

# City may use funds to develop, maintain open space

By JACK FICHTER  
Cape May Star and Wave

CAPE MAY — City Council introduced an ordinance April 5 to allow its open space funds to be used not only for land acquisition but also for development and maintenance of open space lands.

In 2001, the city implemented an open space tax that is reflected as a line item in the city's budget. At that time, the city was in the process of applying for state Green Acres funding to acquire the Sewell Point tract in East Cape May, according to Mayor Edward

Mahaney. "The Green Acres section in New Jersey DEP told us if you have an open space set aside at the municipal level, you would be eligible for 50 percent grants and 50 percent loans on any application, whereas if you don't have that set aside locally, then you are only eligible for 25 percent," he said.

Mahaney said the city has received 50 percent grants, which have been instrumental in a number of projects including Lafayette Street Park. He said changes have taken place in the state and county open space programs.

"We'd like to bring our ordinance into conformance with theirs and have them totally compatible," said the mayor. "The other point is we want to be clear on the amount of money we're setting aside."

City Solicitor Tony Monzo said the ordinance contains two changes. He said use of the open space funds has been expanded to allow the county and city government to put the funds aside not only for land acquisition but also for development and maintenance of open space lands as well as recreational facilities.

Mahaney said devel-

opment does not refer to buildings but means enhancing the open space for public use.

The second change in the city's ordinance is a sentence stipulating the city's open space tax is to be no more than 1 cent per \$100 of assessed property value, Monzo said, adding that that was added to the ordinance to address the fluctuations the city experiences in assessments, especially when property values rise or fall and city-wide revaluations change the tax base.

"This gives you the ability to maintain through your budgetary process a set

amount, so if the assessed values of all properties go up, you can do the appropriation at less than one cent," Monzo said.

He said the change in the ordinance gives the city more control of the budget process so it is not adding onto the taxpayers an additional appropriation based on a revaluation of properties.

Councilman Roger Furlin questioned the wording of "minimum amount" of the

appropriation shall not be more than 1 cent per \$100 of assessed property value. Monzo asked the word "minimum" be removed from the ordinance.

Former mayor Jerry Gaffney asked how much money was in the city's open space account. Mahaney said the total was close to \$2 million. He said a very small amount was used for the acquisition of homes on St. John's Street for Lafayette Street Park.

# MV New Jersey out of service for fix

NORTH CAPE MAY — Officials with the Cape May-Lewes Ferry announced that the MV New Jersey will undergo an unscheduled dry-docking to make repairs to conditions that were discovered during an underwater inspection in lieu of dry-docking (UWILD) completed last week.

Results of the UWILD inspection included areas of the hull-plate and some welds that require attention that cannot be accomplished in the ferry's boatyard. The dry-dock will take place at Caddell's Shipyard in Staten Island, N.Y.

"We apologize to our customers for any inconvenience that this situation may cause, but ensuring passenger safety through proper maintenance is one of our core values," said Heath Gehrke, director of Ferry Operations.

Gehrke said he anticipated that the repairs would take about three weeks to complete. This comes at a time when the MV Delaware is still undergoing a scheduled engine repowering. The MV Delaware is not expected to return to service



An underwater inspection of the Cape May-Lewes Ferry's MV New Jersey revealed areas of the hull-plate and some welds that require attention, forcing the ferry into dry dock for repairs. The MV Delaware is undergoing an engine repowering, meaning only the MV Cape Henlopen will be in service for a couple of weeks.

until mid-May. Therefore, ferry service will be operating a limited schedule on only the MV Cape Henlopen through at least April 25.

All customers with advanced reservations have been contacted and will be accommodated on a scheduled crossing.

Typically, each ferry vessel must be dry-docked twice in a five-year period at an average cost of \$1.2 million per dry-docking contract. Each underwater survey costs about \$30,000. Utilizing this program since the U.S. Coast Guard first approved it in

2002, the Cape May-Lewes Ferry has conducted more than 10 UWILDs, maintaining passenger safety while achieving significant cost savings for the Delaware River and Bay Authority. Of the UWILDs performed, only two have required a subsequent dry-docking.

# Outdoor seating

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the requirement to have a site plan review every time an establishment wanted to place a few extra chairs outside. The proposed ordinance would allow seasonal outdoor seating from May 15 through Oct. 15, strictly meant to cover situations in which there are seats but not restaurant seats with tables and wait service.

Monzo said the regulations would cover an establishment with a waiting area where the customer can sit in a chair and have a drink or some food on a porch, lawn or around a fire pit.

"People want to be outside during the summer. They want to listen to music. So this allows that to take place with certain limitations and without any zoning review, but there is a process that the establishment has to go through," he said.

The ordinance would not allow restaurants and hotels to increase their dining capacity outdoors, which would require a site plan review and zoning board approval, Monzo said.

The ordinance defines seasonal outdoor seating as "any retail food establishment located on private property with removable chairs without dining tables where food or drink will be consumed by the public at outdoor areas located adjacent to the primary building that is not otherwise devoted to a function that is central to the site."

Monzo said an applicant would not be required to put together a formal site plan or architectural drawing or engineered survey but provide a footprint of the property and designate on the plan where additional seats would be placed. The seats would be those not approved on a site plan or on a mercantile license application.

"The applicant would have to designate where those outdoor seats would be and submit it with the mercantile license applica-

tion to the city clerk, and it's to be reviewed by the manager mainly for the purpose of determining whether the plan has any detrimental impact on the health, safety and welfare," he said.

Fees charged would be assessed on a per-seat basis to be determined by council, Monzo said. Once a seating plan is submitted to the city, it could not be changed, he said.

The placement of furniture and other items would have to be approved by the city's fire official and not affect leaving and entering the establishment, he said. Monzo said the furniture could not intrude onto any public property and entertainment must comply with the city's noise ordinance.

"Most of the establishments that have outdoor seating have it already, this basically puts it in check and puts some restrictions on how much of it you can have," he said.

Mayor Edward Mahaney noted the ordinance stated "nothing in this chapter permits outdoor chairs with dining tables to be considered as seasonal outdoor seating." Such tables and chairs shall be considered as restaurant seats for the purpose of zoning and site planning compliance, states the ordinance.

He said the city was trying to get some control of outdoor seating that has proliferated in the city over the past 10 to 15 years.

Mahaney said the city has set up a system to double check on mercantile license applications to ensure the merchant is current with taxes and water and sewer bills. He said the same process should be applied to an applicant seeking seasonal outdoor

seating.

In other business, Monzo discussed increasing fees for businesses offering outdoor dining on city property such as the Washington Street Mall. He said current fees on the mall for an establishment with tables and chairs but no wait service was \$1 per square foot per month. An establishment that has tables, chairs and wait service but does not serve alcoholic beverages pays \$1.50 per square foot per month. An establishment that also serves alcoholic beverages pays \$2.50 per square foot per month, Monzo said.

He said most of the establishments have outdoor dining for six months or less. Monzo said the fee on an annual basis ranges from \$6 to \$15 per square foot.

"Quite frankly, I don't see a distinction between what the fee is based on and what your business operation is," he said. "Square footage should be the same regardless of whether you're selling alcohol or you're not selling alcohol, you're having wait service, you're not having wait service."

"If a business is using part of the right of way property, the fee should be the same, and I think the ordinance changes should

reflect that," he continued.

Monzo suggested a rental fee of \$30 per square foot for the year on the mall, which for a six-month operation would translate to \$5 per square foot per month.

"That just seems to me to be a fair amount that would fairly compensate the city for the use of right of way property that has cost the city and the taxpayers a significant amount of money not only to reconstruct but also to maintain," he said.

The Washington Street Mall was fully reconstructed in 2008.

Mahaney said use of city-owned space on the mall is giving restaurants an extra dining room for six months of the year for virtually nothing.

"I think the city is entitled to a fair return on the investment we're making in support of those businesses," he said.

Council must decide if the city should go from a three-tiered fee structure to a one-tiered fee structure and what should that one tier fee structure cost, said the mayor. He noted the fees have not been increased in a number of years.

Mahaney asked council to give their input to the city clerk.

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