



**WORKSESSION/REGULAR MEETING
OF CITY COUNCIL OF THE CITY OF CAPE MAY, NJ
Monday, June 4, 2018 6:00 P.M.**

The Regular Meeting of City Council of the City of Cape May was called to order by Cape May City Mayor, Clarence F. Lear, III at 6:05 P.M. Monday, June 4, 2018 in the Cape May City Hall Auditorium. The Pledge of Allegiance was recited.

Patricia Harbora, City Clerk announced that under the Open Public Meetings Law, notice of this meeting was sent to the Cape May Star and Wave and The Press of Atlantic City and a copy of the agenda was delivered to each Member of Council and was posted on the City Hall Bulletin Board.

Present: Councilmember Roger M. Furlin - ABSENT
Councilmember Patricia Gray Hendricks
Mayor Clarence F. Lear, III
Deputy Mayor Shaine P. Meier
Councilmember Beatrice Gauvry Pessagno

Also Present: City Attorney Frank Corrado
City Manager Neil Young
City Clerk Patricia Harbora
Deputy City Clerk Erin Burke

Minutes do not reflect the actual order in which the events occurred.

AGENDA ADDITION/DELETION OF LATE AGENDA ITEMS TO BE CONSIDERED FOR ACTION

355-2018 An Ordinance Authorizing the Private Sale of Undersized Property Owned by the City of Cape May, Block 1104, Lot 49, A/K/A 1015 Maryland Avenue in Cape May – REMOVE

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

City Solicitor Frank Corrado explains that it was brought to his attention today that there may have been action taken by prior City Council making some sort of commitment with regard to the property at 1015 Maryland Avenue. He recommends not taking any action with regard to this property until he is able to further research the topic.

PRESENTATION

United States Army Corp of Engineers (ACE) – Adrian Leary, Project Manager – Seawall

Mr. Leary presents a slideshow on a Coastal Storm Risk Management Feasibility Study for the Cape May Seawall. He explains that this feasibility study includes and considers historic flooding descriptions, federal beach project maintenance and monitoring, existing seawall condition and elevation, topography, and storm water pump stations within Cape May City. He details various issues identified with the existing seawall, focusing on the corner of Beach and Wilmington Avenue, which is an area of particular concern. Mr. Leary explains three potential solutions for that corner: 1. demolish and rebuild the seawall, 2. construct a steel sheet pile wall, and 3. add a concrete cap on the existing

seawall. He explains the economics supporting those potential solutions, and that the best course of action suggested by the ACE is to add a concrete cap to the existing seawall extending 400 linear feet around the corner of Beach and Wilmington Avenues. Mr. Leary details a Continued Authorities Program offered by the ACE, which involves planning, design, and construction of smaller projects without requiring congressional authorization. He presents a proposed schedule of construction, if Council chooses to move forward with the project, which anticipates construction commencing in Spring 2020.

PUBLIC PORTION:

Bonnie Cassells, 914 Columbia Avenue – Ms. Cassells questions if the proposed 400’ seawall cap would be equal on both sides of the corner. Mr. Leary clarifies that both sides of the corner cap may be equal, or one side may be longer than the other, depending on what the ACE finds to be necessary.

James Testa, 1501 Beach Avenue – Mr. Testa questions what categories of storms the ACE based their study on, to give the public a better idea of the level of protection Mr. Leary is discussing/proposing. Mr. Leary states that he is unsure and will have to ask his coworker and get back to Mr. Testa.

Wayne Keyser, 1027 New Jersey Avenue – Mr. Keyser questions if the ACE has considered any other potential projects along other parts of the beachfront. Mr. Leary states that the ACE focused on the corner of Beach and Wilmington Avenues since it has proven to be the area of greatest concern.

Bebe Allison, 905 Beach Avenue – Ms. Allison emphasizes that the historic character of Cape May must be maintained and considered with any potential project, and that sometimes the best “bang for your buck” with a project is not always the best fit for Cape May, and that other alternatives should be explored.

