

**MAYOR & COUNCIL
REGULAR MEETING
AUGUST 25, 2011
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 7:30 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 August 25, 2011. Mayor Greuter announced the location of the fire exits.

Councilmembers Present

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

Councilmembers Absent

Thomas Mulligan

Richard Beilin, Esq., representing Borough Attorney Ed Wacks, was also present.

Everyone present participated in the salute to the flag.

APPROVAL OF MINUTES

Upon motion by Council President Burnside, seconded by Councilman Donofrio, and carried unanimously upon voice vote, the minutes of the August 11, 2011 Regular Meeting were accepted as submitted.

CORRESPONDENCE

EPA Superfund Tour

Mayor Greuter read the letter from Congressman Frelinghuysen dated August 11, 2011 thanking Borough representatives for taking time to join him during the Superfund tour earlier this month.

COUNCIL COMMENTS

Personnel Committee - Councilwoman Kanigel

Personnel

Resolution 115-11 is on the agenda tonight to approve an unpaid leave of absence for Chief Financial Officer/Treasurer John J. Doherty.

Requested a closed session to discuss a personnel issue.

Library Board of Trustees

The Library Board of Trustees would like to make a room on the second floor into a Civil War museum. Several fundraising activities are planned for September.

Ms. Carolyn Lanigan was sworn in as a new member of the Board of Trustees.

Historical Committee

The Historical Committee is working on a display of Civil War historical items.

Public Works/Public Utilities Committee - Councilman Donofrio

Four catch basins on Halsey Ave. are being rebuilt; Beach St. will be paved tomorrow.

Requested a closed session to discuss two personnel issues.

Finance and Licensing Committee - Councilman Vicente

Councilman Vicente wanted to know when the items on the corrective action plan would be completed. Council President Burnside stated that a meeting will be held in October to discuss the progress.

Fire Committee - Councilman Willer

The Fire and Police Departments are preparing for Hurricane Irene.

Mayor Greuter reported that a fire occurred at McWilliams-Forge yesterday; the Fire Department did a great job. The Fire Brigade at McWilliams-Forge, trained by the Fire Marshal, put out most of the fire.

Public Safety Committee - Council President Burnside

Flu Shots

Seasonal flu shots will be given on held September 13, from 8 to 10 a.m. and September 19 from 4 to 5 p.m. and 6 to 7 p.m. at the Community Center.

MAYOR'S REPORT

Hurricane Irene

Participated in a conference call with representatives from the East Coast. The Borough Departments are prepared. Police Chief Douglas Scheer, who was in the audience, discussed the ongoing emergency preparations.

EPA Superfund Project

Mayor Greuter met with representatives of EPA and U.S. Army Corps of Engineer and learned that the roads paved by the EPA will be maintained by EPA for the first year.

Best Practices Inventory Questionnaire

The State's Fiscal Year 2012 Appropriations Act requires the Division of Local Government Services to determine how much of each municipality's final 5% allocation of its State aid will be disbursed based upon the results of a Best Practices Inventory. The inventory consists of 50 questions in eight categories of General Management, Financial Standards, Budget Preparation and Presentation, Health Insurance, Personnel, Public Safety, Energy, and Municipal/School Relations. We had a score of 88 percent (34 "yes", 6 "no", 4 "N/A", and 6 "prospective"); therefore, we will receive the full final 5% State aid payment. The completed worksheet was distributed to the Council for review and approval.

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Best Practices Inventory worksheet.

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

ATTORNEY'S REPORT

Requested a closed session to discuss contract negotiation (First Amendment to EPA Memorandum of Agreement).

Open Public Records Act (OPRA)

A decision by the N.J. Supreme Court determined that the N.J. State League of Municipalities is subject to OPRA.

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

DISCUSSION

Truck Traffic/Weight Limits

Citing concerns about a proposed federal law to increase truck weight limits and the subsequent effect on municipal infrastructure, Councilman Vicente recommended that the Borough's planner and engineer be engaged to see what could be done as far as restricting truck traffic based on weight limits.

Councilman Vicente made a motion which was seconded by Councilwoman Kanigel to engage the Borough's planner and engineer to review the possibility of implementing truck weight limit restrictions. The motion was defeated, with Councilwoman Kanigel and Councilman Vicente voting affirmatively, and Councilmen Donofrio and Willer and Council President Burnside voting nay.

