

**MAYOR & COUNCIL
REGULAR MEETING
NOVEMBER 21, 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 November 21, 2011. Mayor Greuter announced the location of the fire exits.

Councilmembers Present

Joyce Kanigel
Thomas Mulligan
Joseph Vicente
John Willer

Councilmembers Absent

Thomas Donofrio
Melissa Burnside - Council President

Borough Attorney Ed Wacks was also present.

Everyone present participated in the salute to the flag.

APPROVAL OF MINUTES

Upon motion by Councilman Vicente, seconded by Councilman Willer, and carried unanimously upon voice vote, the minutes of the October 27, 2011 Regular Meeting were accepted as submitted.

COUNCIL COMMENTS

Personnel Committee - Councilwoman Kanigel

Requested a closed session to discuss Litigation (Donatoni Field).

Ordinance Committee - Councilman Mulligan

Nichols Drive Emergency Drainage Structure Repair Project

The Superintendent, Department of Public Works, has asked for an emergency resolution to repair a storm drain at Nichols Drive. This inlet, which failed in the aftermath of Hurricane Irene, caved in, leaving a hole 10-12 feet deep and 15 feet across. Debris runs downstream and clogs a pipe located at 311 West Main St., causing flooding. Public Works must continuously clear the pipes located below the inlet to avert a worsening of the flooding, and the hole at the inlet site presents a dangerous condition. The Superintendent certified that this situation constitutes an emergency affecting the public health, safety or welfare, that the need for the necessary services could not have been reasonably foreseen, and that this situation has arisen notwithstanding a good faith effort on the part of the Borough to plan for the purchase of goods and services. R&R Construction Co., Inc. submitted a price of \$58,860.00 to repair the failed storm inlet. Councilman Mulligan recommended that a resolution be added to the agenda this evening to award an emergency contract to R&R Construction Co. to perform the repair work.

Recreation

Asked the Borough Attorney to explain the responsibilities of the Recreation Commission as far as determining the salary of the Recreation Director. Mr. Wacks advised that the Commission has latitude regarding setting the salary; however, the amount cannot exceed the amount set forth by the governing body in the annual salary ordinance.

Finance and Licensing Committee - Councilman Vicente

Reported on his attendance at meetings held by the Board of Education and Business Owners Association.

Fire Committee - Councilman Willer

Rockaway Borough Fire Department will take action in December for election of officers.

ATTORNEY'S REPORT

The Complaint in the Donatoni matter was filed.

MAYOR'S REPORT

Reviewed his activities, including a wedding and attendance at the NJ League of Municipalities Convention.

CLERK'S REPORT

Use of Facility Request Form

The Rockaway Area Girl Scouts will hold a holiday sing-a-long on Sunday, December 18, from 6:00 p.m. to 7:00 p.m. at Park Lake beach.

CONSENT AGENDA ITEMS

Upon motion by Councilman Willer, seconded by Councilman Mulligan, and carried unanimously upon call of the roll, the following resolutions were adopted:

RESOLUTION 138-11: REFUND TAX SALE CERTIFICATE (BLOCK 46, LOT 19, C0002)

BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, County of Morris, by New Jersey State Statute 54:5-58 to refund tax sale certificate dated October 19, 2011 for 49-51 Wall Street Unit 2, Block 46, Lot 19, C0002 in the amount of \$372.13 and premium in the amount of \$200.00 to Park Finance II, LLC, P. O. Box 109, Cedar Knolls, New Jersey 07927.

