

**February 4, 2008**  
**REGULAR SESSION #3**  
**MAYOR & CITY COUNCIL**

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**Present:**

<b>Mayor Richard W. Meehan</b>	<b>Council Member Jim Hall</b>
<b>Council President Joe Mitrecic</b>	<b>Council Member Jay Hancock</b>
<b>Council Secretary Nancy Howard</b>	<b>Council Member Mary Knight</b>
	<b>Council Member Lloyd Martin</b>
	<b>Council Member Margaret Pillas</b>

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**ATTENDANCE**

City Manager Dennis Dare, City Solicitor Guy Ayres, Assistant to City Manager Kathy Mathias, Finance Administrator Martha Bennett, Special Events Director John Sullivan, Planning and Community Development Director Jesse Houston, Special Events Coordinator Lynda Brittingham, City Clerk Carol Jacobs, Members of the Press and Interested Parties.

**CALL TO ORDER**

Council President Joe Mitrecic called this Regular Session to order at 6:02 p.m. in the Council Chambers of City Hall, 301 Baltimore Avenue, Ocean City, Maryland 21842.

**PRAYER AND PLEDGE**

Reverend Terry Davis of the Ocean City Baptist Church led the Prayer and Council Member Jay Hancock led the Pledge of Allegiance.

**REPORT FROM CITY MANAGER ON UPCOMING WORK SESSION**

City Manager Dennis Dare reported that the following items are scheduled for discussion in the next work session:

1. Bid Opening for Auctioneer Services
2. Discussion on the Ocean City Volunteer Fire Company Schedule
3. Discussion on proposed changes to the Revised Computer Policy Manual
4. Review of proposed amendments to the Town's Noise Ordinance

**APPROVAL OF MINUTES**

Minutes for Regular Session #2, dated January 22, 2008, were approved as presented.

## ITEMS PRESENTED BY THE MAYOR AND CITY COUNCIL

- A. Fred Wise, United Way's Director of Sales and Marketing announced that Ocean City Employees exceeded the \$40,000 goal for 2007 Contributions (total contribution = \$41,167). Also present were Kathleen Mommé, United Way's Executive Director and Bruce Bright, Chairman of Worcester County Campaign. Mr. Wise announced the winners of the campaign drawing for contributing employees:

Larry Sturgis, Convention Center won a \$50 Gift Card  
Reggie Briddell, Convention Center won a \$75 Gift Card  
Elfriede Kerstetter, Visitor Relations won a \$100 Gift Card

- B. Mayor Meehan proclaimed February 4-8, 2008 as National Teen Dating Violence Awareness and Prevention Week. Present to accept this proclamation was Ocean City Police Chief Bernadette DiPino.

## SPECIAL EVENT PERMIT REQUESTS

- A. Special Events Director John Sullivan and Bryan Lilley of the OC Air Show, LLC gave an update on the 2008 Air Show, scheduled for Tuesday and Wednesday, June 10 and 11, 2008 (see Attachment A). Director Sullivan presented a Memorandum of Understanding between Bryan Lilley, LLC and the Town, outlining each parties obligation. Council Member Jay Hancock asked about the possibility of corporate sponsorships. Mr. Lilley advised that many have expressed interest in sponsorships. Council Secretary Nancy Howard recommended that the Mayor send invitations to Governor O'Malley and Senators Milkulski and Cardin.

## CLOSED SESSION

At 6:30 p.m., **Council Member Jim Hall moved to convene into closed session to discuss this contractual matter; seconded by Council Secretary Nancy Howard. The vote was unanimous.**

## REPORT ON CLOSED SESSION

At 7:18 p.m., Council President Joe Mitrecic reconvened the open session. He reported that this closed session was held to discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal if public discussion or disclosure adversely impacts the public body's ability to competitively bid or make proposals. Persons present were: Mayor Rick Meehan, Council President Joe Mitrecic, Council Secretary Nancy Howard, Council Members Jim Hall, Jay Hancock, Mary Knight, Lloyd Martin and Margaret Pillas, City Manager Dennis Dare, City Solicitor Guy Ayres, Assistant to City Manager Kathy Mathias, Special Events Director John Sullivan and Bryan Lilley of OC Air Show, LLC.

