

JANUARY 25, 2014

Regular Meeting of Mayor and Council was convened at 9:60 a.m. on January 25, 2014 in Council Chambers of Borough Hall with Mayor George Dempsey presiding.

Mayor Dempsey's statement re: Open Public Meetings Act of 1975 and that notice was given to the Coast Star and the Asbury Park Press on January 21, 2014 and that the meeting scheduled for January 21, 2014 had been cancelled due to inclement weather and re-scheduled for this meeting and that notice was given to the Coast Star and the Asbury Park Press for the original meeting date on December 30, 2013.

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

ROLL CALL: Present: Council Members Bossone, Sinneck, Donovan, Mangan, Olivera and McCarthy

Absent: None

Also present was Borough Attorney Mark Kitrick Borough and Administrator/CFO Joseph DeIorio

Council Member McCarthy made a motion to add Resolution 44-2014 Authorizing the Mayor to Sign Memorandum of Agreement with the Dispatchers to the Consent Agenda, seconded by Council Member Bossone. Motion carried unanimously.

Council Member Bossone made a motion to add Resolution 43-2014 Declaring TQM in Default of their contract to the Consent Agenda, seconded by Council Member McCarthy. Motion carried unanimously.

APPOINTMENT: Office of Emergency Management – Members

Mayor Dempsey made the following appointments:

Borough Engineer, Maser Consulting P.A.
(Term 1/1/2014 – 12/31/2014)

Administrator, Joseph DeIorio
(Term 1/1/2014-12/31/2014)

CONSENT AGENDA

**RESOLUTION
30-2014**

CLOSE OF CONTRACT

BE IT RESOLVED, by the Mayor and Council of the Borough of Manasquan, Monmouth County, New Jersey that the contract for the Warren Avenue and Perrine Boulevard Improvements was constructed by Mixalia Enterprises, LLC, in accordance with the Plans and Specifications and any approved Change Orders, as directed by the Borough Engineer. The Contractor has supplied a 25% Guarantee Bond for a period of two (2) years from September 1, 2013. The Borough Engineer has determined that said construction is hereby accepted and has recommended final payment in the amount of Twenty Six Thousand Three Hundred Ninety dollars and Twenty One Cents be approved for a total amount completed of Five Hundred Seventy One Thousand Three Hundred Seven Dollars and Seventy Nine Cents (\$571,307.79).

**RESOLUTION
31-2014**

BE IT RESOLVED by the Council of the Borough of Manasquan, County of Monmouth, State of New Jersey that:

WHEREAS, a refund of monies is due to the following:

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NAME: Mr. Stuart Bury
395 First Ave
Manasquan, NJ 08736

AMOUNT OF REFUND DUE: 753.12

REASON FOR REFUND: Remaining Developer's Escrow – 186.01/12
A#04-2010

NOW, THEREFORE, BE IT RESOLVED that the Chief Financial Officer is hereby authorized and directed to draw a warrant in the said amount to the above listed refunds with said warrant to be charged against the General Ledger.

**RESOLUTION
32-2014**

BE IT RESOLVED by the Council of the Borough of Manasquan, County of Monmouth, State of New Jersey that:

WHEREAS, a refund of monies is due to the following:

NAME: John Weiss
462 Long Ave
Manasquan, NJ 08736

AMOUNT OF REFUND DUE: 875.00

REASON FOR REFUND: COAH Refund – National Disaster
Blk. 174 Lot 11.0

NOW, THEREFORE, BE IT RESOLVED that the Chief Financial Officer is hereby authorized and directed to draw a warrant in the said amount to the above listed refunds with said warrant to be charged against the General Ledger.

**RESOLUTION
33-2014**

BE IT RESOLVED, that the Hon. George R. Dempsey, Jr., Mayor of the Borough of Manasquan, be and is hereby authorized to sign the Modification To Agreement # 13A-12 between The Borough of Manasquan and the County of Monmouth for the Shore Community Alliance Budget timeline

**RESOLUTION
34-2014**

BE IT RESOLVED by the Borough Council of the Borough of Manasquan, Monmouth County, New Jersey, that the application of Coastal Restaurant Group, LLC, d/b/a Edgar's Pub, for an Amusement Game License to operate an Amusement Game at 153 Sea Girt Avenue, Manasquan, New Jersey for the year 2014 is hereby approved and accepted.