DATE: November 21, 2011 BOROUGH OF ROCKAWAY

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

RESOLUTION 139-11: AUTHORIZE CONTRACT AWARD (TRUCK WASH)

WHEREAS, there exists a need to construct a truck wash in the Public Works yard, 21-25 Union Street, Rockaway, New Jersey; and

WHEREAS, a diligent attempt to obtain several quotes was made by the Borough Engineer, with the lowest response being received from Stormwater Compliance Solutions, LLC, 180 Main Street, P.O. Box 572, Chester, New Jersey 07930, (908-879-0564); and

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

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40a:11-1, et. seq. as amended, states that a contract that is below the bid threshold may be awarded without public bidding;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that, based upon the recommendation of the Borough Engineer, the Borough enter into a contract in an amount not to exceed \$17,498.00 with Stormwater Compliance Solutions, LLC, 180 Main Street, P.O. Box 572 Chester, New Jersey 07930, (908-879-0564) to construct a truck wash in the Public Works yard, 21-25 Union Street, Rockaway, New Jersey.

DATE: November 21, 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:

Stormwater Compliance Solutions, LLC, 180 Main Street, P.O. Box 572 Chester, New Jersey 07930 at a cost not to exceed \$17,498.00
Ordinance#: 4-11-07

DATE: November 21, 2011

BY: John J. Doherty, Treasurer

RESOLUTION 141-11: AUTHORIZE EMERGENCY REPAIRS TO STORM INLET LOCATED AT NICHOLS DRIVE AND WEST MAIN STREET

WHEREAS, pursuant to N.J.S.A. 40A:11-6 a contract may be negotiated or awarded without public advertising for bids where an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services, provided that the procedures set forth in that statute are followed; and

WHEREAS, the Superintendent of Public Works has notified the Borough of Rockaway Mayor and Council that there is a large storm inlet located at Nichols Drive and West Main Street which failed in the aftermath of Hurricane Irene, when there was widespread flooding in the Borough. Resulting in a cave-in occurred at the site of the inlet, leaving a hole ten to twelve feet deep and fifteen feet across; and

WHEREAS, this cave-in and the failure of the storm inlet has resulted in debris running downstream and clogging a pipe on property located at 311 West Main Street and on neighboring properties, such that it is necessary to continuously clear the pipes located below the inlet to avert a worsening of the flooding condition; and

WHEREAS, the hole at the site of the inlet itself presents a dangerous condition; and

WHEREAS, the Superintendent of Public Works has certified that the above conditions constitute an emergency affecting the public health, safety and welfare of the Borough and its residents.

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 the Borough of Rockaway Mayor and Council hereby find that an emergency condition exists with respect to the storm inlet located at Nichols Drive and West Main Street, and that a contract to repair the inlet must be awarded on an emergent basis.

BE IT FURTHER RESOLVED, that a contract for repairs to the storm inlet located at Nichols Drive and West Main Street Sewer in the amount of \$58,860.00 is hereby awarded to R&R Construction Company, 105-B Parker Road, Chester, NJ 07930 (908-879-5122).

BE IT FURTHER RESOLVED, that a copy of the said contract shall be available for public inspection at the offices of the Borough Clerk.

DATE: November 21, 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:

R&R Construction Company, 105-B Parker Road, Chester, NJ 07930 (908-879-5122), \$58,860.00
Ordinance#: 5-11

DATE: November 21, 2011

BY: John J. Doherty, Treasurer

**DECLARATION OF EMERGENCY
PURSUANT TO N.J.S.A. 40A:11-6 and N.J.A.C. 5:34-6.1**

1. I am the Superintendent of Public Works for the Borough of Rockaway (the "Borough"). I make this declaration pursuant to N.J.S.A.40A:11-6 and with respect to the Borough's need for emergency goods and services, which requires the immediate delivery of those goods and services.

2. The circumstances are as follows: There is a large storm inlet located at Nichols Drive and West Main Street, which failed in the aftermath of Hurricane Irene, when there was widespread flooding in the Borough. As a result of the hurricane, a cave-in occurred at the site of the inlet, leaving a hole ten to twelve feet deep and fifteen feet across. Due to this cave-in and the failure of the storm inlet, debris runs downstream and clogs a pipe located on the Weldon property at 311 West Main Street. This creates flooding not only on the Weldon property but also on neighboring properties also located at 311 West Main Street, such that we must continuously clear the pipes located below the inlet to avert a worsening of the flooding. In addition, the hole at the inlet site presents a dangerous condition.

