

# Denied

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"The city tried last week to argue that although this looked like an ordinance it could put in meters by resolution and resolutions are not subject to voter review. (The judge) just shot that down in flames," said Jim Testa, a FAN-ECM spokesman. "You can't take an ordinance and purport to amend it by resolution."

"This argument is without merit," Armstrong wrote.

Armstrong said Ordinances 200-2010 and 201-2010 were actually amendments to existing ordinances, which cannot be done by resolution.

"The transcript of the public hearing on the adoption of the ordinances illustrates that

the focus and intent of the amendments to the ordinances was to increase revenues to the city," Armstrong wrote. "The city sought to increase revenues by maximizing the number of metered parking spaces through installing parking meters in certain neighborhoods, which heretofore were previously not subject to parking requirements."

Armstrong said the ordinances were straightforward and uncomplicated and said, "...they provide for the installation of additional parking meters in primarily residential zones and set the fees to be charged, and the times when they will be operable - nothing more and nothing less."

Armstrong found that ordinances regulating or governing traffic must be approved by the Commissioner of Transportation. Exceptions noted were ordinances, resolutions or regulations prohibiting or restricting general parking, designating time limit parking, and installing parking meters. She further denied the city's position that parking regulations were part of a comprehensive scheme involving state, county and municipal traffic regulations. She said the installation of parking meters in a residential area did not require "any involvement by the state Department of Transportation."

Armstrong said it was clear the ordinances are subject to

referendum, saying state statute (N.J.S.A. 40:69A-185) says, "[a]ny ordinance passed by the council which is challenged by a properly filed referendum must be approved or rejected by the voters at the polls."

Armstrong ruled that state mandates that do not allow for municipal discretion may not be over-ridden by referendum, but the legislature does not require municipalities to install parking meters - it only gives them the option.

Armstrong also rejected the city's position that the referendum "would permit the electorate to redesign the entire city road maps, resulting in congestion and unsafe conditions that conflict from

town to town."

Armstrong ruled that additional parking meters for the purpose of raising revenue did not involve comprehensive traffic regulations that were part of a cooperative effort between state and local authorities.

"This is really what we expected to come out of the litigation," Testa said. "There were no surprises from the briefs or the oral argument in front of Judge Armstrong."

"It follows through with what we thought were applicable in the beginning. The decision was very crisp. And from the time we heard oral argument our counsel reported she was well read on the topic ... she was familiar with the cases being cited," Testa

added.

Testa said from the beginning FAN-ECM and their counsel characterized the ordinances as they saw them - primarily as revenue-raising instruments and an intrusion into a residential area.

He also said there has been a trend toward the New Jersey Supreme Court and other courts moving in favor of voter referendum.

Furthermore, he said Armstrong decided knowing her judgment would have to stand scrutiny of appeal.

"She didn't rule from the bench. She didn't rule by brief letter or memorandum. She wrote a full decision," Testa said.

# Projects

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ated by Convention Hall was critical to her business, particularly in the spring and fall, when events held there attract people into town.

"Try to do everything you can do to move this project forward and open as soon as possible," she said.

Susan Mullins also urged council to move forward with the project.

"My hope is that if the (latest) bids don't meet a certain criteria it won't delay the project," she said.

She said she understands some people consider the current design a "wrong fit" for Cape May, and some people have talked about scaling down the project, but she urged council not to start over at the beginning. She said as the project continues to be delayed the city could end up with a smaller build-

ing at a higher cost than what has been proposed.

Susan Tischler also echoed the sentiment of moving ahead with the project. She said it was activities traditionally held at Convention Hall over the years that created "a real Norman Rockwell like we want in Cape May."

Joe Bogle of the Fudge Kitchen, said he brought a different perspective to the issue. He said he was in business for 32 years on the boardwalk near Convention Hall, but said when they condemned Convention Hall they might as well have condemned the surrounding businesses.

"It's distressing to me to see (the project) revisited. Some have said this would be a burden to taxpayers, but it will be a bigger burden if we don't finish it," he said.

