering laws, not ban people from smoking on the beach. He believes that a total restriction goes too far and could lead to litigation.

George Costich, 608 Washington Street, Cape May, NJ would like to see a law which would prohibit smoking indoors in B&Bs, Hotels and Motels.

John Cook, 223 Congress Place, Cape May, NJ comments that the Chamber of Commerce opposed the past ban on smoking because it was all encompassing. Mr. Cook advises that the chamber will work with Deputy Mayor Wichterman on a new Ordinance that is not all encompassing. Mr. Cook applauds Mr. Chait's proposal for the ticketing system. He advises that Churchill Downs uses the same system and further advises that the Chamber of Commerce would like to promote all events being held at Convention Hall.

Bernie Haas, 1016 Illinois Avenue, Cape May, NJ asks Deputy Mayor Wichterman if there is a public outcry to ban smoking on the beach. Mr. Wichterman advises there is not. Mr. Haas then asks about Officer Tony Genaro and the Dare Program and where the program stands today. Mr. MacLeod responds that the Dare Program is still functioning under a modified schedule, which began after the Christmas holiday break and which will run until May. Finally, Mr. Haas advises that the Beach Theatre Foundation paid the City almost 25% of the money borrowed.

COUNCIL & CITY MANAGER COMMENTS

Motion made by Murray, seconded by Wichterman to go into Closed. Session. The regular meeting adjourned at 2:45 P.M.

CLOSED: Negotiations – acquisition of real estate known as Vance's Bar and Rental Agreements for Convention Hall.

Motion made by Councilmember Fiocca to go back into open session at 3:34 P.M.

54-02-2012 Resolution approving four rental agreements for use of Convention Hall-Closed session. This Resolution was not voted upon. No action taken.

Motion made Councilmember Fiocca to adjourn. The meeting adjourned at approximately 3:40 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