BE IT FURTHER RESOLVED, that the Borough Clerk is instructed and authorized to issue a

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license, that is,

<u>NAME OF APPLICANT</u>	<u>ADDRESS OF PREMISE TO BE LICENSED</u>	<u>TYPE OF GAME AND LICENSE</u>
Edgar's Pub	153 Sea Girt Avenue Manasquan, NJ 08736	Golden Tee Golf

**RESOLUTION
35-2014**

BE IT RESOLVED by the Council of the Borough of Manasquan, County of Monmouth, State of New Jersey that:

WHEREAS, a refund of monies are due to the following:

NAME: TARRY BROTHERS REMODELING & BLDG LLC
22 BLUEBIRD ROAD
HOLLAND, PA 18966

AMOUNT OF REFUND DUE: \$500.00

REASON FOR REFUND: DUMPSTER SECURITY-TRP#122
127 OCEAN AVE

NOW, THEREFORE, BE IT RESOLVED that the Chief Financial Officer is hereby authorized and directed to draw a warrant in the said amount to the above listed refunds with said warrant to be charged against the General Ledger.

**RESOLUTION
36-2014**

BE IT RESOLVED, that the Hon. George R. Dempsey, Jr., Mayor of the Borough of Manasquan, be and is hereby authorized to sign the Agreement Between The Borough of Manasquan and the Manasquan P.B.A. Local No. 284 effective January 1, 2013 through December 31, 2016

**RESOLUTION
37-2014**

WHEREAS, through Executive Order 104 (October 27, 2012), the State of New Jersey declared a State of Emergency as a result of the impact of Super Storm Sandy and the aftermath; and

WHEREAS, the Borough of Manasquan had also declared a local State of Emergency; and,

WHEREAS, 60% of the community's housing stock was affected by flood, sand and wind damage from Super Storm Sandy; and,

WHEREAS, the need to address the magnitude of the current volume of work is critical and necessary; and,

WHEREAS, the Borough's Code Department is in need of additional hours from the Zoning Officer and Construction Officer to help address the current work load.

NOW, THEREFORE BE IT RESOLVED on the 25th day of January, 2014, by the Borough Council of the Borough of Manasquan, in the County of Monmouth and State of New Jersey as follows:

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1. Richard Furey, Zoning Officer is authorized to work two (2) additional days a week, retroactive to January 1, 2014.
2. Albert Ratz, Construction Official is authorized to work one (1) additional a day a week, retroactive to January 1, 2014.
3. A certified copy of this resolution shall be sent to the Zoning Officer and Construction Official.

**RESOLUTION
38-2014**

BE IT RESOLVED by the Council of the Borough of Manasquan, County of Monmouth, New Jersey that The Irish Rail, is the owner of a business located in the Borough of Manasquan that has been billed and has paid the water/sewer rents since April 2007, and

WHEREAS, the Water/Sewer Collector of the Borough of Manasquan has determined that the number of water/sewer charges is incorrect and The Irish Rail had been over-billed for one (1) water/sewer service charge since April 2007, and has therefore over-paid by \$3,010.50, and

WHEREAS, Mark Collins partner in The Irish Rail has requested that in lieu of a refund a credit be issued to his account for the total amount of the over-billing, and

WHEREAS, a credit for erroneous water/sewer payments is due on the below described property in the amount designated as follows:

ACCOUNT # 128800-2 BILLING NAME: The Irish Rail

PROPERTY LOCATION: 229 E Main Street #2

AMOUNT OF CREDIT: \$3,010.50

REASON FOR CREDIT: Credit for erroneous water/sewer payment service charge.

CREDIT TO BE APPLIED TO THE BENEFIT OF: The Irish Rail

WHEREAS, the Water/Sewer Collector has certified that the claimant is entitled to the credit.

NOW, THEREFORE, BE IT RESOLVED that the Borough Water/Sewer Collector is hereby authorized and directed to issue a credit to the above listed account with said credit to be charged against the General Ledger.

**RESOLUTION
39-2014**

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 therefor; and

WHEREAS, the borough council has determined that there is a need for professional services during the 2014 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 (January 21, 2014 to December 31, 2014); and

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WHEREAS, the following professional services provider has 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.

Special Project Borough Engineering Services – T&M Associates

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 25th day of January, 2014 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 this professional to provide professional services to the municipality for the 2014 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.