Discussion ensued. Chief Scheer has previously given his comments to the Governing Body and continues to believe that it is better to disperse truck traffic so that not all trucks travel on one street.

Councilman Vicente made a motion to hold a public forum to discuss truck traffic. There was no second. Mayor Greuter closed the discussion.

CONSENT AGENDA ITEMS

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

RESOLUTION 112-11: ADOPT CORRECTIVE ACTION PLAN

WHEREAS, the Director of the Division of Local Government Services has formally directed all municipalities to adopt a Corrective Action Plan as part of their annual audit process; and

WHEREAS, this Corrective Action Plan shall be submitted to the Director of Local Government Services upon adoption of the Governing Body and it shall be kept on file with the Borough Clerk; and

WHEREAS, the Plan shall cover all audit findings and recommendations and be prepared in accordance with the Single Audit Act OMB Circular 128 and Local Finance Notice 92-15; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway that it hereby approves the Corrective Action Plan for the 2010 Annual Audit, a copy of which will be available in the Borough Clerk's office.

BE IT FURTHER RESOLVED that a certified copy of this resolution, including the Corrective Action Plan, be forwarded to the Director of Local Government Services.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

RESOLUTION 113-11: EXECUTE SHARED SERVICES AGREEMENT (QUALIFIED PURCHASING AGENT)

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., allows a local unit to enter into a contract with another local unit for the joint provision of any services within their joint jurisdiction; and

WHEREAS, the Borough of Rockaway requires the services of a Qualified Purchasing Agent; and

WHEREAS, the Township of Boonton, 155 Powerville Road, Boonton Township, New Jersey 07005 (973-402-4002) has presented a proposal to provide such services at a cost of \$2,500 per year; and

WHEREAS, by sharing services as set forth in this agreement, the Borough of Rockaway and the Township of Boonton will avoid duplication of services, will conserve financial resources and enhance community relations; and

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

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 Mayor is authorized to execute an Agreement providing for the services of a Qualified Purchasing Agent with the Township of Boonton, 155 Powerville Road, Boonton Township, New Jersey 07005 (973-402-4002) at a cost of \$2,500 per year for a period beginning September 1, 2011 and continuing until December 31, 2012, with an option for the Borough of Rockaway to extend the Agreement through December 31, 2014.
2. That an executed copy of the Agreement 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.
3. That this resolution shall take effect immediately.

DATE: August 25, 2011

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:

Qualified Purchasing Agent with the Township of Boonton, 155 Powerville Road, Boonton Township, New Jersey 07005 (973-402-4002)\$2,500 per year
Funds are chargeable to Budget Year: Road O.E.

DATE: August 25, 2011

BY: John J. Doherty, Treasurer

RESOLUTION 114-11: APPROVE EXECUTION OF READ ONLY ACCESS AGREEMENT WITH PRIORITY SEARCH SERVICES

WHEREAS, on September 9, 2010, the Mayor and Council authorized the Mayor and Clerk to execute an Agreement to Authorize Read Only Access between the Borough of Rockaway and Priority Search Services ("Priority"), 830 Broad St., Shrewsbury, NJ 07702 (732-741-5080) to allow such access to the tax collector's records, for the sole purpose of providing tax search information to the title industry, which access is required pursuant to the Open Public Records Act; and

WHEREAS, on January 27, 2011, the Mayor and Council authorized the Mayor and Clerk to execute an amendment to said Agreement to include water utility information for the sole purpose of providing utility search information to the title industry; and

WHEREAS, the aforementioned Agreement and Amendment expire on September 30, 2011; and

WHEREAS, Priority submitted a letter requesting renewal of the read only access; and

WHEREAS, it is in the best interest of the Borough of Rockaway and its residents to renew the Agreement and Amendment for read only access to the tax collector's and water utility records.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that the Mayor and Clerk are authorized to execute an Agreement to Authorize Read Only Access to the tax collector's and water utility records between the Borough of Rockaway and Priority Search Services, 830 Broad St., Shrewsbury, NJ 07702 (732-741-5080) for the period October 1, 2011 through September 30, 2012.

