

MARCH 28, 2011

A Special Regular Meeting of the Manasquan Mayor and Council was held on March 28, 2011 at 7:00 p.m., in the Council Chambers of Borough Hall.

Mayor Dempsey related that this meeting is being held in accordance with the Open Public Meetings Act of 1975 and that notice was given to the Coast Star and posted on the website March 7, 2011.

ROLL CALL: Present: Council Members Connolly, Donovan, Grasso, Lee, Lucas, and McCarthy

Absent: None

Mayor Dempsey welcomed the audience and invited them to join in a moment of silent prayer and a salute to the Flag.

Also present was Joseph Delorio, Administrator and CMFO

CONSENT AGENDA:

**RESOLUTION
84-2011**

WHEREAS, it shall become necessary to expend for some of the purposes specified in the budget, an excess of the respective sums appropriated, and

WHEREAS, there is an excess in one or more appropriation reserve over and above the amount deemed necessary to fulfill the purposes of such appropriations, and

WHEREAS, N.J.S.A. 40A:4-59 provides for the transfer of such amounts deemed in excess, to appropriations the amount of which are deemed to be insufficient to fulfill the purpose of such appropriations, and

WHEREAS, the transfers about to be authorized do not affect any appropriation reserves to which or from which transfers are prohibited under the statutes, and

NOW, THEREFORE BE IT RESOLVED that the following transfers between appropriation reserves to be authorized pursuant to N.J.S.A. 40A:4-59:

BE IT FURTHER RESOLVED by the Borough Council of the Borough of Manasquan, County of Monmouth, and State of New Jersey, that the following transfer be authorized:

CURRENT FUND

TO:

| | |
|-------------------------------|-----------------|
| Code Enforcement S/W | 1,000.00 |
| Uniform Construction Code S/W | 1,300.00 |
| Police S/W | 10,300.00 |
| Contingent | 1,000.00 |
| Employee Group Insurance | 7,500.00 |
| Social Security | <u>2,000.00</u> |
| Total | \$23,100.00 |

FROM:

| | |
|-------------------------|-----------------|
| Administrators S/W | 500.00 |
| Zoning S/W | 500.00 |
| Electrical Sub-Code S/W | 800.00 |
| Plumbing Sub-Code S/W | 800.00 |
| Police Other Expense | 4,000.00 |
| Streets and Roads S/W | 4,000.00 |
| Municipal Court | 4,500.00 |
| Landfill Costs | <u>8,000.00</u> |
| Total | \$23,100.00 |

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BE IT FURTHER RESOLVED, that a copy of this resolution be filed forthwith with the Chief Financial Officer.

Council Member Lucas made a motion to approve the resolution, seconded by Council Member McCarthy. Roll call was taken and the motion carried unanimously.

**RESOLUTION
81-2011**

WHEREAS, N.J.S.A. 40A:11-5 (1) (a) (1) permits the governing body to award a professional services contract without publicly advertising for bids and bidding therefore; and

WHEREAS, the borough council has determined that there is a need for professional services during the 2009 calendar year; and

WHEREAS, the borough council has determined to provide the need to acquire these professional services as a non-fair and open contract pursuant to the provisions of N. J. S. A. 19:44A-20.5; and

WHEREAS, the chief municipal financial officer of the municipality has determined and certified in writing that the value of these professional services will exceed \$21,000; and

WHEREAS, the anticipated term of this contract is one year (March 28, 2011 to December 31, 2011); and

WHEREAS, the following professional services providers have submitted proposals indicating that they will provide their services for the agreed upon rate (s) that are contained in their proposals/contracts that are on file in the Clerk's Office.

Borough Attorney - Mark G. Kitrick

These appointments are made pursuant to N. J. S. 2B:12-1 et seq.

WHEREAS, a certification as to the availability of funds executed by the chief financial officer is attached to this resolution pursuant to the provisions of N. J. A. C. 5:30-5-4;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Manasquan, Monmouth County, New Jersey, on this 28th day of March, 2011 as follows:

1. The Business Disclosure Entity Certification of these professionals and the Determination of Value Certification of the chief financial officer shall be filed in the office of the municipal clerk, and shall be available for public inspection.
2. The Mayor and Municipal Clerk are hereby authorized and directed to execute a contract with these professionals to provide professional services to the municipality for the 2011 contract year at the agreed upon rate that is contained in the contract/proposal on file in the Clerk's Office.
3. A notice stating the nature, duration, service and the amount of this contract shall be published in the Coast Star and this resolution shall be maintained on file and available for the public inspection in the office of the municipal clerk.
4. A certified copy of this resolution shall be sent to the professionals included in this resolution.

Council Member McCarthy made a motion to nominate Mark Kitrick as Borough Attorney, seconded by Council Member Donovan.

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Mayor Dempsey asked if there was any discussion on this matter before the roll call.

Council Member Grasso stated to the audience and to the people of Manasquan that this past year has been very interesting and very productive. He advised that a new Administrator/CFO was hired and has done an excellent job in the short period that he has been here. He advised that a new Code Enforcer has been hired and he is doing a great job and he has been very responsive and helpful. He advised that a new Clerk has been hired and she has done an excellent job as a team member with the Administrator/CFO. He advised that a new payroll clerk has been hired and she is working out tremendously and a very good asset to Mr. Delorio as far as finding ideas. He stated that the Department Supervisors are working excellently with the new administrator. He stated that there is a great team here and we are in the process of voting for an attorney. He stated that the past attorney was appointed and he stated that he will leave it at that. He advised that this attorney that will be working with the Borough for 8 months has to work with the Clerk and the Administrator in concert to help them to help the town. He stated that the decision that is made tonight is critical because the team is almost finished.

Council Member Connolly stated that she finds the nominee, Mr. Kitrick, lacking in experience as a Borough Attorney. She advised that he has just had one town that he has represented and primarily he does real estate in his office in Wall. She stated that she does not think he is appropriate for the Borough of Manasquan to be the Borough Attorney.

Council Member McCarthy stated that he agrees with Council Member Grasso as far as the Borough Attorney being an important position and he thinks that after speaking with people that know Mr. Kitrick he believes he is qualified for the position. He stated that Mr. Kitrick will be available as needed and that is the number one issue that is important for whoever is hired.

Council Member Donovan stated that he also believes that Mr. Kitrick has the requisite knowledge and experience as a Borough Attorney. He advised that several qualified candidates were interviewed and several of them that would be a great Borough Attorney but he thinks that Mr. Kitrick comes to the top of the list.

Motion carried by the following vote; "yes" Council Member Donovan, Lee, McCarthy, "no" Council Member Connolly, Grasso, Lucas. Mayor Dempsey voted in favor of Mark Kitrick to break the tie. The motion carried.

Council Member Donovan made a motion to open the meeting to the public, seconded by Council Member Lee. Motion carried unanimously.

Resident of Ocean Ave. stated that she would like to remind the Mayor and Council, if she recalls in the past, the Borough did have attorneys who were not qualified and then other people were hired to do the job. She stated that she does not know the gentleman that was recommended but would like clarification of a comment with regards to Mr. Kitrick being able to do the job without costing us more money as it did in the past.

Council Member McCarthy responded since the resident was looking at him. He stated that as an attorney with 13 years experience he is confident that Mr. Kitrick will be able to handle the job.

Resident of Ocean Avenue stated that real estate law is quite different from municipal law.

Council Member McCarthy stated that he agrees and that if Mr. Kitrick only had real estate background he would not have nominated him. He stated that this information was stated in his resume and he has confidence in him.

Resident of Ocean Avenue commented that it is nice to see a spirit of cooperation and Manasquan moving forth as a whole. She stated that she feels that this is a very complimentary council and she has good feelings about them working for the citizens and not for individual parties or agenda.

Randi Quilici, 129 Glimmer Glass Circle, asked how long the contract for the attorney is.

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Mayor Dempsey stated that it would be for the balance of 2011. He stated that at that time he could be renewed or the Borough can advertise for a new attorney.

Council Member Donovan stated that a Borough Attorney is appointed every year.

Ms. Quilici asked if there is a probation period because in business they offer 3 month probation and would the Council consider this.