**RESOLUTION
40-2014**

WHEREAS, the Governing Body of the Borough of Manasquan received a notice from the President of the Manasquan Municipal Workers Association (Public Works) and the Shop Steward from the Office and Professional Employees International Union (OPEIU) requesting a amendment in the list of holidays for the Year 2014, and

WHEREAS, both units requested to relinquish the Lincoln's Birthday holiday scheduled for Wednesday February 12, 2014 in lieu of a holiday scheduled for Friday December 26, 2014, and

WHEREAS, it has been past practice that such a request must be agreed by from both unions before consideration by the Governing Body, and

WHEREAS, the letters submitted, meet this request, and

WHEREAS, the total number of contractual holidays for the year 2014 remains unchanged, and

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Manasquan authorize at change in the Borough holiday schedule for the OPEIU and Blue Collar Association from February 12, 2014 to December 26, 2014, and

BE IT FURTHER RESOLVED, that the Governing Body authorizes the Municipal Clerk to post these changes in the 2014 holiday schedule to reflect that borough offices will be open on February 12, 2014 and closed December 26, 2014.

**RESOLUTION
41-2014**

BE IT RESOLVED by the Council of the Borough of Manasquan, County of Monmouth, State of New Jersey that:

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WHEREAS, a refund of monies is due to the following:

NAME: Henry & Maureen Gavan
126 Fletcher Ave
Manasquan, NJ 08736

AMOUNT OF REFUND DUE: 783.50

REASON FOR REFUND: Developer's Escrow Refund #30-2013
126 Fletcher Ave, Manasquan, NJ 08736

NOW, THEREFORE, BE IT RESOLVED that the Chief Financial Officer is hereby authorized and directed to draw a warrant in the said amount to the above listed refunds with said warrant to be charged against the General Ledger.

**RESOLUTION
42-2014**

BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MANASQUAN, IN THE County of Monmouth, New Jersey (not less than three (3) members thereof affirmatively concurring) as follows:

1. All bills or claims as reviewed and approved by the Administration & Finance Committee and as set forth in this Resolution are hereby approved for payment.
2. The Mayor, Municipal Clerk and Chief Financial Officer are hereby authorized and directed to sign checks in payment of bills and claims which are hereby approved.

The computer print-out of the list of checks will be on file in the Clerk's Office.

Current Fund	2,823,237.81 (Includes BOE Taxes of 2,531,007.00)
Water/Sewer Fund	406,657.87
Beach Fund	74,667.26
General Capital Fund	17,533.16
Water/Sewer Capital Fund	25,820.75
Beach Capital Fund	5,281.75

**RESOLUTION
43-2014**

WHEREAS, the Borough of Manasquan entered into a contract with TQM Construction Corporation, for the construction of a Beach Headquarters Building which contract was executed by both parties on November 28, 2012; and

WHEREAS, TQM Construction Corporation, is deemed to be in default of the terms of this contract; and

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WHEREAS, the contract work was originally required to be completed by April 1, 2013. Thereafter, an extension of the contract was granted providing a completion date of May 24, 2013. The work under the contract was not completed by the final revised completion date of May 24, 2013 and remains incomplete today despite repeated demands for TQM Construction Corporation to satisfactorily complete the project in a timely fashion.

WHEREAS, as a result of TQM Construction Corporation's failure to complete the project and poor workmanship, the Borough of Manasquan has incurred substantial additional costs and will continue to incur additional costs in order to complete the Beach Headquarters Building.

WHEREAS, the Borough Attorney, Mark G. Kitrick has issued numerous letters to TQM Construction Corporation demanding completion of the project;

WHEREAS, the Construction Manager for the Beach Headquarters Building, P.W. Moss & Associates has executed a Recommendation for Termination dated January 22, 2014. This recommendation advises the Borough of Manasquan that TQM Construction Corporation failure and neglect under the contract are of sufficient seriousness and gravity for the Borough of Manasquan to declare TQM Construction Corporation in material breach of the contract and the contract documents pursuant section GC.21.4, "Annulment of Contract" of the Contract Documents. This provision in the Contract Documents permits the owner to take prosecution of the work out of the hands of the contractor; and

WHEREAS, T&M Associates, the site design engineer for the above referenced project, and serving as Borough Engineer during the period of construction of the Beach Headquarters Building, rendered an opinion dated January 23, 2014 stating that TQM Construction Corporation violated the requirements of section GC.10.3 of the contract entitled "Workmanship Required". Furthermore, T&M Associates opined that the Borough proceed under section GC.21.4 of the contract entitled "Annulment of Contract".

