

**MAYOR AND COUNCIL
REGULAR MEETING
JUNE 25, 2020
6:00 PM**

AGENDA

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPOINTMENT
4. OATH OF OFFICE: Brian Wickkiser (Patrolman)
5. CLOSED SESSION: Litigation Affordable Housing
Tactics or Techniques to Protect Safety and Property of Public
6. APPROVAL OF MINUTES: Special Meeting - June 4, 2020
Regular Meeting - June 11, 2020
7. COUNCIL REPORTS
8. REPORT OF ATTORNEY
9. REPORT OF MAYOR
10. REPORT OF ADMINISTRATOR
11. REPORT OF CLERK
12. CONSENT AGENDA: Resolutions
 - #94-20 Comply with Local Finance Board Audit Requirements
 - #95-20 Adopt Corrective Action Plan
 - #96-20 Authorize Competitive Contracting for Leak Detection Program
 - #97-20 Award Contract – Road Resurfacing
 - #98-20 Award Contract – Smith Field Fencing
 - #99-20 Authorize Use of Public Rights-of-Way by Planet Networks, Inc.
 - #100-20 Request Approval of Items of Revenue and Appropriation (Clean Communities)
 - #101-20 Award Professional Services Contract (DPW – Piping Replacement)
 - #102-20 Award Contract (Foxs Lake Dam Rehabilitation)
13. ORDINANCES: Adoption
 - #09-20 Municipal and Water Salaries
14. MEETING OPEN TO THE PUBLIC
15. CLOSED SESSION (If required)
16. ADJOURNMENT

RESOLUTION 94-20: RESOLUTION STATING COMPLIANCE OF MAYOR AND COUNCIL WITH LOCAL FINANCE BOARD AUDIT REQUIREMENTS

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts, and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2019 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and:

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the Annual Audit entitled "General Comments" and "Recommendations"; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specially the sections of the Annual Audit entitled "General Comments" and "Recommendations" as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the Annual Audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52-27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rockaway, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

RESOLUTION 95-20: 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 A-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 2019 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.

RESOLUTION 96-20: RESOLUTION AUTHORIZING COMPETITIVE CONTRACTING FOR LOGGER-BASED WATER LEAK DETECTION PROGRAM

WHEREAS, PL 1999 c440 amended the Local Public Contract Law and created a new category of contracting called Competitive Contracting; and

WHEREAS, N.J.S.A 40A:11-4.3(a) requires that in order to initiate competitive contracting, the governing body shall pass a resolution authorizing the use of competitive contracting each time specialized goods or services enumerated in 40A-4.1 are desired to be contracted; and

WHEREAS, 40A:11-4.3(b) requires that the competitive contracting process shall be administered by a purchasing agency qualified pursuant to 40A:11-9, or by legal counsel of the contracting unit, or by an administrator of the contracting unit

NOW, THEREFORE, BE IT RESOLVED, that the Purchasing Agent be and is hereby authorized to initiate competitive contracting for the aforesaid project.

RESOLUTION 97-20: AWARD CONTRACT (DPW – ROAD RESURFACING)

WHEREAS, there exists a need to mill and resurface various roads for the Department of Public Works; and

WHEREAS, the Morris County Cooperative Pricing Council contract includes hot mix asphalt and milling from authorized vendor Tilcon, New York, Inc., 9 Entin Road, Parsippany, NJ 07054 (973-366-7741); and

WHEREAS, a Certification for 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, that it does hereby authorize the purchase of hot mix asphalt and milling from Tilcon New York, Inc., 9 Entin Road, Parsippany, NJ 07054 (973-366-7741), under Morris County Cooperative Pricing Council Co-Op Contract No. 6: Road Resurfacing, Cat A: Hot Mix Asphalt, Item 1 and Cat B: Milling of Hot Mix Asphalt, Item 1 for total amount not to exceed \$110,000.00.

RESOLUTION 98-20: AWARD CONTRACT (RECREATION – SMITH FIELD FENCING)

WHEREAS, there exists a need to replace fencing at Smith Field; and

WHEREAS, a diligent attempt to obtain several quotes was made by the Recreation Director, with the lowest response being received from Hopatcong Fence Co., 105 Marne Road, Hopatcong, NJ 07843 (201-400-3575); and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11) states that a contract that is below the bid threshold may be awarded without public bidding; and

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

NOW, THEREFORE, BE IT RESOLVED, that proper Borough officials are authorized and directed to execute a contract with Hopatcong Fence Co., 105 Marne Road, Hopatcong, NJ 07843 (201-400-3575), in the amount not to exceed \$18,500.00 for the purchase and installation of fencing at Smith Field.

RESOLUTION 99-20: RESOLUTION AUTHORIZING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY PLANET NETWORKS, INC.

WHEREAS, Planet Networks Inc. ("Planet Networks") is a provider of telecommunications services that is authorized by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout New Jersey; and

WHEREAS, Planet Networks has petitioned the municipality for consent to use the public rights-of-way to place its telecommunication facilities aerially on existing and new utility poles and/or in underground conduit; and

WHEREAS, the Federal Communications Commission has held that that "an effective prohibition [under the Telecommunications Act of 1996] occurs where a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of a covered service ... not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services." Declaratory Ruling and Third Report and Order, WT Docket No. 17-79; WC Docket No. 17-84, FCC-18-133A1, at para. 36, p. 15-16; and

WHEREAS, Planet Networks has or will enter into agreements with the utility companies for the use of their poles; and

WHEREAS, N.J.S.A. 48:3-19 provides that "[t]he consent of the municipality shall be obtained for the use by a person of the poles of 'another person unless each person has a lawful right to maintain poles in such street, highway or other public place;" and

WHEREAS, N.J.S.A. 27:16-6 provides, in part that "[t]he board of chosen freeholders shall not grant an easement, right of way, or use in, under or over, any portion of a county road in a municipality, unless the governing body of the municipality ... shall consent thereto;" and

WHEREAS, N.J.S.A. 46:17-8 provides that "any telegraph or telephone company organized under the laws of this or any other State, or of the United States may erect, construct and maintain the necessary poles, wires, conduits, and other fixtures for its lines, in, upon, along, over or under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles, and through, across or under any of the waters within this State and upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same."

WHEREAS, N.J.S.A. 54:30A-124(a) provides that a municipality may not impose any fees, taxes, levies or assessments in the nature of a local franchise, right of way, or gross receipts fee, tax, levy or assessment against telecommunications companies but that a municipality may impose reasonable fees for actual services made by any municipal agency; and

WHEREAS, it is in the best interests of the municipality and its citizens to grant consent to Planet Networks.

NOW, THEREFORE, BE IT RESOLVED:

1) That the governing body does hereby grant permission and authority to Planet Networks, Inc. to install fiber optic cables and related facilities on existing utility poles within the public right-of-way and to install new utility poles, upon the following terms and conditions:

- a) Planet Networks shall adhere to all applicable federal, State, and local laws in connection with its use of the public right-of-way.
- b) Planet Networks shall obtain any applicable permits in connection with the installation of its facilities;
- c) Planet Networks shall indemnify, defend and hold harmless the municipality, its officials, agents, and employees, from and against any claim of liability, damages or loss resulting in bodily injury or property damage arising out of Planet Network's use of the public right-of-way, except to the extent such loss, injury or property damage resulting from the acts or omissions of the municipality.
- d) Planet Networks shall procure and maintain, at its cost and expense, commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence and shall include the municipality as an additional insured on said insurance policy.
- e) Planet Networks shall be responsible for the repair of any damage to pavement or any structure arising from its construction, installation or maintenance of its facilities.
- f) Notwithstanding any provision contained herein, neither the municipality nor Planet Networks shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this consent.
- g) That the Mayor is hereby authorized to execute and the Clerk to attest to any other documents necessary to effectuate the terms of this resolution.

STATEMENT: This resolution authorizes and consents to Planet Networks, Inc.'s installation of fiber optic cables and related facilities on new and existing utility poles and conduits within the public rights-of-way.

RESOLUTION 100-20: REQUEST APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJSA 40A:4-87 (CLEAN COMMUNITIES)

WHEREAS, NJSA 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such

item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rockaway, in the County of Morris, New Jersey hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2020 in the sum of \$694.36, which is now available from Clean Communities Fund in the amount of \$694.36.

BE IT FURTHER RESOLVED, that the like sum of \$694.36 is hereby appropriated under the caption Clean Communities; and

BE IT FURTHER RESOLVED, that the above is the result of additional funds in the amount of \$694.36, bringing the total budgeted amount to \$12,194.36 for the Clean Communities Fund.

RESOLUTION 101-20: AWARD PROFESSIONAL SERVICES CONTRACT (DPW - ACTIVATED CARBON UNIT PIPING REPLACEMENT)

WHEREAS, there exists a need for professional services of a specialized engineer in connection with necessary rehabilitation of the activated carbon unit piping at the water treatment facility located at 21-25 Union Street; 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, 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; and

WHEREAS, CP Professional Services, 35 Sparta Avenue, Sparta, NJ 07871 (973-300-9003) has submitted a proposal for services in connection with the necessary rehabilitation of the activated carbon unit piping at the water treatment facility located at 21-25 Union Street at a cost not to exceed \$26,100.00; 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 Borough of Rockaway, in accordance with the Local Public Contracts Law, hereby authorizes and approves the award of a professional services contract to CP Professional Services, 35 Sparta Avenue, Sparta, NJ 07871 (973-300-9003) at a cost not to exceed \$26,100.00 per proposal dated June 22, 2020; 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 this resolution shall take effect immediately.
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RESOLUTION 102-20: AWARD CONTRACT (FOXES LAKE DAM REHABILITATION)

WHEREAS, on June 10, 2020 the Borough Clerk received seven (7) bid proposals for Foxes Lake Dam Rehabilitation:

CMS Construction, Inc. 521 North Ave. Plainfield, NJ 07060 \$1,127,065.00	Hutton Construction, LLC 41 Village Park Road Cedar Grove, NJ 07009 \$1,562,727.00	Ferraro Construction Corp. 5 Park Drive Franklin, NJ 07416 \$1,633,845.50
Marbro, Inc. 127 Pine Street Montclair, NJ 07042 \$1,852,117.00	Colonnelli Brothers, Inc. 409 South River Street Hackensack, NJ 07601 \$2,093,000.00	CRS Contractors, Inc. 35 Route 34, Suite 137 Colts Neck, NJ 07722 \$2,280,050.00
Mount Construction Co., Inc. 427 South White Horse Pike Berlin, NJ 08009 \$2,039,767.00		

WHEREAS, the apparent low bidder was CMS Constructions, Inc., 521 North Ave., Plainfield, New Jersey 07060, with a bid in the amount of \$1,127,065.00; and

WHEREAS, upon review of the bids it was determined that CMS Construction should be disqualified due to an inadequate plan and equipment questionnaire that was submitted with the bid. Such failure constituting a fatal nonwaivable defect requiring rejection of the bid pursuant to the Local Public Contracts Law; and

WHEREAS, by reason of the aforementioned defect, Hutton Construction, LLC, 41 Village Park Road, Cedar Grove, New Jersey 07009, with a bid in the amount of \$1,562,727.00, has been determined to be the next lowest responsible bidder; and

WHEREAS, the contract is being awarded through a fair and open process, pursuant to N.J.S.A. 19:44A-20.4 et seq.; and

WHEREAS, a Certification for 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 an agreement in an amount not to exceed \$1,562,727.00 with Hutton Construction, LLC, 41 Village Park Road, Cedar Grove, New Jersey 07009 for Foxes Lake Dam Rehabilitation.
2. A copy of this resolution and the subject agreement shall be made available for inspection in the office of the Borough Clerk.

ORDINANCE NO. 09-20

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
MUNICIPAL AND WATER UTILITY SALARIES**

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

Section 1:

The annual salaries or wages of the full-time officers and employees of the Borough of Rockaway and Water Utility shall be determined from time to time within the Minimum and Maximum Base Salary Range hereinafter established by the Mayor and Council.

Section 2:

The following positions shall have a Base Salary Range as noted:

<u>Position</u>	<u>Annual Salary Range</u>	
Borough Clerk	\$40,000	- \$97,100
Administrator/Chief Financial Officer/Treasurer	\$40,000	- \$133,600
Account Payable/Payroll Clerk	\$30,000	- \$59,500
Tax Collector	\$40,000	- \$61,000
Water/Sewer Clerk	\$30,000	- \$52,800
Clerk/Typist	\$24,000	- \$51,000
Receptionist/Cashier	\$20,000	- \$41,000
Library Director	\$40,000	- \$77,700
Superintendent of Public Works	\$45,000	- \$103,500
Assistant Superintendent of Public Works	\$45,000	- \$82,000
Public Works Foreman	\$31,500	- \$63,500
Public Works Laborer	\$24,000	- \$59,000
Water Foreman	\$31,500	- \$74,000
Water Utility Laborer	\$24,000	- \$66,500
Construction Clerk	\$20,000	- \$36,000
Police Chief	\$112,408	- \$146,500
Police Lieutenant	\$112,408	- \$136,000
Police Clerk/Typist	\$20,000	- \$50,400

Section 3:

Unless otherwise provided for in a Collective Bargaining Agreement, each full-time employee listed in Section 2 who was hired prior to September 1, 2014 hereof shall be additionally compensated upon employment anniversary with tenurial incentive as follows:

- 2% over Base Salary after (5) years of service.
- 3% over Base Salary after (10) years of service.
- 4% over Base Salary after (15) years of service.
- 5% over Base Salary after (20) years of service.
- 6% over Base Salary after (25) years of service.

Section 4:

Each full-time employee hired prior to December 31, 1991 shall receive \$50.00 incentive compensation in addition to the regular salary to be paid in a separate check in the month of December.

Section 5:

Except for those employees designated in Section 2, all other employees of the Borough shall not be considered as full-time employees. The following for hourly or annual compensation for the hereinafter listed officers and employees shall be fixed each subsequent year by annual salary ordinance, consistent with New Jersey law applicable to each new position.

<u>Position</u>	<u>Salary/Hourly Range</u>	
Mayor	\$4,500	- \$6,850 per year
Council Members	\$4,250	- \$5,600 per year
Tax Assessor	\$12,000	- \$29,100 per year
Deputy Borough Clerk Stipend	\$2,000	- \$10,000 per year
Assistant Treasurer Stipend	\$2,000	- \$10,000 per year
Construction Official	\$9,000	- \$10,000 per year
Public Works Foreman Stipend	\$1,200	- \$1,500 per year

Licensed Water Operator	\$4,000 - \$9,100	per year
Building Sub Code Official	\$3,000 - \$6,500	per year
Plumbing Sub Code Official	\$3,000 - \$11,300	per year
Fire Sub Code Official	\$2,000 - \$4,000	per year
Electrical Sub Code Official	\$4,000 - \$11,600	per year
Zoning Enforcement Official	\$4,500 - \$16,700	per year
Land Use Board Secretary	\$5,000 - \$11,000	per year
Fire Prevention/Inspection Official	\$1,200 - \$4,700	per year
Fire Marshal/NJ Fire Code	\$8,000 - \$43,000	per year
Fire Inspector	\$1,000 - \$4,700	per year
Registrar Stipend	\$600 - \$1,800	per year
Deputy Registrar Stipend	\$250 - \$1,000	per year
Recycling Coordinator	\$3,000 - \$11,500	per year
Recreation Director/Community Liaison	\$10,000 - \$40,000	per year
Emergency Management Coordinator or Director Stipend	\$5,000	per year
School Resource Officer	\$700	per year
Department Assistant	\$12.00 - \$18.00	per hour
Fire Watch Team Member	\$25.00	per hour
School Crossing Guard	\$15.00 - \$21.50	per hour
Special Police Officer	\$15.00 - \$35.00	per hour
Police Matron	\$15.00 - \$20.50	per hour
Public Library – Youth Services Librarian	\$15.00 - \$26.00	per hour
Public Library – Assistant	\$10.00 - \$21.00	per hour
Public Works Worker	\$10.00 - \$16.30	per hour
Recycling Center Worker	\$15.00 - \$21.00	per hour
Senior Citizen Van Operator	\$13.50 - \$17.00	per hour
Recreation Seasonal –		
Waterfront Director	\$10.00 - \$20.00	per hour
Head Life Guard	\$10.00 - \$18.00	per hour
Life Guard	\$8.85 - \$15.00	per hour
Park Supervisor	\$11.00 - \$18.00	per hour
Park Instructor	\$8.85 - \$15.00	per hour
Park Counselors/Assistant	\$8.85 - \$14.00	per hour
Swim Team Coach	\$1,000 - \$1,250	per season

Section 6:

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section 7:

This ordinance shall take effect January 1, 2020, unless otherwise noted. Employees must be actively employed upon the adoption of the salary ordinance to receive retroactive pay.

Section 8:

The increase shall be effective July 1, 2020 for any employees hired between July 1, 2019 and December 31, 2019. Employees hired on or after January 1, 2020 will not be eligible for an increase in 2020.

DATE: June 25, 2020

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

CERTIFICATION

I, KIMBERLY CUSPILICH, Borough Clerk of the Borough of Rockaway, in the County of Morris, do hereby certify that the foregoing is a true and correct copy of an ordinance introduced by the Mayor and Council at a meeting held on June 25, 2020.

Kimberly Cuspilich
Acting Borough Clerk