Bogle said the town needs

the activities, saying people have told him there are no kids in Cape May anymore. He said Convention Hall was always a centerpiece in Cape May, just like the Washington Street Mall. However, he said the vacant, unused Convention Hall is now dragging down the community.

"I can keep my store on the Promenade open because of my store on the mall. My store on the Promenade allowed me to open a second store on the mall - now it is the other way around," he said.

Barbara Masemore echoed Bogle's comment about the vacant Convention Hall bringing other businesses down.

"Business is going down everywhere. We need to spend money to make money, so please, please, please, sooner than later," she said.

# Resign

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are looking to move forward and continue operations with the jazz festival," Pizzi said.

Pizzi did not wish to address rumors that began to circulate immediately following Wednesday's meeting, including some saying the jazz festival would not continue.

"We always planned to continue working, to continue having two jazz festivals per year," Pizzi said. "And we plan to continue."

Pizzi said they are now looking to fill at least three board positions. He said Curtis Bashaw, the second vice-president and fundraising co-chair asked not to be on ballot for next year.

"He didn't resign, he just decided not to run for reelection," Pizzi said.

Per the April jazz festival program booklet, other executive board members include Gene Boyd, treasurer and finance chair, Oscar Johnson, fourth vice-president, fundraising co-chair and operations chair, Lois Smith, member at large and ADA

chair, Myra Vassian, member at large and public relations co-chair, Kathleen Varallo, member at large and by-laws and long range planning chair, Linda Steenrod, member at large, and the Rev. Rina Terry, member at large.

The jazz festival also has a community board of directors.

Pizzi said the board would be working out the details of the elections in the next couple weeks and was planning to move ahead with the November jazz festival. While doing so, he said it was impossible to overlook the contribution Woodland and Stone made to the jazz festival and to Cape May. The couple founded the jazz festival in 1994, and with two festivals per year, had participated in 33 jazz festivals through April this year.

"We totally appreciate and certainly acknowledge what Woody and Carol have done. We wouldn't be where we are without them. And we want to continue having jazz festivals as long as possible. We are going to continue to bring jazz to Cape May," he said.

Pizzi said Sal Riggi is still the executive director, and the jazz festival office is still running as it has been. Jodi Perry is the program administrator and Diane Mitchell is the administrative assistant.

Pizzi said the process for naming new board members is based on nominations, which will be approved by the board.

"Basically we vote for positions. If we have an opening and a name is proposed, we find out more information about the person and take a vote," Pizzi said. "We have a nominating committee and we will ask them to prepare a ballot."

Pizzi said he has been with the jazz festival for 15 years. He said he filled a position vacated when T. J. McCarthy passed away. Lois Smith has been on the board from the beginning.

"Obviously we are looking to add some new people right now," Pizzi said.

"But as for Carol and Woody," Pizzi added, "God bless them for starting the jazz festival. It's a fantastic event."

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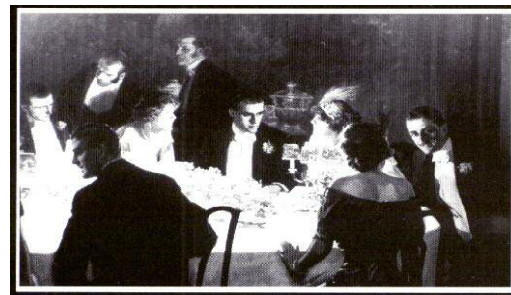


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Entered at Post Office in Pleasantville NJ 08232 as a periodical

SUBSCRIPTION PRICES: By mail in

Cape May County: \$22; East of Mississippi: \$25;

West of Mississippi: \$29. Mail subscriptions paid in advance.

Newsstand price \$ .50 per copy.

PUBLICATION SCHEDULE:

Weekly, every Thursday.

POSTMASTER:

Send address change to Cape May Star and Wave, 600 Park Blvd. #28, West Cape May, NJ 08204.

ASSISTANCE:

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