## SPECIAL EVENTS CONTINUED

In the open session, **Council Secretary Nancy Howard moved to approve the Memorandum of Understanding between the OC Air Show, LLC and the Town of Ocean City with the inclusion of the Show's Plan and Timeline; seconded by Council Member Mary Knight. The vote was 6-0 with Council Member Margaret Pillas in abstention.**

Special Events Coordinator Lynda Brittingham presented the following events for approval:

- B. 4th Annual Battle on the Beach Soccer Tournament on Friday, April 25th through Sunday, April 27, 2008, on the beach between North Division Street and 5th Street. Present for questions was Allyson Mizia of the Salisbury University Women's Soccer Club. **Council Member Lloyd Martin moved to approve; seconded by Council Member Margaret Pillas. The vote was 6-0 with Council Secretary Nancy Howard out of the room.**
- C. Boardwalkin' for Pets on Saturday, April 26th through Sunday, April 27, 2008, starting on the boardwalk at the inlet. Present for questions was Kristy Haley of the Worcester County Humane Society. **Council Member Jim Hall moved to approve; seconded by Council Member Margaret Pillas. The vote was 6-0 with Council Secretary Nancy Howard out of the room.**
- D. OC Marathon, on Saturday, April 12, 2008 starting at the inlet parking lot and ending in Assateague. Ms. Brittingham advised of one caveat: that the organizer arrange for stand-by emergency medical services with Captain Chuck Barton. Chris Klebe, Organizer of Extreme Dreams Events explained that marathoners will run from the inlet parking lot, across the Route 50 Bridge then into Assateague. **Council Member Jim Hall moved to approve; seconded by Council Member Lloyd Martin. The vote was unanimous.**

## NEW BUSINESS

- A. Assistant to City Manager Kathy Mathias presented the non-profit status of organizations on the Sunfest and Springfest beer truck rotation list (see Attachment B).

Council Member Lloyd Martin suggested a cap to the number of non-profit organizations on the list. City Solicitor Guy Ayres said that a cap is allowable by law.

**Council Member Lloyd Martin moved to cap the number of organizations on the beer rotation list to 45; and, allow new requests only when existing organizations drop off; seconded by Council Member Jim Hall. The vote was unanimous.**

Council Member Pillas suggested that non-profit organizations should be required to contribute a certain percentage of profits to the local community. Solicitor Ayres said such a requirement is permissible. Council Secretary Nancy Howard recommended a visitation of this policy in September 2008.

- B. The Mayor and Council led a discussion on Senate Bill 29, entitled *Gaming – Slot Machines – Ownership and Operation by Eligible Nonprofit Organizations* (see Attachment C). City Solicitor Guy Ayres said that, according to this Bill, many non-profit organizations are ineligible.

OC Elks Club Members Jim Flagg and Carroll Wagner asserted that the OC Elks Club has the largest Member base on the Eastern Shore but offers the least amount of donations to the community. He said this is because Worcester County is the only County (on the Eastern Shore) which does not allow slots.

**Council Member Lloyd Martin moved to support Senate Bill 29 which will allow five slot machines in fraternal non-profit facilities; seconded by Council Member Jay Hancock. The vote was 6-1 with Council Secretary Nancy Howard opposed.**

## ITEMS REFERRED TO AND PRESENTATIONS FROM THE CITY SOLICITOR

- A. First Reading of Ordinance 2008-2, amending Chapter 110, entitled *Zoning*, to provide a location and use regulations for Sexually Oriented Businesses. **Council Member Jim Hall moved to approve; seconded by Council Secretary Nancy Howard. The vote was unanimous.**
- B. First Reading of Ordinance 2008-3, amending Chapter 14, entitled *Businesses*, to provide regulations for Sexually Oriented Businesses. **Council Secretary Nancy Howard moved to approve; seconded by Council Member Lloyd Martin. The vote was unanimous.** In the next work session, they asked Business License Inspector Rich Mason to make a recommendation on the fees for such businesses.
- C. First Reading of Ordinance 2008-4, for Budget Amendment #1 for Fiscal Year 2008. **Council Secretary Nancy Howard moved to approve; seconded by Council Member Lloyd Martin. The vote was 6-0 with Council Member Jim Hall out of the room.**

## ITEMS REFERRED TO AND PRESENTATIONS FROM THE CITY MANAGER

- A. Assistant to City Manager Kathy Mathias requested permission to re-bid Northside Park's Automatic Teller Machine (ATM). **Council Secretary Nancy Howard moved to approve; seconded by Council Member Lloyd Martin. The vote was 6-0 with Council Member Jim Hall out of the room.**
- B. City Manager Dare recommended the following bid awards: (1) **Alban Engine Power Systems** for a 100 kilowatt generator and transfer switch for the amount of \$38,120. **Council Secretary Nancy Howard moved to approve; seconded by Council Member Lloyd Martin. The vote was unanimous.** (2) **Arrow Contracting** for the 38th Street Well House Carpentry Contract, for the amount of \$8,200. **Council Member Jim Hall moved to approve; seconded by Council Member Lloyd Martin. The vote was unanimous.**

## COMMENTS FROM CITIZENS

None

## COMMENTS FROM THE MAYOR AND CITY COUNCIL

Council Member Jay Hancock asked for an update on the progress of construction to the Route 50 Bridge. City Manager Dennis Dare said that he was advised that the project was going well.

Council Member Hancock asked for an update on the Bayshore Drive Underground Utility Wiring Project. Council Member Jim Hall said the project will be complete soon.

Council Member Hancock asked that the Town should help enforce the smoking ban.

Council Member Hancock said that citizens should have input on the Convention Center Expansion Project.

Mayor Rick Meehan said that he spoke with the Worcester County License and Beverage Association who said that they are not concerned about allowing slots in non-profit organizations.

**ADJOURNMENT**

**Council Secretary Nancy Howard moved to adjourn this meeting at 8:30 p.m.; seconded by Council Member Lloyd Martin. The vote was unanimous.**

Minutes prepared by Kelly L. Allmond, Deputy City Clerk

A handwritten signature in black ink, reading "Kelly L. Allmond". The signature is written in a cursive style with a large, looping initial "K".

Minutes certified by Carol L. Jacobs, City Clerk.

Minutes approved on 2-19-08

# **Ocean City Air Show 2008 (OCAS)**

## **February 4, 2008**

ATTACHMENT A

The Ocean City Air Show takes place on Tuesday and Wednesday, June 10 and 11 from 12:00 noon to 3:00 p.m. over the beach, centered on 16th Street. The rehearsal/preview day is Monday, June 9th. An Open House/Media Day will take place at the Ocean City Airport on Monday, June 9th. Ground Displays will be located in the north end of the Inlet Parking Lot and along 15th, 16th and 17th Streets from Baltimore Avenue to the Boardwalk.

### **Current Demonstration Units:**

- US Jet (3-Jet Aerial Demonstration Team)
- United States Army Golden Knights (Skydiving Aerial Demonstration Team)
- United States Air Force Reserve Biplane (Single Aircraft Aerial Demonstration Team)

### **Anticipated Flybys:**

- United States Air Force
- United States Navy
- United States Army
- NASA
- Heritage Aircraft

### **Supporting Organizations:**

- Ocean City Aviation Association (OCAA)
- United States Coast Guard (USCG)
- Federal Aviation Administration (FAA)
- Ocean City Beach Patrol (OCBP)
- National Aeronautics and Space Administration/Wallops Island (NASA)
- Maryland State Police (MSP)
- Ocean City Airport (OXB)
- Ocean City Staff (TOC)

### **Memorandum of Understanding (MOU) (which includes the Plan and Timeline)**

- Prepared by Special Events Director
- Reviewed by City Solicitor and Bryan Lilley
- Ready for Council Approval and City Manager Signature

### **Town of Ocean City Financial Support (50,000.00)**

- US Jet Contract
- P-51 Mustang Demo Fee
- USA Golden Knight Demo Fee
- Aircraft Fuel & Oil
- Smoke Oil
- Advertising
- Public Address System
- Misc. Other Expenses



## MEMORANDUM

TO: Mayor and City Council

DATE: January 23, 2008

FROM: Kathleen Mathias  
Assistant to City ManagerSUBJECT: Non-profit  
OrganizationsReport on non-profit status of organizations on Springfest and Sunfest beer truck rotation

I have performed an audit of the 45 organizations that are currently listed on the rotation for beer trucks and report the following:

501 (c) (3) – 24 organizations

501 (c) (4) – 7 organizations

501 (c) (7) – 2 organizations

501 (c) (8) – 5 organizations

501(c) (10) – 3 organizations

501 (c) (19) – 4 organizations

Since some of these organizations fall under different sections of the IRS code, I reviewed the sections of the code that apply to each organization and provide the following for your review. The majority of the organizations are 501 (c) (3) organizations and a definition is listed below:

Definition – 501 (c) 3 – “ There are 3 components for an organization to be exempt from federal income tax under section 501 (c) (3). A not-for-profit organization must be organized and operated exclusively for one or more exempt purposes . . . IRC lists the following exempt purposes: charitable, educational, religious, scientific, literary, fostering national or international sports competition, preventing cruelty to children or animals and testing for public safety.” Donations to these organizations are tax deductible (when documentation is provided by the donor).

The remainder of the organizations fall into the following categories. There is a specific section for veterans’ organizations and their auxiliaries as noted below:

501 (c) (4) – Social Welfare Organizations – “Prior to the enactment of IRC 501 (c) (19) veterans’ organizations were generally recognized as tax exempt under IRC 501 (c) (4) because their primary activities promoted the social welfare of the community. There are no membership requirements under 501 (c) (4). Exemption is based solely on the type of activities conducted. Although there are some qualifications, donations to these organizations are tax deductible.

501 (c) (7) – Social Clubs – “Veterans’ organizations whose activities are recreational, such as operating a bar, restaurant, canteen or casino for members, may be recognized as tax exempt under IRC 501 (c) (7). These clubs are often operating in conjunction with 501 (c) (4) veterans’ organizations. Social clubs may have different categories of members and are not required to have a specific percentage of veteran members. Contributions to social clubs (dues and assessments) are not deductible, however, some of their charitable pursuits are deductible.

501 (c) (8) and 501 (c) (10) – Fraternal Organizations – the members must share common ties and come together to pursue common goals. 501 (c) (8) operate under a lodge system and provide for the payment of life, sick, accident or other benefits to its members. Operating under a lodge systems means carrying on activities under a form of organization that is comprised of local branches chartered by a parent organization. The local branches are called lodges or chapters and must be separately organized and self-governing. 501 (c) (10) is the same except that it does not provide benefits to its members. The net earnings of 501 (c) (10) must be devoted to charitable, religious, scientific, literary, educational or fraternal purposes. Contributions are deductible for these purposes.

501 (c) (19) – An organization must be either a post or organization of past or present members of the United States Armed Forces; an auxiliary unit or society of such post organization; or a trust or foundation for such post or organization. Contributions are deductible for charitable, religious, scientific, literary, or educational purposes.

You will note that all of the organizations listed in these categories qualify for all or portions of their contributions to be tax deductible. There is one exception. Of the two organizations that are 501 (c) (7) one of them has a specific notation on their tax-exempt certificate indicating that contributions to that organization are not deductible. This organization is the Elks Lodge Ladies Auxiliary

This year we have received an application from an organization that is a non-profit organization, but is a 501 (c) (5) organization, the National Active and Retired Federal Employees Association. This is a labor organization. By definition in the IRS code it is “an association of workers who have combined to protect or promote their interests by bargaining collectively with their employers to secure better working conditions, wages, and similar benefits. Similar benefits include benefits traditionally provided by labor organizations such as strike, lockout, death, sickness, accident, and other benefits. Labor organizations need not be recognized labor unions.” Additionally, contributions to labor, agricultural and horticultural organizations are not deductible as charitable contributions.

The Town of Ocean City Policy states that the organizations for the beer trucks be non-profit, provide a certificate of its federal exemption and be based in Ocean City. I wanted you to be aware of this addition request because it is different than all of the other organizations. If you should desire to make any changes to the policy, I have drafted a proposed change for your review. The additions to the beer truck rotation are scheduled for the February 19<sup>th</sup> Council Meeting.

Please feel free to contact me if you have any questions regarding this information.

Enclosures

cc: Dennis W. Dare, City Manager  
Guy R. Ayres, City Solicitor

C7

SENATE BILL 29

8

lr1061

SB 98/07 – B&T

(PRE-FILED)

By: **Senator Klausmeier**

Requested: November 15, 2007

Introduced and read first time: January 9,

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08 Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Slot Machines – Ownership and Operation by Eligible**  
3 **Nonprofit Organizations**

4  
5  
6  
7  
8 FOR the purpose of making provisions that authorize eligible organizations to own  
9 or operate slot machines applicable statewide; altering the definition of “eligible  
10 organization” to make it applicable to a nonprofit organization that has been  
11 located in the State for a certain number of years before the organization applies  
12 for a license; and generally relating to slot machine ownership and operation by  
13 eligible nonprofit organizations.

14 BY repealing and reenacting, with  
amendments, Article – Criminal Law  
Section 12–304  
Annotated Code of Maryland  
(2002 Volume and 2007 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Criminal Law**

18 12–304.

19 (a) In this section, “eligible organization” means:

20 (1) a nonprofit organization that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.

1  
2  
3  
4

21 (i) has been located in [a county listed in subsection (b) of this 22 section] THE STATE for at least 5 years before the organization applies for a license 23 under subsection [(e)] (D) of this section; and

(ii) is a bona fide:

1. fraternal organization;

2. religious organization; or

3. war veterans' organization; or

5 (2) a nonprofit organization that has been affiliated with a national  
6 fraternal organization for less than 5 years and has been located in [a county listed in  
7 subsection (b) of this section] THE STATE for at least 50 years before the nonprofit  
8 organization applies for a license under subsection [(e)] (D) of this section.

9 (b) [This section applies in:

10 (1) Caroline County;

11 (2) Cecil County;

12 (3) Dorchester County;

13 (4) Kent County;

14 (5) Queen Anne's County;

15 (6) Somerset County;

16 (7) Talbot County; and

17 (8) Wicomico County.

18 (c) (1) In this subsection, a console or set of affixed slot machines is  
not  
19 an individual slot machine.

20 (2) Notwithstanding any other provision of this subtitle, an  
eligible 21 organization may own and operate a slot machine if the eligible  
organization:

22 (i) obtains a license under subsection [(e)] (D) of this  
section for  
23 each slot machine;

24 (ii) owns each slot machine that the eligible organization  
25 operates;

26 (iii) owns not more than five slot machines;

1 (iv) locates and operates its slot machines at its principal  
2 meeting hall in the county in which the eligible organization is located;

3 (v) does not locate or operate its slot machines in a private  
4 commercial facility;

5 (vi) uses:

6 1. at least one-half of the proceeds from its slot  
7 machines for the benefit of a charity; and

8 2. the remainder of the proceeds from its slot machines  
9 to further the purposes of the eligible organization;

10 (vii) does not use any of the proceeds of the slot machine for the  
11 financial benefit of an individual; and

12 (viii) reports annually under affidavit to the State Comptroller:

13 1. the income of each slot machine; and

14 2. the disposition of the income from each slot machine.

15 [(d)] (C) An eligible organization may not use or operate a slot machine  
16 unless:

17 (1) the slot machine is equipped with a tamperproof meter or counter  
18 that accurately records gross receipts; and

19 (2) the eligible organization keeps an accurate record of the gross  
20 receipts and payoffs of the slot machine.

21 [(e)] (D) (1) Before an eligible organization may operate a slot machine  
22 under this section, the eligible organization shall obtain a license for the slot machine  
23 from the sheriff of the county in which the eligible organization plans to locate the slot  
24 machine.

25 (2) (i) The county shall:

26 1. charge an annual fee of \$50 for each license for a  
27 machine; and

28 2. issue a license sticker to the applicant.

29 (ii) The applicant shall place the sticker on the slot machine.

1 (iii) The proceeds of the annual fee shall be transferred to  
the  
2 general fund of the county.

3 (3) In the application to the sheriff for a license, one of the  
principal  
4 officers of the eligible organization shall certify under affidavit that the  
organization:

5 (i) is an eligible organization; and

6 (ii) will comply with this section.

7 [(f)] (E) (1) A principal officer of the eligible organization may not  
8 intentionally misrepresent a statement of fact on the application.

9 (2) A person who violates this subsection is guilty of perjury and  
on  
10 conviction is subject to the penalty provided under Title 9, Subtitle 1 of this  
article.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
effect  
12 October 1, 2008.