BE IT FURTHER RESOLVED that a copy of the said Agreement shall be kept on file with the Borough Clerk.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

RESOLUTION 115-11: ACCEPT LEAVE OF ABSENCE REQUEST (CFO/TREASURER J. DOHERTY)

WHEREAS, Chief Financial Officer/Treasurer John J. Doherty has requested an unpaid temporary leave of absence from August 24, 2011 through and including September 6, 2011; and

WHEREAS, Section 61-80.A of the Code of the Borough of Rockaway provides that employees may be granted a personal leave of absence for up to six months by resolution of the Mayor and Council if the leave does not cause undue operational disruption.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, that John J. Doherty has shown good cause and his request for an unpaid temporary leave of absence from August 24, 2011 through and including September 2, 2011 per Section 61-80.A of the Code of the Borough of Rockaway is hereby granted.

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, that Accounts Payable Clerk Catherine Slockbower is assigned to temporarily perform the duties of Mr. Doherty while he is out on leave.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Director, Division of Local Government Services.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

RESOLUTION 116-11: CONFIRM THE DETAILS OF THE SALE OF BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF \$5,180,000 OF THE BOROUGH OF ROCKAWAY, IN THE COUNTY OF MORRIS, NEW JERSEY, TO THE MORRIS COUNTY IMPROVEMENT AUTHORITY

WHEREAS, the Borough of Rockaway (the "Borough"), County of Morris, New Jersey has determined by passage of several Bond Ordinances to issue Bonds of the Borough to redeem the outstanding bond anticipation notes and to fund additional projects authorized by the ordinances set forth herein, and to pay the cost of issuance related thereto; and

WHEREAS, the Morris County Improvement Authority (including any successors and assigns, the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris (the "County") in the State of New Jersey (the "State") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (the "Act") and other applicable law; and

WHEREAS, the Authority is authorized by law to finance public facilities through the acquisition of debt, including without limitation the general obligation bonds in an aggregate principal amount of approximately \$6,000,000 (the "Bond") of the Borough (the Borough together with the County and other municipal entities is hereinafter referred to as the "Local Units"); and

WHEREAS, the Borough has (i) heretofore issued bond anticipation notes for various projects as set forth in the several bond ordinances (the "Prior Notes") and now desires to refund the Prior Notes and (ii) finally adopted two new bond ordinances for additional projects (collectively the Project") all as set forth on Exhibit A to an agreement (the "Loan Agreement") by and between the Borough and the Authority; and

WHEREAS, the Borough Bonds are being issued pursuant to the several bond ordinances hereinafter set forth and a Bond Resolution of the Borough adopted July 28, 2011(the "Bond Resolution") and other applicable law; and

WHEREAS, pursuant to the terms of the Loan Agreement, the Borough acquires or retains, as the case may be, all right, title and interest to the Project, and the Authority acquires no interest therein except as may be expressly set forth in the Loan Agreement; and

WHEREAS, the principal of, and interest on the Bonds shall be paid from general obligation payments of the Borough; and

WHEREAS, the Authority has sold its bonds to fund the Loan Agreement, thereby enabling the Borough to confirm the exact aggregate principal amount of and debt service schedule for the Borough Bonds, including redemption provisions.

BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF ROCKAWAY, IN THE COUNTY OF MORRIS, NEW JERSEY (not less than two-thirds of the members thereof affirmatively concurring) **AS FOLLOWS:**

Section 1. The sale of the Bond to the Authority is hereby confirmed. The Bond shall be issued in accordance with the dated date, principal loan amount, interest rates, redemption provisions and maturity schedule set forth in Schedule A attached hereto and made a part hereof.

Section 2. This resolution shall take effect immediately.

Section 3. Upon the adoption hereof, the Borough Clerk shall forward certified copies of this resolution to John G. Hudak, Esq., bond counsel to the Borough.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

ORDINANCE NO. 11-11, Public Hearing & Adoption

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
AMENDING CHAPTER 55, OFFICERS AND EMPLOYEES,
TO CREATE THE POSITION OF
PURCHASING AGENT**

WHEREAS, it is necessary and appropriate at this time to create the position of Purchasing Agent, to oversee the purchase of goods and materials by the Borough of Rockaway and its various departments; and

WHEREAS, municipalities with qualified purchasing agents are entitled to certain rights and benefits under the Local Public Contract Law, N.J.S.A. 40A:11-1, *et seq.*; and good cause having been shown; and

WHEREAS, the Mayor and Council of the Borough of Rockaway desire to amend Chapter 55, Officers and Employees, of the Code of the Borough of Rockaway to provide for the appointment of a Purchasing Agent.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Rockaway as follows:

Section I

1. A new Article VII entitled "Purchasing Agent" is hereby created in Chapter 55, Officers and Employees, of the Code of the Borough of Rockaway to read as follows:

"§ 55-39. Purchasing Agent.

