

Note: Complete Meeting Appears
on CD #04-16 on File in the
Borough Clerk's Office

February 24, 2016
Wildwood Crest, NJ

Prior to the opening of the meeting, Mr. Groom led those present in the Pledge of Allegiance to the Flag.

The meeting of the Board of Commissioners, Borough of Wildwood Crest, Cape May County, New Jersey, was held in the Municipal Court Room at 7:00 p.m. On roll call the following answered to their names:

Gould – Cabrera – Groom – Yes

Mr. Groom read the following statement: In compliance with the Open Public Meeting Act, Chapter 231, P.L. 1975, the notice requirements have been satisfied as to the time, place and date of holding said meeting by posting notice on the bulletin board in the Borough Hall and by mailing and same to the Gazette-Leader, Herald of Cape May County and The Press on November 4, 2015.

Mr. Groom next announced the one-way in and the one-way out method of ingress and egress in case of emergency.

Mrs. Gould motioned, seconded by Mr. Cabrera, that Ordinance 1235 be placed on second and final passage by title only.

Vote: Gould - Cabrera – Groom – Yes

THE CLERK READ THE FOLLOWING ORDINANCE BY TITLE ONLY:

ORDINANCE NO. 1235

AN ORDINANCE CREATING CHAPTER 56A OF THE CODE OF THE
BOROUGH OF WILDWOOD CREST – RENTAL PROPERTIES – RENTAL
LICENSE REGULATIONS, ESTABLISHING LICENSING PROCEDURES,
REQUIRED INSPECTIONS AND REGISTRATION FOR ALL RENTAL
PROPERTIES OR PROPERTIES CONTAINING RENTAL UNITS,
INCLUDING, BUT NOT LIMITED TO, RESORT HOUSES.

Mrs. Gould motioned, seconded by Mr. Cabrera, that a public hearing now be held on Ordinance No. 1235.

Vote: Gould - Cabrera – Groom – Yes

After no comments from the public, Mrs. Gould motioned, seconded by Mr. Cabrera, that the public hearing on Ordinance No. 1235 now be closed.

Vote: Gould - Cabrera – Groom – Yes

Mrs. Gould motioned, seconded by Mr. Cabrera, that Ordinance No. 1235 be passed on second and final reading and advertised according to law.

Vote: Gould - Cabrera – Groom – Yes

THE CLERK READ THE FOLLOWING ORDINANCE BY TITLE ONLY:
ORDINANCE NO. 1236
ORDINANCE TO ESTABLISH CAP BANK FOR
CY2016 PURSUANT TO N.J.S.A. 40A:4-45.14

Mrs. Gould motioned, seconded by Mr. Cabrera, that Ordinance No. 1236 be passed on first reading, advertised according to law, be brought up for second and final reading and public hearing on Wednesday, March 9, 2016 at 9:30 a.m.

Vote: Gould - Cabrera – Groom – Yes

THE CLERK READS THE FOLLOWING RESOLUTION BY TITLE:
RESOLUTION NO. 639-16
ANNUAL SEWER RATE

WHEREAS, Borough of Wildwood Crest Ordinance Numbers 947 and 1203 contain formulas for the calculation and establishment of annual sewerage rates, including the current year Variable Rate Fee; and

WHEREAS, the said calculations have been prepared and reviewed in accordance with the aforementioned Ordinances Numbered 947 and 1203; and

WHEREAS, it is promulgated in Ordinance No. 947 the Commissioner of Revenue and Finance shall submit the proposed sewerage rates and minimum charges to the Board of Commissioners for confirmation by resolution; and

WHEREAS, the rates as calculated, reviewed and submitted are as follows:

Fixed Rate Charge:	\$4.00 per 1000 gallons of metered water consumption
Variable Rate Charge:	\$22.60 per 1000 gallons of metered water consumption
Minimum Annual Charge:	\$124.00

WHEREAS, the due date for the first quarter will be April 1, 2016 with a ten day grace period.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Borough of Wildwood Crest, in the County of Cape May and the State of New Jersey, that the sewerage rates and minimum charges as presented by the Commissioner of Revenue and Finance be confirmed for calendar year 2016.

Mrs. Gould motioned, seconded by Mr. Cabrera, that the foregoing Resolution be adopted.

Vote: Gould – Cabrera – Groom – Yes

THE CLERK READS THE FOLLOWING RESOLUTION BY TITLE:
RESOLUTION NO. 640-16

SUBJECT: LOCAL BUDGET OF THE BOROUGH OF WILDWOOD CREST, COUNTY OF CAPE MAY, NEW JERSEY, FOR THE FISCAL YEAR 2016

BE IT RESOLVED that the following statements of revenue and appropriations shall constitute the local budget for the year 2016.

BE IT FURTHER RESOLVED that said budget be published in *The Cape May County Herald* issue of March 2, 2016.

NOTICE is hereby given that the budget and tax resolution were approved by the Board of Commissioners of the Borough of Wildwood Crest, County of Cape May, New Jersey on February 24, 2016.

A hearing on the budget and tax resolution will be held in the Municipal Court Room in Borough Hall on Wednesday, MARCH 23, 2016 AT 7:00 P.M., Municipal Court Room, Borough Hall, 6101 Pacific Avenue, Wildwood Crest, New Jersey, at which time and place objections to said budget and tax resolution for the year 2016 may be presented by taxpayers and other interested persons.

Mrs. Gould motioned, seconded by Mr. Cabrera, that the foregoing Resolution be adopted.
Vote: Gould – Cabrera – Groom – Yes

THE CLERK READS THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 641-16
**Authorizing Retention Via Professional Services Agreement
Of A Law Firm As Special Counsel Specializing In Construction Litigation**

WHEREAS, the Borough of Wildwood Crest requires the professional services of a law firm specializing in construction litigation issues; and

WHEREAS, it is desired to employ a professional, pursuant to law, who is duly trained, experienced and specialized in the area of skilled construction litigation; and

WHEREAS, the Local Public Contracts Law provides for the entering into of a contract for professional services pursuant to R.S.40A:11-5(1)(a), without advertising for competitive bidding; and

WHEREAS, the Borough has determined that **Rona Zucker Kaplan** of the law firm of Cooper Levenson, P.A. of Atlantic City, New Jersey is qualified to perform said work and it is desired to enter a professional contract with them for said services pursuant to law, and to provide for the advertising of a notice pursuant to law; and

WHEREAS, **Rona Zucker Kaplan**, of the law firm of Cooper Levenson, P.A., has completed and submitted a Business Entity Disclosure Certification which certifies that Rona Zucker Kaplan and Cooper Levenson, P.A., will not make any reportable contributions pursuant to N.J.S.A. 19:44A-1 commencing February 24, 2016 to any political committee or candidate through the term of this contract;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Wildwood Crest, County of Cape May, New Jersey, as follows:

1. **Rona Zucker Kaplan** of the law firm of Cooper Levenson, P.A., of Atlantic City, New Jersey is hereby retained as Special Counsel to provide specialized professional services in the field of construction litigation for the period February 24, 2016 through December 31, 2016. The said professional services to be received shall be “as directed” by the Borough of Wildwood Crest from time to time.
2. The Mayor and Borough Clerk be and they are hereby authorized and directed to enter into a contract with **Rona Zucker Kaplan**, of the law firm of Cooper Levenson, P.A., for specialized professional services in the field of construction litigation for a term of the period indicated above, which contract shall provide for payment at the hourly rate of **two hundred thirty five (\$235.00) dollars per hour**. Said award is further contingent upon the certification of availability of funds below by the CFO.

3. This contract is awarded without competitive bidding as a professional service in accordance with the provisions of the Local Public Contracts Law aforesaid, and in accordance with the provisions of N.J.S.A. 19:44A-1, and shall be in a form approved by the Borough.
4. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this Resolution.
5. This Resolution and a copy of the contract for professional services shall be maintained on file in the offices of the Borough Clerk for public inspection.
6. A copy of this Resolution shall be published in the legal newspaper designated by the Borough as required by law, within ten (10) days of its passage.

WHEREAS, the CFO has certified the availability of funds as evidenced below by her signature,

Account Number(s)	Amount	Signature
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Mrs. Gould motioned, seconded by Mr. Cabrera, that the foregoing Resolution be adopted.
 Vote: Gould – Cabrera – Groom – Yes

THE CLERK READS THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 642-16

WHEREAS, Section 40-16, et. seq., of the Code of the Borough of Wildwood Crest, County of Cape May, State of New Jersey, sets forth the pertinent law regarding the issuance of licenses to persons, firms or corporations desiring to engage in the peddling and soliciting of Ice Cream Products and Fruits/Vegetables within the Borough of Wildwood Crest; and

WHEREAS, certain Licenses, for which applications have been filed for the peddling of Ice Cream Products and Fruits/Vegetables during the calendar year 2016, are now available.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Wildwood Crest, the Governing Body of the Borough of Wildwood Crest, as follows:

That based upon applications having been received and a review of the qualifications of the applicants for said licenses having been made, said six (6) Ice Cream Peddling Licenses and (3) Fruit/Vegetable Peddling Licenses for the balance of calendar year 2016 be and the same are hereby granted unto the following persons, firms or corporations:

<u>NAME</u>	<u>ADDRESS</u>
1. Kathleen Healy d/b/a Yankee Doodle Ice Cream	13 Wakefield Place North Cape May, NJ 08204
2. Elizabeth Aubrey Aubrey's Ice Cream LLC d/b/a Monster Cone	129 East Davis Ave. Wildwood, NJ 08260
3. William Jeffrey Angelo d/b/a Chilly Willy's Ice Cream	217 W. Buttercup Rd. Wildwood Crest, NJ 08260
4. Wayne Aubrey Monster Cone LLC	85 New Freedom Road Berlin, NJ 08009

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|---|--|
| 5. Nicholas Christian Rogalski
Big Top Ice Cream, LLC | 112 E. Morning Glory Rd.
Wildwood Crest, NJ 08260 |
| 6. Armen Avetisyan
A&T Ice, LLC | 202 E. Maryland Ave.
Rio Grande, NJ 08242 |
| 7. David Mayer, President
Island Produce Inc
(3 licenses) | 4314 Park Blvd.
Wildwood, NJ 08260 |

Mrs. Gould motioned, seconded by Mr. Cabrera, that the foregoing Resolution be adopted.

Vote: Gould – Cabrera – Groon – Yes

THE CLERK READS THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 643-16

WHEREAS, on February 17, 2016, the NORTH AMERICAN POWER KITE ASSOCIATION (NAPKA), P.O. Box 1358, Westport, WA 98595, applied for a Special Events Permit for the purpose of a KITE BUGGY EVENT to be held from MARCH 8th through MARCH 13, 2016, from 8:00 a.m. until 5:00 p.m., on the WILDWOOD CREST BEACH; and

WHEREAS, the NORTH AMERICAN POWER KITE ASSOCIATION (NAPKA), P.O. Box 1358, Westport, WA 98595 has supplied all documentation required under Ordinance No. 936, including the requisite Certificate of Insurance, and has further pledged to comply with all applicable rules and regulations pertaining to the conduct of said Special Event; and

WHEREAS, the application has been reviewed by the Board of Commissioners, upon verification by appropriate members of staff as to completeness of the application, scheduling compatibility, etc.;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Wildwood Crest, County of Cape May, New Jersey that the Borough Clerk be and she is hereby authorized and directed to issue a Special Events Permit to the NORTH AMERICAN POWER KITE ASSOCIATION (NAPKA), P.O. Box 1358, Westport, WA 98595 for the purpose of a KITE BUGGY EVENT to be held from MARCH 8th through MARCH 13, 2016, from 8:00 a.m. until 5:00 p.m., on the WILDWOOD CREST BEACH.

Mrs. Gould motioned, seconded by Mr. Cabrera, that the foregoing Resolution be adopted.

Vote: Gould – Cabrera – Groon – Yes

Mrs. Gould motioned, seconded by Mr. Cabrera, that all bills properly authorized, as submitted, be paid.

Vote: Gould – Cabrera – Groon – Yes

Mrs. Gould motioned, seconded by Mr. Cabrera, that all reports submitted from the Court Administrator, CFO, Tax Collector, and the Wildwood Crest Police Department for the month ending January 31, 2016, be accepted as presented.

Vote: Gould – Cabrera – Groon – Yes

Mrs. Gould motioned, seconded by Mr. Cabrera, that all minutes from the regularly scheduled Commission Meetings dated January 20, 2016 and February 10, 2016, as well as the Closed

Session Minutes of the Meetings dated January 20, 2016 and February 10, 2016 be approved as presented.

Vote: Gould – Cabrera – Groon – Yes

The Mayor then opened the floor for public commentary.

Michael Hawthorne, 102 East Preston Avenue, inquired about the third resolution for Ms. Kaplan as special counsel. The Mayor indicated the attorney was being hired for issues with Crest Pier and the HVAC system only. Mr. Hawthorne then inquired about the number of current active lawsuits there are against the Borough to which the Mayor indicated he believed there was only one. The Solicitor then indicated that if Mr. Hawthorne wanted the lawsuits with the JIF, she could get from Mr. DeWeese on behalf of the JIF. Mr. Hawthorne then asked about the contract with Mr. Barbone and what that was for and the Mayor replied that it dealt with the Hunt case. The Mayor also added that he was only aware of one active lawsuit and that did not include tort claims.

Dennis Travascio, 112 E. Louisville Avenue, asked if copies of the budget were available for the public. The Mayor indicated they would be available tomorrow after they were signed. Mr. Travascio then asked about the peddling resolution and the Mayor answer it was 6 ice cream and 3 fruit. Mr. Travascio asked if Pacific Avenue would be addressed and the Mayor indicated that it is listed in New Business and would be addressed at that time in the agenda.

Diana Gant Brunell, 110 E. Palm Road, inquired if there was a conflict with the Hunt case with respect to Mr. Barbone. Ms. Brunell cited a meeting from last year where she indicated the term ‘frivolous’ was used with respect to the Hunt case. The Solicitor indicated that all lawsuits against the Borough deserve attention and the Mayor added the Borough takes all cases seriously and on the advice of the JIF, the Borough hired the appropriate attorney for the situation. The Solicitor added that each case is treated seriously. Lastly, the Mayor added that he could verify the number of lawsuits against the Borough at another time.

With no further public commentary, The Mayor opened the New Business section with Pacific Avenue. He had nothing to add at this time and that they were considering options and issues.

Michael Hawthorne, 102 E. Preston Avenue, inquired about Pacific Avenue and if a new engineer would be used. The Mayor indicated that all aspects would be considered. Mr. Hawthorne followed up by asking if the commissioners considered both scenarios with respect to the vote. The Mayor indicated that considerations need to be looked at and all options and they are waiting on a proposal. Mrs. Gould indicated that Bond Counsel would have to be contacted again in order to move forward. The Mayor advised that they would need to examine estimates once again.

The next topic was “Adopt a Beach” Program and Mr. Cabrera indicated that this would be covered under the Clean Communities Grant and each of the 42 beach ends could be sponsored by volunteers to maintain a beach. The clean up supplies would be supplied by the grant. The Safety Coordinator gave proposed details and that it would be under Public Works. The Mayor

had no feeling on it. The Safety Coordinator summed it up by stating all funding would come from the grant; volunteers would have a sign on their beach and they would take care of it.

Diana Gant Brunell, 110 E. Palm Road, asked how you would determine who gets the beach they want if many want a certain beach. Commissioner Cabrera indicated it would be a first come, first serve basis and that a coordinated press release would detail this.

Dennis Travascio, 112 E. Louisville Avenue, questioned what happens if the Borough does not get the grant and Commissioner Cabrera indicated that we get that grant money and it is up to us to determine how to spend the money. Commissioner Gould indicated that the grant pays for the Borough calendars as well. The Safety Coordinator also suggested two beach sweeps: one in Fall and one in Spring. The Mayor then indicated that criteria would need to be set up in advance and applications and waivers set.

With no more New Business to discuss, the Mayor opened Old Business. The first topic was “Emergency Generators/school generator” and the Mayor indicated that Public Safety and OEM were working on this and hoped to update in a few weeks. Commissioner Cabrera indicated that the second topic of “Open Space Application” could be removed. The third topic was “Sunset Lake – Mitigation/ Storm Damage” and the Mayor indicated that there were two areas of armored tiles along Sunset Lake that received damage and that they will be repaired and that the Borough will receive assistance in doing so. The last topic was “Army Corps Beach Plan (Dunes)” and the Mayor indicated there was nothing new to report.

The Mayor once again opened the floor for public commentary with respect to “new” and “old” business. Hearing nothing from the public,

THE CLERK READS THE FOLLOWING RESOLUTION BY TITLE:

RESOLUTION NO. 644-16

Authorizing Executive/Closed Session in accordance with the provisions of the Open Public Meetings Act, specifically N.J.S.A. 10:4-12(b)

WHEREAS, the Open Public Meetings Act (N.J.S.A. 10:4-6 et. seq.) requires all meetings of the Board of Commissioners of the Borough of Wildwood Crest to be held in public, except that N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in “Executive or Closed Session,” i.e., without the public being permitted to attend; and

WHEREAS, the Board of Commissioners of the Borough of Wildwood Crest has determined that TWO (2) issues are permitted by N.J.S.A. 10:4-12(b) to be discussed without the public in attendance to be discussed during the Executive or Closed Session to be held on **Wednesday, February 24, 2016** at 7:00 p.m.; and

WHEREAS, the nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b) are listed below, and next to each exception is a box within which the number of issues to be privately discussed that fall within that exception shall be written, and after each exception is a space where additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written:

“(1) Any matter which, by express provision of Federal law, State statute or rule of court shall be rendered confidential or excluded from public discussion.” The legal citation to the provision(s) at issue is: _____ and the nature of the

matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **“(2) Any matter in which the release of information would impair a right to receive funds from the state or federal government.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **“(3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual’s personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **“(4) Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body.”** The collective bargaining contract(s) discussed are between the Borough and _____

_____ **“(5) Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

_____ **“(6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

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“(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.” The parties to and docket numbers of each item of litigation and/or the parties to each contract discussed are _____ and the nature of the discussion, described as specifically as possible without undermining the need for confidentiality are Potential Litigation for Crest Pier and Potential Litigation with regard to Construction Damage with New Jersey Avenue Project

_____ **“(8) Any matter involving the employment, appointment, termination of employment, terms and conditions or employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request, in writing, that such matter or matters be discussed at a public meeting.”** Subject to the balancing of the public’s interest and the employee’s privacy rights under *South Jersey Publishing Co. v. New Jersey Expressway Authority*,

124 N.J. 478, the employee(s) and nature of the discussion, described as specifically as possible without undermining the need for confidentiality are

_____ **“(9) Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the responding party bears responsibility.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is

WHEREAS, the Board of Commissioners shall reconvene the public meeting at the conclusion of the authorized closed or executive session, which may or may not include formal action as a result of the discussion(s) held.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Wildwood Crest, assembled in public session on the date of the meeting of the governing body set forth herein above, that a closed session shall be held for the discussion of matters relating to the specific items designated above involving the Borough of Wildwood Crest. The governing body shall convene a closed session discussion immediately upon passage of this resolution and it is anticipated that the deliberations conducted in closed session shall be disclosed to the public upon conclusion of the matter and/or after determination of the Board of Commissioners that the public interest will no longer be served by such confidentiality and that the meeting will return to open session at the conclusion of the discussion and formal action may be taken if/as authorized.

BE IT FURTHER RESOLVED that the Municipal Clerk, at the present public meeting, shall read aloud enough of this resolution so that members of the public in attendance can understand, as precisely as possible, the nature of the matters that will be privately discussed.

BE IT FURTHER RESOLVED that the Municipal Clerk, on the next business day following this meeting, shall furnish a cop of this resolution to any member of the public who requests one at the fees authorized by N.J.S.A. 47:1A-1, et. seq.

Mrs. Gould motioned, seconded by Mr. Cabrera, that the foregoing Resolution be adopted.

Vote: Gould – Cabrera – Groon – Yes

After returning from Closed Session, and opening the floor once again for public commentary and hearing nothing from the public, Mrs. Gould then motioned, seconded by Mr. Cabrera that the meeting be adjourned. All were in favor. The time was 7:55 p.m.

Dated: March 23, 2016

Patricia A. Feketics, Borough Clerk