Mayor Lear clarifies that the cap Mr. Leary proposed on the seawall would only be three (3) feet higher than the existing dune in the location in question.

Evelyn Lovitz, 1012 Cape May Avenue – Ms. Lovitz states that the homeowners on that corner already cannot see the ocean from their front yards, so the additional proposed height should not impact them greatly.

Christine Miller, 535 Bank Street – Ms. Miller questions how the ACE determined what length of seawall is needed on the corner of Beach and Wilmington Avenues. Mr. Leary explains that they based their study off models and past storm patterns.

Gus Andy, 1317 Beach Avenue (La Mer Hotel) – Mr. Andy opines that the reason Cape May City floods is due to poor drainage, and that building a bigger or higher seawall will not solve the problem. Mr. Leary clarifies that the proposed seawall cap is meant specifically to keep the ocean water from coming into town during large storms, and that it is not meant to improve rainwater flooding issues.

Tim Walsh, 1022 New York Avenue – Mr. Walsh questions the aesthetics of the proposed seawall cap. Mr. Leary states that they have not yet determined what the proposed cap would look like, and that the ACE would have to coordinate with the City and the Historic Preservation Commission on appearance.

A recess is taken at 6:54 P.M.

The meeting resumes at 7:00 P.M.

ENGINEER REPORT

Thomas R. Thornton, PE, CME, of Mott, MacDonald (MM), presents the engineer's report as follows:

PROJECTS UNDER CONSTRUCTION:

Cape May Stage Fire Suppression System – The contractor has been directed to complete additional work to extend the fire service pipe into the building, as required by the Fire Inspector, which is to occur in June 2018. It is anticipated that MM will rebid the interior fire suppression system project in late summer 2018, award the project in October 2018, begin construction in January 2019, and complete construction in March 2019.

City Manager Neil Young states that the grant the City received expires in February 2019, so the work must be completed prior to that deadline.

Reading Avenue Storm Sewer Improvements – Project was awarded to Standard Pipe Services, LLC in the amount of \$234,595.00. Cured-in-place pipe lining is scheduled to be installed on June 4, 2018, and construction is anticipated to be completed on June 15, 2018.

Reconstruction of Pennsylvania Avenue/Pennsylvania Avenue Traffic Study – The project was awarded to Landberg Construction, LLC in the amount of \$558,951.55. Construction of the center medians is complete. MM discovered a deteriorated pipe that must be replaced, so a \$75,000-\$80,000 change order for the project can be expected.

Dale Place Reconstruction and Utility Upgrades – Project is substantially complete, with only punch list items remaining.

Delaware Avenue Sanitary Sewer Pump Station Generator – Generator and electrical are complete and operational; the platform and stairs are under construction, and the fence relocation is scheduled for June. MM anticipates the project will be complete within the week.

Lafayette Street Sanitary Sewer Extension – Project is substantially complete. Sod, seeding, and repair of temporary trench remain to be addressed. The final project completion date is estimated within two weeks.

Public Works Above Ground Storage Tank (AST) – Project is substantially complete, and the fuel tanks are operational. The damaged front gate is to be repaired by the contractor prior to final payment.

Welcome Center Lighting and Parking – Cape May Seashore Lines has been unresponsive to both MM and City Solicitor Corrado's phone calls and requests to memorialize the terms of agreement reached in previous meetings. Mr. Corrado has spoken with the New Jersey Department of Transportation and his point of contact promised to put pressure on CMSL to respond and move forward.

PROJECTS IN DESIGN PHASE:

Public Safety Building Property and Topo Survey – Project was authorized at the April 17, 2018 Council meeting. A survey of the site was completed and is being sent to the City for review. The next step is to review the concept plans and prepare requests for proposals for the project.

STUDIES AND INITIATIVES:

Water System Master Plan – MM is waiting for the response from the Cape May City Water/Sewer Department on the draft chapters that have been submitted to them thus far.