- A. There is hereby created the position of Purchasing Agent for the Borough of Rockaway.
- B. The Purchasing Agent shall be appointed by the Mayor, with the advice and consent of the Council. The term of office for the Purchasing Agent shall be one year.
- C. The Purchasing Agent is required to possess a valid Qualified Purchasing Agent certificate, as issued by the New Jersey Division of Local Government Services, Department of Community Affairs.
- D. The Purchasing Agent shall have, on behalf of the Borough of Rockaway, the authority, responsibility and accountability for the purchasing activity pursuant to Local Public Contracts Law (N.J.S.A. 40A:11-1 *et seq.*); to prepare public advertising for and to receive bids and requests for proposals for the provision or performance of goods, services and construction contracts; to award contracts pursuant to New Jersey law in accordance with the regulations, forms and procedures promulgated by state regulatory agencies; and conduct any activities as may be necessary or appropriate to the purchasing function of the Borough of Rockaway."

Section II

1. This Ordinance may be renumbered for codification purposes.
2. All Ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
4. This Ordinance shall take effect as provided by law.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

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

On motion by Councilman Vicente, and seconded by Councilman Willer, the above mentioned ordinance was adopted by the following roll call:

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

ORDINANCE NO. 12-11, Public Hearing & Adoption

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL
CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND
COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS
SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS
FROM THE BOROUGH OF ROCKAWAY IN THE COUNTY OF MORRIS**

(CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE)

The Mayor and Council of the Borough of Rockaway do hereby Ordain:

WHEREAS, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices; and,

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as the public health, safety and welfare; and,

WHEREAS, pursuant to P.L.2005, c.271 (codified at N.J.S.A. 40A:11-51) a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and,

WHEREAS, in the interest of good government, the people and the government of the Borough of Rockaway desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

NOW, THEREFORE, BE IT ORDAINED it shall be the policy of the Borough of Rockaway to create such a regulation which states that a Business Entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the Borough of Rockaway; and,

BE IT FURTHER ORDAINED by the Borough of Rockaway, in the County of Morris, and State of New Jersey, as follows:

DEFINITIONS

As used in this ordinance:

- (a) "Campaign Committee" means: (i) every candidate for Borough of Rockaway elective municipal office; (ii) every candidate committee established by or for the benefit of a candidate for Borough of Rockaway elective municipal office; (iii) every joint candidate committee established in whole or in part by or for the benefit of a candidate for Borough of Rockaway elective municipal office; (iv) every political party committee of the Borough of Rockaway; (v) every political party committee of the County of Morris; and (vi) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the Borough of Rockaway municipal or County of Morris elective offices or Borough of Rockaway municipal or County of Morris political parties or political party committees. The terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7.
- (b) "Contribution" has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.
- (c) A "contract for professional or extraordinary services" means all contracts for "professional services" and "extraordinary unspecifiable services" as such term is used in N.J.S.A. 40A:11-5.

- (d) For purposes of this Ordinance, a "Business Entity" whose contributions are regulated by this ordinance means: (i) an individual including the individual's spouse, and any child/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (i) and (ii) above and their spouses and child/children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive, from a person described in subparagraph (i) above, more than \$100,000.00 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve (12) month period prior to the award of, or during the term of, a contract subject to this ordinance; and (vi) all persons who are an "affiliate" of a Business Entity as defined in sections (i), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