NOW, THEREFORE, BE IT RESOLVED, pursuant to both the recommendation of the Construction Manager and the recommendation of the Borough Engineer, and further pursuant to section GC.21.4, "Annulment of Contract" of the Contract Documents that TQM Construction Corporation is hereby declared in default of the contract entered into with the Borough of Manasquan on November 28, 2012.

**RESOLUTION
44-2014**

BE IT RESOLVED, that the Honorable George Dempsey, Jr., Mayor of the Borough of Manasquan, be and is hereby authorized to sign the Memorandum of Agreement with the Manasquan Dispatchers Association.

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Council Member Donovan made a motion to approve the Consent Agenda, seconded by Council Member Mangan. Motion carried by the following vote "yes" Council Member Bossone, Sinneck, Donovan, Mangan, Olivera, and McCarthy, "no" none.

ORDINANCES

The Borough Attorney read the title of ordinance 2147-14 for Introduction and advised that the second reading will be held on February 4, 2014 to accommodate the 10 day period between first reading and second reading and final hearing.

AN ORDINANCE FIXING THE SALARY RANGE AND COMPENSATION FOR CERTAIN EMPLOYEES OF THE POLICE DEPARTMENT

Council Member Sinneck made a motion to introduce ordinance 2147-14, seconded by Council Member Donovan. Motion carried by the following vote "yes" Council Member Bossone, Sinneck, Donovan, Mangan, Olivera, and McCarthy, "no" none.

The Borough Attorney read the title of ordinance 2148-14 for Introduction and advised that the second reading will be held on February 4, 2014 to accommodate the 10 day period between first reading and second reading and final hearing.

ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 2 (ADMINISTRATION) SECTION 2-65 (FEES CHARGED FOR MUNICIPAL SERVICES) AND CREATING SUBSECTION 2- 65.3 (PAYMENT OF TAXES, SPECIAL ASSESSMENTS, WATER AND SEWER BILLS) OF THE BOROUGH OF MANASQUAN CODE IN THE BOROUGH OF MANASQUAN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Council Member Olivera asked that this ordinance be explained.

Mr. DeIorio explained the ordinance to Council and that it is a service that will be offered with a fee attached to it to push homeowners to pay on line or coming into the office and that this would element homeowners calling the office on the day that a bill is due and pay by phone to avoid any late fees or other fees.

Council Member McCarthy made a motion to introduce ordinance 2147-14, seconded by Council Member Mangan. Motion carried by the following vote "yes" Council Member Bossone, Sinneck, Donovan, Mangan, Olivera, and McCarthy, "no" none.

APPROVAL OF MINUTES

January 2, 2014 – Special Meeting (absent Olivera)

January 6, 2014 – Reorganization (absent Olivera)

Council Member Donovan made a motion to approve the minutes, seconded by Council Member Mangan. Motion carried unanimously with Council Member Olivera abstaining.

COMMITTEE REPORTS

Public Safety & Recycling – Council Member McCarthy stated that he will forego his committee report due to a budget meeting schedule right after this meeting.

Public Property & Parks Committee – Council Member Olivera reported that the generator at Borough Hall has been installed and the grounding and other small items need to be completed. He reported that there was a pre-con meeting for the ADA doors for Borough Hall and there was also a pre-con meeting for the Life Saving Station and that they will both start in February.

Administration and Finance Committee – Council Member Mangan stated that he has no report for this committee but asked if he could design the ads and e-mail it out for the Elks and the St. Patrick's Day Parade.

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Public Works Committee – Council Member Donovan reported that DPW is still picking up Christmas trees and they are chipping the trees and chips can be picked up for free at the South Street Park in Brielle. He reported that the OEM siren has been installed at Pompano Parking Lot, public works and the beach department are installing snow fence on the beach and the new water department truck is expected to be delivered next week.

Law and Code Committee – Council Member Sinneck reported on the re-configuring of the office in the code/construction department which should take place in February and the new software has been installed and in the process of being used.

Beach Committee – Council Member Bossone reported that the committee met and started going through a list of items to get started for the 2014 season and that he will have a more detailed report at the next meeting.

AUDIENCE PARTICIPATION

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

There being none, Council Member Sinneck made a motion to close the public portion, seconded by Council Member Mangan. Motion carried unanimously.

Council Member Donovan made a motion to close the regular meeting at 10:13 a.m. seconded by Council Member Bossone. Motion carried unanimously.

Respectfully submitted,



Barbara J. Ilaria
Municipal Clerk

DATE APPROVED 2-3-14