

**MAYOR & COUNCIL  
REGULAR MEETING  
MARCH 14, 2013  
7:30 p.m.**

The Regular Meeting of the Mayor and Council of the Borough of Rockaway, in the County of Morris, New Jersey, was held in the Community Center, 21-25 Union Street, Rockaway, N.J. with Mayor Russell Greuter presiding. Mayor Greuter called the meeting to order at 7:31 p.m.

Mayor Greuter read the following statement: In accordance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Laws, 1975, be advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and sending to the officially designated newspapers, a list of meeting dates annually, indicating that the meeting would take place at the Community Center at 7:30 p.m. on March 14, 2013. Mayor Greuter announced the location of the fire exits.

Councilmembers Present

Joyce Kanigel  
Thomas Mulligan  
Joseph Vicente  
John Willer  
Melissa Burnside - Council President

Councilmembers Absent

Thomas Donofrio

Borough Attorney Edward Wacks, Esq., was also present.

Everyone present participated in the salute to the flag.

MORRIS COUNTY 2013 BUDGET

The Morris County Freeholder and Budget Subcommittee member John Krickus discussed the 2013 budget for the County of Morris. There will be a zero percent tax increase to the operating budget.

APPROVAL OF MINUTES

Upon motion by Councilman Burnside, seconded by Councilman Mulligan, and carried unanimously upon voice vote, the minutes of the February 23, 2013 Budget Meeting and the February 28, 2013 Regular Meeting were accepted as submitted.

COUNCIL/COMMITTEE REPORTS

Councilwoman Kanigel - Finance and Licensing Committee

*County Marker* - The County installed an historical marker near the brook on West Main St commemorating the stone arch bridge built in 1826.

*Payment of Bills* - Upon motion by Councilwoman Kanigel, seconded by Councilman Vicente, and carried unanimously upon voice vote, that the bills presented to the Borough of Rockaway for payment by the Borough, as evidenced by proper vouchers, be referred to the Committee or unit contracting for same, and, when endorsed by them and approved by appropriate action of Council, that they are to be paid.

Upon motion by Councilman Vicente, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Finance and License Committee report.

Councilman Mulligan - Ordinance Committee

*Recreation* - Interviews will be conducted next week with candidates for the Recreation Director position.

*Ordinance 05-13* - This ordinance, which will be introduced this evening, adopts the state mandates for documents requested through Municipal Court discovery.

Upon motion by Councilman Vicente, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Ordinance Committee report.

Councilman Vicente - Personnel

*2013 Budget* - The CFO and auditor will meet next week to discuss the budget. The special meeting scheduled to introduce the budget on March 21 will be canceled; the next budget meeting will be held on March 23; and the budget should be introduced on March 28.

*Personnel* - The CFO was appointed at the last budget meeting. James Silance, Construction Official/Building Sub-code Official, resigned on March 11, 2013. Thomas Yotka, Fire Subcode Official, has been filling in on a temporary basis. We will review candidates to fill the opening.

Upon motion by Councilman Willer, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Personnel Committee report.

Councilman Willer - Fire Committee

*Fire Department* - The Fire Department placed a hold on Tom Cyan's application for membership until the background check comes back; Jeff Weiler rescinded his application because he is enlisting in the navy; called drills on March 20 and 27, optional drill on March 10, and officer drill on March 25; and approved the request for an application from Paul Ostensen.

Upon motion by Councilman Vicente, seconded by Councilman Mulligan, and carried unanimously upon voice vote, to accept the Fire Committee report.

Council President Burnside - Public Safety Committee

*Public Safety* - The Borough hopes to receive \$91,590.61 from FEMA for reimbursement of 75 percent of Hurricane Sandy expenses.

*Board of Health* - Doggy daycare facilities will be subject to the same licensing and inspection requirements as kennels. The Board recommended, and the Governing Body agreed, that a non-Borough resident who owns a business in the Borough could be a candidate for the Board of Health. A Health Fair will be held on June 1, 9-12, at Assembly of God Church.

Upon motion by Councilman Vicente, seconded by Councilman Mulligan, and carried unanimously upon voice vote, to accept the Public Safety Committee report.

ATTORNEY'S REPORT

*Water Allocation Ordinance* - The attorneys have prepared an ordinance regarding water allocation. It is being reviewed by the Borough Engineer.

*Litigation* - The Donatoni and Jersey City litigations are plodding along.

Upon motion by Councilman Willer, seconded by Council President Burnside and carried unanimously upon voice vote, to accept the Borough Attorney's report.

MAYOR'S REPORT

*Construction Official/Building Sub-Code Official* - As mentioned earlier, James Silance, Construction Official/Building Subcode Official, resigned on March 11, 2013.

Upon motion by Councilman Willer, seconded by Councilman Vicente, and unanimously carried via voice vote to accept the resignation of James Silance, Construction Official/Building Subcode Official, effective March 11, 2013.

Mayor Greuter announced he would like to appoint Thomas Yotka, Fire Subcode Official, as Acting Construction Official and Acting Building Subcode Official, beginning March 11, 2013 until the position is filled.

Upon motion by Councilman Vicente, seconded by Councilman Willer, and unanimously carried via voice vote to appoint Thomas Yotka, Fire Subcode Official, as Acting Construction Official and Acting Building Subcode Official, beginning March 11, 2013 until the position is filled.

*Energy Savings* - Through participation in the NJ Sustainable Energy Joint Meeting for the purchase of electricity and natural gas, the Borough saved over \$16,000 in electricity in 2011 and 2012. Natural gas rates are locked in at \$5.2013 per dekatherm for the next two years.

*Special Prosecutor* - The Islamic Center of Morris County on Mannino Drive was heard in Municipal Court for violations. The Borough won the case in Municipal Court; however, they have appealed to Superior Court. Mayor Greuter announced that he would like to appoint Douglas Cabana as Special Prosecutor for this case, as he is already familiar with it.

Upon motion by Councilman Willer, seconded by Councilman Vicente, and carried unanimously upon voice vote, to concur with Mayor Greuter's appointment of Douglas Cabana as Special Prosecutor for the matter regarding Islamic Center of Morris County to be heard in Superior Court.

*Mechanical Inspector* - One candidate suggested that we utilize the mechanical inspector license to save homeowners money in that only one permit would be required for certain improvements such as a hot water heater vs. two or more permits. We will investigate.

*Parks and Recreation Committee* - Mayor Greuter complimented the Committee for the work they have been doing cleaning up the parks and repairing the hockey rink.

Upon motion by Councilman Willer, seconded by Councilman Vicente, and carried unanimously upon voice vote, to accept the Mayor's report.

#### CLERK'S REPORT

*Bingo/Raffle License Approvals* - Approved raffle licenses for Rockaway Fire Department Association for on premise 50/50's to be held at Fireman's Field on June 15, July 11, July 12, and July 13, 2013 at 9:30 p.m. and for an off premise 50/50 to be held at Fireman's Field on July 13, 2013 at 9:30 p.m. and on November 28, 2013 at 12 noon.

Approved on premise 50/50 raffle license for Denville Blue Angels for event to be held April 20, 2013, at Rockaway Lanes.

Upon motion by Councilman Vicente, seconded by Councilman Willer, and carried unanimously upon voice vote, to accept the Clerk's report.

#### RESOLUTIONS (CONSENT AGENDA ITEMS)

Upon motion by Councilman Vicente, seconded by Council President Burnside, and carried unanimously upon call of the roll, the following resolutions were adopted:

##### **RESOLUTION 46-13: AWARD CONTRACT (DPW DUMP TRUCK)**

**WHEREAS**, there exists a need to obtain a dump truck for the Department of Public Works; and

**WHEREAS**, a Morris County Co-Op Contract No. 15-C Item 10-A exists for the purchase of vehicles from Beyer Ford, 170 Ridgedale Ave., Morristown, NJ 07962 (973-644-3200); and

**WHEREAS**, a Certificate of Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer; and

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that it does hereby authorize the purchase of a 2013 Ford F-450 Dump Truck for use by the Department of Public Works from Beyer Ford, 170 Ridgedale Ave., Morristown, NJ 07962 (973-644-3200), under Morris County Co-Op Contract No. 15-C Item 10-A, not to exceed the amount of \$28,221.00 base plus \$18,409.00 options for a total of \$46,630.00.

DATE: March 14, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

#### **CERTIFICATION FOR AVAILABILITY OF FUNDS**

I, JOHN J. DOHERTY, Borough Treasurer, of the Borough of Rockaway, in the County of Morris, Jersey, do hereby certify that funds in the amount as stated in their contracts are currently available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

2013 Ford F-450 Dump Truck for use by the Department of Public Works from Beyer Ford, 170 Ridgedale Ave., Morristown, NJ 07962 (973-644-3200), under Morris County Co-Op Contract No. 15-C Item 10-A, not to exceed the amount of \$28,221.00 base plus \$18,409.00 options for a total of \$46,630.00  
Ordinance #: 04-11-06

DATE: March 14, 2013

BY: John J. Doherty, Treasurer

**RESOLUTION 47-13: AUTHORIZE ISSUANCE OF SPECIAL PERMIT FOR SOCIAL AFFAIR (ROCKAWAY BOROUGH FIRE DEPARTMENT – CLAM BAKE)**

WHEREAS, the following named applicant filed an application for a license known as a Special Permit for Social Affair for August 3, 2013 (Rain date August 4, 2013), Clam Bake, 12:00 p.m. to 6:00 p.m.

Rockaway Borough Fire Department  
1 East Main Street  
Rockaway, NJ 07866

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey that a license under a Special Permit for Social Affair License be granted to the above named applicant.

DATE: March 14, 2013 BOROUGH OF ROCKAWAY  
ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 48-13: AUTHORIZE ISSUANCE OF SPECIAL PERMIT FOR SOCIAL AFFAIR (ROCKAWAY BOROUGH FIRE DEPARTMENT – FAMILY FESTIVAL)**

WHEREAS, the following named applicant filed an application for a license known as a Special Permit for Social Affair for the Family Festival on July 11, 12 and 13, 2013 from 5:00 p.m. to 11:00 p.m. (Rain date July 14, 2013), from 5:00 p.m. to 11:00 p.m.

Rockaway Borough Fire Department  
1 East Main Street  
Rockaway, NJ 07866

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey that a license under a Special Permit for Social Affair License be granted to the above named applicant.

DATE: March 14, 2013 BOROUGH OF ROCKAWAY  
ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 49-13: AUTHORIZE ISSUANCE OF SPECIAL PERMIT FOR SOCIAL AFFAIR (ROCKAWAY BOROUGH FIRE DEPARTMENT - WETDOWN)**

WHEREAS, the following named applicant filed an application for a license known as a Special Permit for Social Affair for June 15, 2013, Wetdown, 5:00 p.m. to 10:00 p.m.

Rockaway Borough Fire Department  
1 East Main Street  
Rockaway, NJ 07866

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey that a license under a Special Permit for Social Affair License be granted to the above named applicant.

DATE: March 14, 2013 BOROUGH OF ROCKAWAY  
ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 50-13: REFUND ESCROW BALANCE (BOA 766-12)**

BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, County of Morris, to refund the escrow balance for BOA 766-12, (Block 17, Lot 6, 76 Ogden Ave.), in the amount of \$15.70 to D. Lavon Wagner and Virginia Vnenchak, 76 Ogden Ave., Rockaway, NJ 07866.

DATE: March 14, 2013 BOROUGH OF ROCKAWAY  
ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 51-13: RESOLUTION IN SUPPORT OF S-2324, LEGISLATION TO PROTECT RESIDENTIAL PROPERTY TAXPAYERS FROM THE LOSS OF TELECOMMUNICATIONS TAX SUPPORT**

**WHEREAS**, in 1997, at the request of incumbent utilities, the laws regarding State taxation of telecommunications corporations were amended in response to technological and market innovations, in order to increase competition; and

**WHEREAS**, the amendments sought to preserve revenues to local governments by providing that local exchange telephone companies subject to the New Jersey Franchise and Gross Receipts Tax on April 1, 1997 would continue to be subject, annually, to the Business Personal Property Tax ("BPPT"); and

**WHEREAS**, the statute defines local exchange companies as those telecommunications carriers "providing dial tone and access to 51% of a local telephone exchange"; and

**WHEREAS**, Verizon's self-serving interpretation of the statutory definition has led it to claim exemption from the BPPT in any municipality where the corporation unilaterally determines, in any given year, that it no longer supplies dial tone and access to at least 51% of the local telephone exchanges; and

**WHEREAS**, Hopewell Borough's challenge to that claim was upheld by the Mercer County Board of Taxation in 2009; and

**WHEREAS**, Verizon's appeal of that determination to the Tax Court resulted in a June, 2012 trial court decision accepting the corporation's self-serving interpretation of the law; and

**WHEREAS**, as things now stand, over 100 municipalities know that they enter 2013 without BPPT revenues that will cost property taxpayers well in excess of \$8 million and, unless matters change, more municipalities will lose more millions in the future; and

**WHEREAS**, remedial legislation (S-2324) has been Senators Smith and Greenstein, which will clarify the perceived ambiguity of the statutory definition to further implement the original legislative intent to preserve revenues to local governments.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Rockaway commends Senators Smith and Greenstein and strongly supports S-2324, which would clearly identify the telecommunications carriers subject to taxation on their business personal property and remove the budget uncertainty caused by Verizon's obfuscation; and

**BE IT FINALLY RESOLVED**, that copies of this Resolution be forwarded to the Honorable Governor Chris Christie, the Honorable Speaker of the General Assembly Sheila Oliver, the Honorable President of the State Senate Stephen M. Sweeney, the Honorable Assembly Republican Leader Jon Bramnick, the Honorable Senate Republican Leader Thomas H. Kean, Jr., and our own State Senator and to the New Jersey State League of Municipalities.

DATE: March 14, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

**RESOLUTION 52-13: ISSUE 2012-2013 TAXICAB/LIVERY DRIVER'S LICENSE**

**BE IT RESOLVED**, that the 2012-2013 Taxicab/Livery Driver's License be issued to the following; said application has been deemed to be complete and further approved by the Police Chief:

<u>License No.</u>	<u>Driver</u>	<u>Address</u>	<u>Employer</u>
101-12	Pipitone, Vincent	710 William Street Boonton, NJ	Secure Trans Connection, LLC

This license will be in effect from March 14, 2013-May 31, 2013.

DATE: March 14, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

**RESOLUTION 53-13: ISSUE 2012-2013 TAXICAB/LIVERY LICENSE TO OPERATE**

**WHEREAS**, the application for the 2012-2013 Taxicab/Livery License to Operate has been deemed to be complete, and further approved by the Police Chief.

**NOW, THEREFORE, BE IT RESOLVED** that 2012-2013 Taxicab/Livery Licenses to Operate be issued to:

SECURE TRANS CONNECTION, LLC  
114 Beach Street  
Rockaway, NJ 07866

for the following vehicle:

Vehicle #1 - 2012 Chevy - VIN 1GNSKJE74CR208632, Vehicle Garaged On-Site

This license will be in effect from March 14, 2013-May 31, 2013.

DATE: March 14, 2013 BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 54-13: EXECUTE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION FLOOD HAZARD AREA, FRESHWATER WETLANDS, AND WATER LOWERING PERMIT APPLICATIONS (FOX'S POND AKA PARK LAKE)**

**WHEREAS**, the Borough of Rockaway is one of the owners of Fox's Pond aka Park Lake; and

**WHEREAS**, the Borough of Rockaway would like to improve the water quality by dredging certain sections of the lake; and

**WHEREAS**, the State of New Jersey Department of Environmental Protection ("NJ DEP") regulations require that Flood Hazard Area, Freshwater Wetlands, and Water Lowering permits be submitted before such work can begin; and

**WHEREAS**, the Borough Engineer has prepared NJ DEP Flood Hazard Area, Freshwater Wetlands, and Water Lowering Permit Applications for signature by a duly authorized representative from the Borough of Rockaway.

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, to authorize the Mayor to execute the Flood Hazard Area, Freshwater Wetlands, and Water Lowering Permit Applications for Block 58, Lots 1, 2, & 3, owned by the Borough of Rockaway, and to submit same to the New Jersey Department of Environmental Protection, along with any required permit fees.

DATE: March 14, 2013 BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 55-13: AWARD PROFESSIONAL SERVICES CONTRACT (EVALUATE GENERATORS)**

**WHEREAS**, there exists needs for the professional services of an electrical engineer to evaluate the emergency power generator systems at the Municipal Building, Police Station, and Public Works garage; and

**WHEREAS**, said needs or certain specified professional services are to be rendered or performed by a person or persons authorized by law to practice a recognized profession whose practice is regulated by law within the meaning of N.J.S.A. 40A:11-2, et seq. as amended; and

**WHEREAS**, the performance of said professional services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal base of specialized training and study; as distinguished from general academic instruction or apprenticeship and training; and

**WHEREAS**, said professional services cannot reasonably be described by written specifications; and

**WHEREAS**, a Certificate of Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer; and

**WHEREAS**, the Borough of Rockaway has a need to acquire said professional services as a contract without public advertising pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the services to be performed are "Professional Services" as defined in N.J.S.A. 40A:11-5(1)(a)(i) and therefore excepted from the Local Public Contracts Law requirements for competitive bidding.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey as follows:

1. That the Borough of Rockaway, in accordance with the Local Public Contracts Law, hereby authorizes and approves the award of a professional services contract to Strunk-Albert Engineering, 804 Seven Bridge Road, Route 209, East Stroudsburg, PA 18301 (570-421-2025) to evaluate emergency power generator systems at the Municipal Building, Police Station, and Public Works Garage at a lump sum fee of \$3,100.00; contract copies are on file in the Office of the Clerk and are incorporated herein by reference. Said contract is hereby ratified and confirmed, and upon passage of this Resolution, the Mayor and Borough Clerk be and the same are hereby authorized to enter into said contract.
2. That this Contract is awarded without competitive bidding as a professional services contract under the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) because such service is a recognized profession licensed and regulated by law.
3. That the Mayor and Council of the Borough of Rockaway, New Jersey hereby authorize and direct the execution of the aforesaid contracts for the period commencing on the date set forth therein.
4. That an executed copy of the Contract and a copy of this resolution shall be filed in the Office of the Borough Clerk and be available there for inspection in accordance with law.
5. That this resolution shall take effect immediately.

DATE: March 14, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

#### **CERTIFICATION FOR AVAILABILITY OF FUNDS**

I, JOHN J. DOHERTY, Borough Treasurer, of the Borough of Rockaway, in the County of Morris, Jersey, do hereby certify that funds in the amount as stated in their contracts are currently available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Strunk-Albert Engineering, 804 Seven Bridge Road, Route 209, East Stroudsburg, PA 18301, lump sum fee of \$3,100.00  
Ordinance #: 04-11-13

DATE: March 14, 2013

BY: John J. Doherty, Treasurer

#### **ORDINANCE NO. 05-13, Introduction & First Reading**

#### **ORDINANCE OF THE BOROUGH OF ROCKAWAY MAYOR AND COUNCIL AMENDING CHAPTER A263, FEES, OF THE CODE OF THE BOROUGH OF ROCKAWAY**

Councilman Mulligan moved that this ordinance be taken up and passed on first reading and that the Borough Clerk be authorized to have the ordinance published in accordance with the law in *The Citizen* and the *Daily Record* for hearing and final passage on April 11, 2013.

Said motion was seconded by Councilman Vicente, and passed as follows upon call of the roll:

Roll Call: Ayes: Kanigel, Mulligan, Vicente, Willer, Burnside  
Nays: None

PUBLIC PORTION

Mayor Greuter opened the meeting to the public.

Ms. Kathy Haake, Rockaway Ave., said that there is a lot of open space money available from the County; there may be parcels to purchase that would be best left unbuilt.

Fire Chief Sam Passarella reported that the department was busy responding to calls in Rockaway Township and has been doing fit testing. There will be radio upgrades next week.

Mr. Pat McDonald, 14 Crestwood Rd., thanked the Public Works for their help with the field cleanups. Children are volunteering to help.

There being no further comments, Mayor Greuter closed the meeting to the public.

ADJOURNMENT

The meeting adjourned at 8:21 p.m.

Approved: As Submitted

Sheila Seifert, Borough Clerk

Date: March 28, 2013