SECTION 1 - PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

- (a) To the extent that it is not inconsistent with state or federal law, the Borough of Rockaway and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure "professional services" as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance or other consulting service (hereinafter "Professional Services"), nor "extraordinary unspecified services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "Extraordinary Unspecified Services") from any Business Entity if such Business Entity has solicited or made any Contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Borough of Rockaway or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Borough of Rockaway or County of Morris political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engages in the support of Borough of Rockaway municipal or County of Morris elections and/or Borough of Rockaway municipal or County of Morris candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified in subsection (g) within one calendar year immediately preceding the date of the contract or agreement.
- (b) No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the Borough of Rockaway or any of its departments or instrumentalities, for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Borough of Rockaway, or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Borough of Rockaway or County of Morris political committee or political party committee, or (iii) any PAC between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- (c) The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the Borough of Rockaway; (ii) \$500 maximum per calendar year to a County of Morris political committee or political party committee; and (iii) \$500 maximum per calendar year to any PAC. However, for each Business Entity party to a contract for Professional or Extraordinary Unspecified Services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such Business Entity's Contribution is aggregated with all "persons" defined in subparagraph (d) of "Definitions" above, by virtue of their affiliation to that Business Entity party, a maximum of \$2,500 to all Borough of Rockaway candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all Borough of Rockaway or County of Morris political committees and political party committees as described herein combined, without violating subsection (a) of this section.
- (d) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (i) the Borough of Rockaway Mayor or Governing Body, if the contract requires approval or appropriation from the Mayor or Governing Body, or (ii) the Mayor

of the Borough of Rockaway, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

- (e) Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this ordinance.

SECTION 2 - CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE

No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

SECTION 3 - CONTRACT RENEWAL

No contract subject to this ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this ordinance if it were an initial contract.

SECTION 4 - CONTRIBUTION STATEMENT BY BUSINESS ENTITY

- (a) Prior to awarding any contract or agreement to procure Professional Services" or Extraordinary Unspecified Services" from any Business Entity, the Borough of Rockaway or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he/she/it has not made a Contribution in violation of Section 1 of this Ordinance. The Borough of Rockaway, its purchasing agents and departments shall be responsible for informing the Mayor and Council that the aforementioned sworn statement has been received and that the Business Entity is not in violation of this ordinance, prior to awarding the contract or agreement.
- (b) A Business Entity shall have a continuing duty to report to the Borough of Rockaway any Contributions that constitute a violation of this act that are made during the negotiation, proposal process or the duration of a contract. The Borough of Rockaway, its purchasing agents and departments shall be responsible for informing the governing body within ten (10) business days after receipt of said report from the Business Entity, or at the next Mayor and Council meeting following receipt of said report from the Business Entity, or whichever comes first.
- (c) The certification required under this subsection shall be made prior to entry into the contract or agreement with the Borough of Rockaway, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

SECTION 5 - RETURN OF EXCESS CONTRIBUTIONS

A Business Entity that is a party to a contract for Professional Services or Extraordinary Unspecified Services may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and receives reimbursement of the Contribution from the recipient of such Contribution.

SECTION 6 - EXEMPTIONS

The contribution limitations prior to entering into a contract in Section 1(a) do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

SECTION 7 - PENALTY

- (a) It shall be a material breach of the terms of a Borough of Rockaway agreement or contract for Professional Services or Extraordinary Unspecified Services when a Business Entity that is a party to such agreement or contract has: (i) made or solicited a Contribution in violation of this Ordinance; (ii) knowingly concealed or misrepresented a Contribution given or received; (iii) made or solicited Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (iv) made or solicited any Contribution on the condition or with the agreement that it will be re-contributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Borough of Rockaway, or a holder of public office having ultimate responsibility for the award of a contract, or any Borough of Rockaway or County of Morris political committee or political party committee, or any PAC; (v) engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if

made or solicited by the professional Business Entity itself, would subject that entity to the restrictions of this Ordinance; (vi) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of this Ordinance.

- (b) Furthermore, any Business Entity that violates Section 7 (a) (i-viii) shall be disqualified from eligibility for future Borough of Rockaway contracts for a period of four (4) calendar years from the date of the violation.
- (c) Any person who knowingly, purposely, or recklessly violates any provision of this ordinance, or who conspires with another person to violate any provision of this ordinance, or who, with the purpose of promoting or facilitating a violation of this ordinance, solicits another person to commit it, or aids or agrees, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the ordinances of the Borough of Rockaway.

SECTION 8 - CITIZENS PRIVATE RIGHT OF ACTION

In addition to any rights that were heretofore available, or which may hereafter be available, to citizens, taxpayers, or associations, to challenge violations of this ordinance, every person aggrieved by a violation of the ordinance, or any taxpayer or resident of the Borough of Rockaway has the right, consistent with the Rules of Court, to file charges in a court of competent jurisdiction, and/or to pursue a civil action for a violation of this ordinance in a court of competent jurisdiction, and to seek and obtain declaratory, injunctive, or other legal or equitable relief, including but not limited to, attorneys fees and costs, arising from or related to a violation of this ordinance.

SECTION 9 - SEVERABILITY

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

SECTION 10 - INDEXING

The monetary thresholds of "Definitions" Section (d) and Section 1(c) of this ordinance shall be increased effective March 1 of each calendar year by the percentage increase, in the prior calendar year, of the consumer price index for all urban consumers (CPI-U) for the New York-Northern New Jersey-Long Island region, rounded to the nearest \$10.00. The Clerk of the Borough of Rockaway shall, by no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in an official municipal newspaper.

SECTION 11 - REPEALER

All ordinances or parts of ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

SECTION 12 - EFFECTIVE DATE

This Ordinance shall become effective twenty (20) days following the final adoption thereof by the Mayor and Council of the Borough of Rockaway and shall be published as required by law.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

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

On motion by Councilman Vicente, and seconded by Councilman Willer, the above mentioned ordinance was adopted by the following roll call:

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

PUBLIC PORTION

Mayor Greuter opened the meeting to the public.

Mrs. Joyce Freiermuth, 99 E. Flagge St., noticed a decrease in the number of children riding dirt bikes. The Police Department identified four children and confiscated at least one bike.

Mrs. Bonnie Hook, 23 Jackson Ave., representing the Business Owners Association, confirmed details for Celebrate Rockaway Day scheduled for 1:00-6:00 p.m. on September 18; the Borough will pay for the Police and Public Works overtime but not the port-a-john. She will request use of the Fire Department's bay through Chief Hopler. Mayor Greuter stated that next year, the Borough may not be able to pay for the overtime.

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

CLOSED SESSION

Upon motion by Council President Burnside, seconded by Councilman Donofrio, and adopted unanimously upon call of the roll, the following resolution was adopted:

RESOLUTION 117-11: CLOSE MEETING TO THE PUBLIC

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the Public from a meeting under certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances do exist;

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

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matters.
2. The general nature of the subject matter to be discussed is as follows: Personnel and Contract Negotiation (First Amendment to EPA Memorandum of Agreement).
3. The minutes of the discussion shall be made public as soon as the matters under discussion are no longer of a confidential or sensitive nature.
4. This resolution shall take effect immediately.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor and Council went into closed session at 8:40 p.m. and resumed the public meeting at 9:29 p.m.

OPEN SESSION

Personnel Issues

Upon motion by Councilman Willer, seconded by Councilman Donofrio, and adopted unanimously upon call of the roll, the following resolution was adopted:

RESOLUTION 118-11: ACCEPT LEAVE OF ABSENCE REQUEST (TAX ASSESSOR B. MURDOCH)

WHEREAS, Bernard Murdoch will be unable to perform his duties as Tax Assessor from August 19, 2011 through and including September 16, 2011; and

WHEREAS, Section 61-80.A of the Code of the Borough of Rockaway provides that employees may be granted a personal leave of absence for up to six months by resolution of the Mayor and Council if the leave does not cause undue operational disruption.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, that Bernard Murdoch has shown good cause and is hereby granted an unpaid temporary leave of absence from August 19, 2011 through and including September 16, 2011 per Section 61-80.A of the Code of the Borough of Rockaway.

DATE: August 25, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Upon motion by Councilman Donofrio, seconded by Councilman Willer, and adopted upon call of the roll, with Councilman Vicente voting nay, to authorize the Department of Public Works to replace the part-time Laborer position with a full-time position effective October 1.

Upon motion by Council President Burnside, seconded by Councilman Willer, and adopted unanimously upon call of the roll, to authorize Public Works Laborer Jonathan Kazer to take two water operations courses.

First Amendment to EPA Memorandum of Agreement

Upon motion by Councilman Donofrio, seconded by Councilman Willer, and adopted unanimously upon call of the roll, to authorize the Borough Attorney to deny EPA's request to amend the Memorandum of Agreement to utilize a portion of Block 40, Lot 76, as an offsite compensation area to meet the NJ DEP's zero percent net-fill requirement without compensation to the Borough.

ADJOURNMENT

The meeting adjourned at 9:34 p.m.

Approved: As Amended

Sheila Seifert, Borough Clerk

Date: September 8, 2011