Geographic Information System (GIS) – MM is waiting for the response from the Cape May City Water/Sewer Department to schedule training with MM’s GIS staff.

Lafayette Street Park Master Plan – MM met with the Lafayette Street Park Advisory Committee on June 1, 2018, and is preparing a concept plan based off the feedback from the committee.

Public Works Facility Groundwater Monitoring Program – A groundwater sample obtained from monitoring wells indicated presence of a contaminant. MM is working to resolve the issue through development of a monitoring well. No contaminants were detected in the initial sampling following the development of the well. NJDEP requires another round of sampling, which will occur in June 2018.

Convention Center HVAC Evaluation – City Council authorized MM to conduct the study of the Convention Center HVAC system at the May 15, 2018 Council Meeting. The initial site visit is tentatively scheduled for the week of June 4, 2018.

PROPOSALS:

Bank Street Traffic Study – MM submitted a proposal for professional traffic engineering services consisting of a study of one-way traffic on Bank Street and Venice Avenue.

Water Main Rehabilitation – MM is preparing proposal for professional services for design, permitting, and construction phase engineering services for the rehabilitation of the water main.

War Memorial Park – MM is preparing a proposal for professional engineering services for design, bidding, and construction phase engineering services for War Memorial Park improvements.

2018 Capital Improvement Projects – MM is preparing a proposal for professional engineering services for design, bidding, and construction phase engineering services for various capital improvement projects following a meeting with City officials.

ORDINANCES FOR INTRODUCTION

356-2018 An Ordinance Repealing and Amending Section 270-1 of the Cape May City Code, Regarding Fortune Tellers

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

City Solicitor Corrado explains that it is unconstitutional to flatly ban fortune telling, since it is protected by the first amendment as free speech. This ordinance serves to regulate the practice of fortune telling in Cape May City.

ORDINANCES FOR SECOND READING AND CONSIDERATION FOR ADOPTION

351-2018 Ordinance of the City of Cape May Amending Chapter 510 of the Cape May City Code by Providing Changes in the Water and Sewer Rates and Charges – **TABLED for 6/19/2018 Council Meeting**

- 352-2018 A Bond Ordinance Providing for Various Capital Improvements in and by the City of Cape May – **TABLED for 6/19/2018 Council Meeting**
- 353-2018 A Bond Ordinance Providing for Various Water and Sewer Utility Improvements in and by the City of Cape May – **TABLED for 6/19/2018 Council Meeting**
- 354-2018 A Bond Ordinance Providing for Various Beach Utility Improvements in and by the City of Cape May – **TABLED for 6/19/2018 Council Meeting**

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

City Solicitor Corrado explains that due to a mistake in the published advertising date, these ordinances must be tabled for the next City Council meeting, when public hearings will be held and they will be considered by Council for adoption.

REGULAR MEETING BUSINESS

RESOLUTIONS

City Solicitor Corrado suggests that Councilmember Hendricks abstain from voting on *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract* since her husband is a member of the organization partly involved in the litigation.

Mayor Lear invites the public to come forward for any questions or comments regarding the resolutions on the agenda for consideration for adoption.

Christine Miller, 535 Bank Street – Ms. Miller speaks against *Resolution 151-06-2018: Resolution Authorizing Retention of a Redevelopment Counsel in Connection with the Possible Redevelopment of the Beach Theater Block in Cape May*. She voices her opposition to the idea of redevelopment within Cape May City, and encourages a “preservationist” Master Plan Reexamination.

Jeffrey Elliot, Cape May Lutheran Church Pastor, 509 Pittsburgh Avenue – Pastor Elliot speaks in support of *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract* and preservation of the wetlands and wildlife behind the church.

James Testa, 1501 Beach Avenue – Mr. Testa speaks as the Secretary of the “Concerned Citizens for the Sewell Tract Preservation, Inc.”, the organization which is partly involved in the litigation surrounding the Sewell Tract. He offers thanks to the Cape May City administration, Environmental Commission, and Seawall and Promenade Advisory Committee for voicing recommendations to Council to preserve the Sewell Tract. He urges Council’s support of *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract*.

Charlotte Todd, 651 Hughes Street – Ms. Todd speaks in support of *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract*, citing that the Environmental Commission recommends that the City preserve the site, and that the quality of life in Cape May City is threatened by over-development.

Linda Wolf, 1015 New Jersey Avenue – Ms. Wolf voices support for *Resolution 151-06-2018: Resolution Authorizing Retention of a Redevelopment Counsel in Connection with the Possible*

Redevelopment of the Beach Theater Block in Cape May. Speaking as a member of the Cape May City Planning Board, she opines that it is a good idea to hire an individual who is knowledgeable about redevelopment, and states that it is an opportunity to examine the City since Cape May and its needs are growing.

Jules Rauch, 1010 New York Avenue – Mr. Rauch states that no action, whether in support or opposition, should be taken relating to any issue that is in litigation. Thusly, he recommends not adopting *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract.*

Mr. Rauch then asks for further explanation of *Resolution 151-06-2018: Resolution Authorizing Retention of a Redevelopment Counsel in Connection with the Possible Redevelopment of the Beach Theater Block in Cape May.* City Solicitor Corrado explains that resolution allows for the hiring of M. James Maley of Maley Givens, P.C. as special Redevelopment Counsel for the City of Cape May. Mr. Corrado affirms that Mr. Maley is an expert with respect to the redevelopment process, and would conduct all the necessary legal work, make recommendations, and guide the City in any redevelopment efforts.

Gretchen Whitman, 704 St. James Place – Ms. Whitman speaks in support of *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract*, stating that the Sewell Tract is an ecological gem, and emphasizing that wetlands are key to flood management.

Dr. Scott Maslow, 18 2nd Avenue – Speaking as the Chair of the Seawall and Promenade Advisory Committee, Dr. Maslow echoes Ms. Whitman's comment that the wetlands are essential for flood mitigation, and urges Council to adopt *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract.*

William Seeger, 1361 B Vermont Avenue – Mr. Seeger questions who represented the City during the most recent attempt at redevelopment. City Solicitor responded that he guided the City most recently.

Mr. Seeger then questions if anyone has come forward with any proposals for development of the potential redevelopment area. Mr. Corrado states that a concept has been proposed by Franks Theaters that the site be considered for redevelopment. Ideas of a hotel right across from the Convention Center have been discussed, but no actual proposals are being considered presently.

Mr. Seeger questions why the City would hire an attorney before there is a concept plan to be considered. Mr. Corrado explains that the redevelopment process involves public education on the procedures, and that there are many legal steps to take during the process. He emphasizes that redevelopment is a specialized field of law that requires an expert in that field.

Mr. Seeger then opines that Cape May is in need of more ratables for taxing purposes. He proposes that development of certain tracts of land should be considered as possible sources of long-term revenue to the City.

Charles Hendricks, 106 Trenton Avenue – Speaking as the Vice-President and Treasurer of the "Concerned Citizens for the Sewell Tract Preservation, Inc." Mr. Hendricks states that the Sewell Tract litigation is not about ratables, but rather the impacts on the environment if the tract is developed.

Christine Miller, 535 Bank Street – Ms. Miller again voices her opposition to *Resolution 151-06-2018: Resolution Authorizing Retention of a Redevelopment Counsel in Connection with the Possible*

Redevelopment of the Beach Theater Block in Cape May, and questions what the plans are for the structures on the promenade.

Mayor Lear responds that there are no plans, and that Council is nowhere near the planning stage yet.

Deputy Mayor Meier questions if stores surrounding the Cape May Convention Center could choose to participate in the proposed redevelopment. Mr. Corrado explains that yes, owners could opt to participate in redevelopment, and emphasizes that all Resolution 151-06-2018 does is hire Mr. Maley as special redevelopment counsel.

Jules Rauch, 1010 New York Avenue – Mr. Rauch again urges Council not to adopt *Resolution 150-06-2018: Resolution Supporting the Preservation of the Sewell Tract*. Mr. Corrado maintains that Resolution 150-06-2018 does not implicate the City in ongoing litigation any more than it already is.

James Testa, 1501 Beach Avenue – Mr. Testa clarifies the ongoing litigation for those present, and emphasizes that objective of the “Concerned Citizens for the Preservation of the Sewell Tract, Inc.” is to preserve the *entire* tract.

149-06-2018 Resolution Canceling Outstanding Checks – General Account

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

150-06-2018 Resolution Supporting the Preservation of the Sewell Tract

Motion: Meier **Second:** Lear **Pessagno:** No **Meier:** Yes **Hendricks:** Abstain **Lear:** Yes

Councilmember Pessagno states that while she personally endorses the preservation of the Sewell Tract, she did not have adequate opportunity to conduct the necessary research and consider this topic.

Deputy Mayor Meier affirms that it is the right time for the City to have an official opinion on this matter, and that the preservation of the ecosystem must be considered.

Mayor Lear states that various committees have recommended supporting the preservation of the Sewell Tract.

151-06-2018 Resolution Authorizing Retention of a Redevelopment Counsel in Connection with the Possible Redevelopment of the Beach Theater Block in Cape May

Motion: Meier **Second:** Hendricks **Pessagno:** No **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

Councilmember Pessagno states that while she feels specific parts of the area in question are in need of redevelopment, she takes issue with the ambiguity of some of the wording within this resolution.

Deputy Mayor Meier states that he is emphatic about preserving the character of Cape May, but acknowledges that the area in question is not as strong as it once was and is underutilized and must be addressed. He maintains that whatever may happen down the road with the area in question, it would be under Council’s control if it is a redevelopment area.

City Clerk Patricia Harbora reads a statement from Councilmember Furlin, as he is unable to attend this meeting. In this statement, Councilmember Furlin states his support for hiring a special counsel for redevelopment, and for redevelopment of specific parts of the Beach Theater area. He emphasizes that the scope of the work should be limited to a specific area, with no ambiguity in the resolution.

Councilmember Hendricks echoes that anyone in the proposed area of redevelopment could choose to participate in any proposed redevelopment.

Councilmember Pessagno motions to change the wording of paragraph number 4 of *Resolution 151-06-2018: Resolution Authorizing Retention of a Redevelopment Counsel in Connection with the Possible Redevelopment of the Beach Theater Block in Cape May* to state: “The are to be considered for redevelopment or rehabilitation will generally include the Beach Theater block, including the commercial stores adjacent to the theater, the properties on the promenade across Beach Avenue, and additional properties on Beach [Avenue]”. **There is no second, so the motion dies.**

152-06-2018 Resolution Authorizing Settlement of Dispute between City of Cape May and Harry Scheeler

Motion: Lear **Second:** Hendricks **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

City Solicitor Corrado gives a brief history of the litigation between Mr. Sheeler and the City of Cape May, explaining that Mr. Sheeler had made an OPRA request that was denied by the City due to him not being a citizen of the State of New Jersey. As a result, Mr. Sheeler filed a lawsuit against the City and won, and this resolution authorizes the settlement of the dispute.

153-06-2018 Resolution Awarding Contract for the Supply of HVAC Service and Repairs

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

154-06-2018 Resolution Rejecting Uniform Bids

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

155-06-2018 State of New Jersey, Department of Environmental Protection Green Acres Enabling Resolution

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

City Manager Young explains that the resolution was previously adopted, but had to be readopted with updated grant documents for the current Cape May City administration.

156-06-2018 Resolution Designating Atlanticare as the Official Physician for Cape May and Authorizing a One-Year Contract Therefor

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

157-06-2018 Resolution Approving the Submittal of a Grant Application and Execute a Grant Agreement with the United States Department of Transportation (USDOT) Better Utilizing Investments to Leverage Development Discretionary Grants Program

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

158-06-2018 Resolution Authorizing Utility Bill Adjustment due to Catastrophic Occurrence

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

159-06-2018 Payment of Bills

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

MINUTES

City Council Closed Session Meeting Minutes dated February 20, 2018

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Abstain

City Council Closed Session Meeting Minutes dated March 6, 2018

City Council Worksession/Regular Meeting Minutes dated March 6, 2018

City Council Closed Session Meeting Minutes dated March 20, 2018

City Council Worksession/Regular Meeting Minutes dated May 1, 2018

City Council Special Meeting Minutes dated May 22, 2018

City Council Closed Session Meeting Minutes dated May 22, 2018

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

REPORTS

Cape May City Tax Collector's 2017 Annual Report

Cape May City Police Department Report for the month of April 2018

Cape May City Overtime report for the months of April through May 2018

Motion: Meier **Second:** Pessagno **Pessagno:** Yes **Meier:** Yes **Hendricks:** Yes **Lear:** Yes

UNFINISHED BUSINESS

NEW BUSINESS

A) City Attorney – None.

B) City Manager –

City Manager Young announces Jerry Inderwies, Jr. as his appointment to the Deputy City Manager position.

C) City Clerk – None.

D) Councilmembers –

Councilmember Pessagno urges everyone to purchase their Summer Concert Series tickets soon before they sell out. She also thanks all those who participated and helped with the various Memorial Day Ceremonies within the City.

Deputy Mayor Meier echoes Councilmember Pessagno's sentiments. He also announces an upcoming Lafayette Street Park Advisory Committee meeting on Thursday, June 6, 2018 in the City Hall auditorium at 4:00 P.M.

Councilmember Hendricks urges all to take advantage of the MAC music festival.

Mayor Lear announces that the Dr. Martin Luther King, Jr. commemoration of the 60th anniversary of his address in Cape May is scheduled for Wednesday, June 27, 2018 at 7:00 P.M. in Convention Hall.

PUBLIC PORTION: Those wishing to publicly comment shall come forward, give their name and address and speak into the microphone.

Anthony Marino, Chief of Police – Chief Marino details that the Police Department is going through an accreditation process. He explains that this process usually takes three months, but the department

got it done in only 30 days. He commends Lieutenant Bobik and Patrolman Henderson for their efforts in the accreditation process.

Thomas Phelan, 1013 Maryland Avenue - Mr. Phelan thanks Council for tabling Ordinance 355-2018 regarding the sale of 1015 Maryland Avenue, citing that there is a long history to the property and that Council should be fully aware of the situation.

ADJOURNMENT

Motion made by Deputy Mayor Meier, seconded by Councilmember Pessagno, to adjourn. The meeting adjourned at 9:15 P.M.


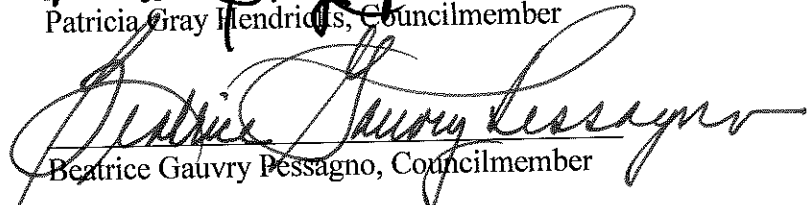



Clarence F. Lear III, Mayor

ABSENT

Shaine P. Meier, Deputy Mayor

Absent from meeting, abstains from voting
Roger M. Furlin, Councilmember


Patricia Gray Hendricks, Councilmember
Beatrice Gauvry Pessagno, Councilmember
Patricia Harbora, City Clerk