Mayor Dempsey stated that there is no probation period and that it is not considered because the attorney signs a contract with the Borough for 1 year.

Ms. Quilici asked what the salary would be for Mr. Kitrick.

Council Member McCarthy stated that it would \$125 an hour. He stated that there are other restrictions in place concerning probationary periods for attorneys. He advised that if there was a major reason that the Borough found him to be unsatisfactory the Borough retains the right to terminate his employment with cause as the Borough does with just about every other professional.

Ms. Quilici asked if there is a primary role as an attorney or when he takes on this job or is he just handling everything that is given to him.

Council Member McCarthy stated that he is the legal counsel for the Borough of Manasquan. He primarily deals with the Clerk and Administrator concerning the work that happens before the Council meetings. He stated that if there are lawsuits filed against the Borough depending upon the nature of the action but there are certain claims that he will defend the Borough on. He advised that if the Borough wanted to bring a claim he would be used for that situation.

Ms. Quilici asked how many lawyers applied for this job.

Mayor Dempsey stated about 14 or 15.

Council Member Grasso stated that the Borough appointed a lawyer last year to represent this town because he was conveniently in our town. He stated that the Borough just appointed another attorney because he is available not because he is good. He stated that he has real exceptions to that and that it is an 8 week period, we will see where it takes us.

Council Member Donovan stated that he disagrees with Council Member Grasso. He stated that he does not believe that is the reason that we hired Mr. Kitrick.

Council Member Grasso stated that was what Council Member McCarthy said.

Council Member McCarthy stated he believes Council Member Grasso is putting words in his mouth. He stated that one of the reasons is that he will be available to our staff and that it is one of the important reasons that were discussed.

Council Member Grasso stated that Mr. Zabarsky said the same thing that he had 9 paralegals.

Mayor Dempsey stated that it is over and voted upon. He asked Ms. Quilici if she had any other questions.

Ms. Quilici did not have any further questions.

John Tischio, 17 Meadow Avenue asked how long the term for the attorney would be.

Council Member Donovan stated that it would be from today until the end of the year.

Mr. Tischio asked if a situation arises and the Borough needs other council to handle it, such as collective bargaining or whatever will the Borough go outside or will Mr. Kitrick handle this.

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Council Member Lee advised Mr. Tischio that if it is something like COAH, the Borough has COAH counsel.

Council Member Donovan advised Mr. Tischio of Mr. Kitrick's extensive background.

Mario Gentile, 65 Ocean Avenue stated that when Mr. Fitzsimmons was the Borough Attorney he did most of the negotiation and everything else for the Borough.

Mayor Dempsey stated that was correct.

Council Member Donovan stated that Mr. Fitzsimmons was not the Borough's Bond Counsel, COAH Counsel, or Planning Board Attorney. He stated that Mr. Fitzsimmons did do the Labor Negotiations.

Mr. Gentile asked if this attorney is going to do the labor negotiations.

Mayor Dempsey stated that this council voted unanimously to hire Mr. Holzapfel to do the labor negotiations this year.

Mr. Gentile stated that is because Mr. Kinneally didn't know how to do labor law.

Mayor Dempsey stated that Mr. Kitrick will handle the Labor Law.

Council Member Donovan stated that was not the case. He stated that what was done originally was to try and get an attorney who was equivalent to Mr. Locke who represents the PBA. He stated that Mr. Locke represents about 100 PBAs, State Police and contract negotiations and he has access to a vast array of intelligence when he goes into arbitration.

Mr. Gentile wanted to know how many contract negotiations there are in the town.

Council Member Donovan stated that there are Blue Collar Workers, White Collar Workers, Crossing Guards, Police, DPW and dispatchers.

Council Member Grasso stated that Mr. Zabarsky works for Mr. Holzapfel and he is the one that he wanted.

Council Member Donovan made a motion to close the public portion, seconded by Council Member McCarthy. Motion carried unanimously.

Council Member Donovan made a motion to adjourn the regular meeting at 7:30 p.m., seconded by Council Member McCarthy. Motion carried unanimously.

Respectfully submitted,



Barbara J. Ilaria
Deputy Municipal Clerk

DATE APPROVED 8-15-11