3. I am satisfied that this situation constitutes an actual emergency affecting the public health, safety or welfare, that the need for the necessary services could not have been reasonably foreseen, and that this situation has arisen notwithstanding a good faith effort on the part of the Borough to plan for the purchase of goods and services.

Dated: October 26, 2011

Joseph Rossi, Supt., Dept. of Public Works

RESOLUTION 140-11

Upon motion by Councilman Vicente, seconded by Councilman Willer, and carried upon call of the roll, with Councilwoman Kanigel voting no, the following resolution no. 140-11 was adopted:

RESOLUTION 140-11: AWARD PROFESSIONAL SERVICES CONTRACT (PETER A. MESSINA, PE, PP, LLC)

WHEREAS, chronic drainage problems have been experienced at Donatoni Community Park located at 199 West Main St., Block 40, Lots 86 and 88; and

WHEREAS, on behalf of the Borough of Rockaway, on November 16, 2011, the Borough Attorney filed a Complaint in Superior Court of New Jersey, Law Division, Morris County, against Suburban Consulting Engineers, Inc., Andrew E. Holt, P.E., Theresa H. Steele, P.E., and Tomco Landscape & Excavation Contractors, Inc. a/k/a/ Tomco Landscape & Supply Co., Inc. stemming from the work provided by them in connection with the construction of Donatoni Community Park; and

WHEREAS, the services of a knowledgeable engineer will be necessary to assist the Borough in the prosecution of this litigation; and

WHEREAS, Peter A. Messina, PE, PP, LLC, 26 Ironia-Mendham Rd., Chester, NJ 07930 (973-584-3220), is a licensed engineer who has reviewed the documents pertaining to the design and construction of the playing fields at Donatoni Community Park and conducted site visits and recommended certain improvements to improve drainage; and

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

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40a:11-1, et. seq. as amended, requires that the Resolution authorizing the award of contract for "Professional Services" without bids must be available for inspection; 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. The Mayor and Borough Clerk are hereby authorized and directed to execute a contract, for a period of performance from November 21, 2011 through April 30, 2012, in an amount not to exceed \$5,000.00 with Peter A. Messina, PE, PP, LLC, 26 Ironia-Mendham Rd., Chester, NJ 07930 (973-584-3220) to provide professional engineering services concerning the design and construction of the playing fields at Donatoni Community Park, and to perform services in connection with the said litigation.
2. A copy of this resolution, and of the subject agreement, shall be made available for inspection in the office of the Borough Clerk.

DATE: November 21, 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:

Peter A. Messina, PE, PP, LLC, 26 Ironia-Mendham Rd., Chester, NJ 07930 at a cost not to exceed \$5,000.00

Ordinance#: 4-11-10

DATE: November 21, 2011

BY: John J. Doherty, Treasurer

PUBLIC PORTION

Mayor Greuter opened the meeting to the public.

Mr. Dan Sperry, 53 Drake Ave., asked for any new developments on the improvements to the town property behind and his property. Mayor Greuter reported that it was still being worked on.

Mrs. Judy Klein, The Occasion, spoke with Superintendent, Department of Public Works, regarding the American flags; she will let him keep them.

Mrs. Joyce Freiermuth, 99 E. Flagge St., asked why a Complaint for Donatoni Field was being filed now instead of earlier. Mr. Wacks responded that this is part of the litigation and he will discuss this privately.

Mrs. Bonnie Hook, Jackson Ave., appreciated the efforts of the Public Works employees to repair the Jackson Ave. water main break on Sunday.

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

CLOSED SESSION

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

RESOLUTION 142-11: 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: Litigation (Donatoni Field)
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: November 21, 2011

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor and Council went into closed session at 7:53 p.m. and resumed the public meeting at 8:07 p.m.

ADJOURNMENT

The meeting adjourned at 8:07 p.m.

Approved:

Sheila Seifert, Borough Clerk

Date: