

**MAYOR AND COUNCIL
REGULAR MEETING
SEPTEMBER 3, 2020
6:30 PM**

Public notice is hereby given that the regular meeting of the Mayor and Council of the Borough of Rockaway previously scheduled for Thursday August 27, 2020 at 6:30PM, to take place in the Community Center, 21-25 Union Street, Rockaway, NJ 07866, has been rescheduled for Thursday, September 3, 2020 and will be a telephonic meeting only, in accordance with N.J.S.A. 10:4-6, et. seq. (the Open Public Meetings Act), at which time formal action will be taken.

The public is invited to attend this meeting by using the link or call in information below:

<https://zoom.us/j/98035135059?pwd=UjVwdUxYbjEycVBWTDJoOGR2eEtSUT09>
+1 929 205 6099

Meeting ID: 980 3513 5059

Passcode: 207701

AGENDA

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. CLOSED SESSION *Personnel*
4. CONSENT AGENDA: Resolutions
 - #130-20 Award Contract (Firefighter One – Turnout Gear)
 - #131-20 Approve 2020-2021 Alcoholic Beverage Control Licenses
 - #132-20 Authorize Change Order No. 1 (Fox Lake Dam Rehabilitation)
 - #133-20 Refund Recycling Fee
 - #134-20 Award Contract (Stabilization of the Stone Culvert Over Fox's Brook)
 - #135-20 Award Contract (Beyer Ford - Police Vehicle)
 - #136-20 Approve Soil Disturbance Application (135 Phillip Drive)
 - #137-20 Execute Fair Share Settlement Agreement
 - #138-20 Appoint Linda Engelmann as Department Assistant
5. ORDINANCES: Adoption
 - #12-20 Authorize Long Term Tax Exemption Agreement (Block 73, Lot 65)
6. ORDINANCES: Introduction
 - #13-20 Amending Chapter 241, Vehicles and Traffic, Sections 241-26 and 241-62
7. MEETING OPEN TO THE PUBLIC
8. CLOSED SESSION (If required)
9. ADJOURNMENT

RESOLUTION 130-20: AWARD CONTRACT (FIREFIGHTER ONE - TURNOUT GEAR)

WHEREAS, there exists a need to obtain replacement turnout gear for the Fire Department; and

WHEREAS, a New Jersey State Contract No. T-0790 exists for the purchase of firefighter protective clothing and equipment from Firefighter One, LLC, 34 Wilson Drive, Sparta, NJ 07871 (973-940-3061); 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, that it does hereby authorize the purchase of replacement turnout gear for use by the Fire Department from Firefighter One, LLC, 34 Wilson Drive, Sparta, NJ 07871 (973-940-3061), under New Jersey State Contract No. T-0790, not to exceed the amount of \$24,175.80.

RESOLUTION 131-20: APPROVE 2020-2021 ALCOHOL BEVERAGE CONTROL LICENSES

WHEREAS, the following named applicants have duly filed applications for the Class "C" Retail licenses known as Plenary Retail Consumption Licenses, for the period from July 1, 2020 to June 30, 2021:

<u>LICENSE NUMBER</u>	<u>NAME</u>	<u>PLACE OF BUSINESS</u>
1434-32-009-004	H.K. Smith Corp. t/a Smiths Tavern & Liquor Store	173-177 East Main Street Rockaway, NJ 07866
1434-33-001-005	Ashish Dhruvi,	Marilyn Avenue off Route 46 Rockaway, NJ 07866
1434-33-005-002	Mill Lane Tavern Inc. t/a Mill Lane Tavern	8 Mill Lane Rockaway, NJ 07866
1434-33-003-006	March 18 th Inc. t/a Caffe Navona	147 U.S. Hwy, 46 West Rockaway, NJ 07866
1434-33-002-010	JNJS Enterprises, Inc t/a Tavern on the Rocks	9 Wall Street Rockaway, NJ 07866
1434-33-006-005	TRV Corp. t/a The Exchange Restaurant	160 East Main Street Rockaway, NJ 07866

and;

WHEREAS, the Director of the Division of Alcoholic Beverage Control has caused to be advertised in a newspaper in each County, a General Notice of Intention to apply for said Licenses.

NOW, THEREFORE, BE IT RESOLVED that the Licenses under Class "C" Retail Licenses, known as Plenary Retail Consumption Licenses, be and the same are hereby granted as to each of the above-named applicants.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the License under Class "C" Retail Licenses, known as Plenary Retail Distribution Licenses, be and the same is granted to the above-named applicant.

RESOLUTION 132-20: AUTHORIZE CHANGE ORDER NO. 1 (FOX LAKE DAM REHABILITATION)

WHEREAS, on June 10, 2020, a contract for the Fox Lake Dam Rehabilitation was awarded to Hutton Construction, LLC, 41 Village Park Road, Cedar Grove, NJ 07009 (973-857-2501); and

WHEREAS, the following additional work is necessary:

- Item No. A1, Mobilization, add item at \$15,000/LS x 1 LS = \$15,000.00
- Item No. A2 Lake Dredging and Sediment Disposal,
Add item at \$76.00/CY x 2,500 CY = \$190,000.00; and

WHEREAS, the procedures for this change order are in compliance with N.J.A.C. 5:34-48 of the regulations governing Local Public Contracts; 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 Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, hereby authorize and approve the execution of Change Order No. 1 in an amount not to exceed \$205,000.00 to the contract awarded to Hutton Construction, LLC, 41 Village Park Road, Cedar Grove, NJ 07009 (973-857-2501), in the amount not to exceed \$205,000.00 for the mobilization and lake dredging and sediment disposal at Fox Lake Dam Rehabilitation, thereby increasing the cost of this contract to \$1,767,727.00.

RESOLUTION 133-20: REFUND OF RECYCLING FEE

WHEREAS, on May 3, 2019 the Borough of Rockaway received payment in the amount of \$15.00 from Tom Thomas, 12 William Drive, Rockaway, NJ 07866, for freon removal from a refrigerator; and

WHEREAS, the property owner did not have the freon removed from the refrigerator and has requested a refund; and

WHEREAS, the Borough Superintendent of Department of Public Works has authorized the refund and;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, County of Morris, to refund \$15.00 for freon removal to Tom Thomas, 12 William Drive, Rockaway, NJ 07866.

RESOLUTION 134-20: AWARD CONTRACT (STABILIZATION OF THE STONE CULVERT OVER FOX'S BROOK)

WHEREAS, on August 12, 2020 the Borough Clerk received four (4) bid proposals for the Stabilization of the Stone Culvert Over Fox's Brook:

Drill Construction
80 Main Street Ste 570
West Orange, NJ 07052
\$208,250.00

Dell-Tech Inc.
930 New York Avenue
Trenton, NJ 08638
\$248,900.00

Sparwick Contracting, Inc.
21 Sunset Inn Road
Lafayette, NJ 07848
\$257,501.00

Lewis-Graham, Inc.
15 Brentwood Road
Clark, NJ 07066
\$258,000.00

WHEREAS, the apparent low bidder was Drill Construction, 80 Main Street, West Orange, NJ 07052, with a bid in the amount of \$208,250.00; 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 \$208,250.00 with Drill Construction, 80 Main Street, West Orange, NJ 07052 for the Stabilization of the Stone Culvert Over Fox's Brook.
2. A copy of this resolution and the subject agreement shall be made available for inspection in the office of the Borough Clerk.

RESOLUTION 135-20: AWARD CONTRACT (POLICE VEHICLE)

WHEREAS, there exists a need to obtain a Police Vehicle for the Police Department; and

WHEREAS, the Morris County Cooperative Pricing Council contract #15-A includes the purchase of a 2020 Police Interceptor SUV from Beyer Ford, 170 Ridgedale Avenue, Morristown, NJ 07960 (973) 463-3065; 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 a 2020 Police Interceptor SUV from Beyer Ford, 170 Ridgedale Avenue, Morristown, NJ 07960 (973) 463-3065 for use by the Police Department, under Morris County Cooperative Pricing Council contract #15-A, not to exceed the amount of \$35,278.95.

RESOLUTION 136-20: GRANTING SOIL DISTURBANCE PERMIT (HARRINGTON CONSTRUCTION CO., INC. -- 135 PHILLIP DRIVE)

WHEREAS, on or about July 29, 2020, WJ Harrington & Son (the "Applicant") filed an application for approval of a soil disturbance permit concerning the property located at 135 Phillip Drive, Rockaway, New Jersey (the "Property"); and

WHEREAS, Borough Engineer Paul W. Ferriero has opined that the subject Application is in compliance with Section 170-6 *et seq.* of the Borough of Rockaway Code, subject to the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED that, it appearing that the Applicant has complied with Section 170-6, *et seq.*, Applicant's application for a soil disturbance permit be and the same is hereby approved, subject to the following terms and conditions, absent the performance of which the approval granted herein shall be null and void:

- (a) The Applicant shall produce a Certificate of Liability Insurance specifying general liability insurance in the amount of \$1,000,000.00 per occurrence and excess/umbrella liability coverage in the amount of \$4,000,000.00, naming the Borough of Rockaway as additional insured, and shall maintain the said coverage in full force and effect until such time as the work that is the subject of this approval is completed in full.
 - (b) The applicant shall post with the Borough of Rockaway a \$1,000.00 escrow deposit.
 - (c) The Applicant shall comply with all provisions of Section 170-6, *et seq.* of the Borough of Rockaway Code, and all other provisions of applicable law.
 - (d) The Applicant shall comply with all conditions set forth in the Review Letter No. 2 of Borough Engineer Paul W. Ferriero, PE, CME, dated September 3, 2020, including but not limited to the following:
 1. Certification from Morris County Soil Conservation District is required if the disturbance is equal to or exceeds 5,000 square feet. Disturbance is slightly less than 5,000 square feet, therefore MCSCD certification is not required. The applicant should take note that the limit as shown on the plan is very tight and may be very difficult to actually maintain.
 2. The property lines should be staked by a surveyor licensed in the State of New Jersey prior to beginning construction. Given that the limit of disturbance extents to the Ferriero Engineering, Inc. September 2, 2020 Page 2 Re: WJ Harrington & Son Proposed Retaining Wall Soil Disturbance Permit 135 Phillip Drive property lines. Stakes should be set along the lines within the disturbance area. **Comment open.**
 3. The plan should be revised to indicate the route and destination of the removed soil. **Comment open.** Application shall provide this information prior to issuance of the permit.
 4. Since the soil to be removed exceeds 500 cubic yards, Borough Council will need to approve the permit. Notice shall be given by the applicant in accordance with Section 169-34. **Comment open.**
 5. Applicant shall provide certification from a professional engineer licensed in the State of New Jersey that the retaining walls have been construction in accordance with the approved plan prior to issuance of final signoff and/or certificate of completion from the construction department. **Comment open**
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RESOLUTION 137-20: RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO EXECUTE A SETTLEMENT AGREEMENT FIXING THE BOROUGH'S AFFORDABLE HOUSING FAIR SHARE OBLIGATION.

WHEREAS, on March 10, 2015, the New Jersey Supreme Court handed down its decision in In re Adoption of N.J.A.C. 5:96 and 5:97 ex rel. New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), which terminated COAH's jurisdiction to administer and approve municipalities' affordable housing plans, determined that the Court would reassert primary jurisdiction over the same and directed interested municipalities to petition the Court for immunity while constitutionally compliant housing plans were prepared; and

WHEREAS, on July 8, 2015, the Borough filed a declaratory judgment action in the case entitled In the Matter of the Borough of Rockaway, a municipal corporation of the State of New Jersey, bearing Docket No. MRS-L-1671-15 (the "Borough's DJ Action") seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) ("Mount Laurel IV"), and also petitioned the Court for temporary immunity from builder's remedy lawsuits; and

WHEREAS, Mount Laurel IV designated Fair Share Housing Center ("FSHC") as an interested party in all declaratory judgment actions seeking to fix municipal affordable housing fair share obligations, and FSHC has participated in the Borough's DJ Action as an interested party; and

WHEREAS, RPM Development Group has appeared as an interested party in the Borough's DJ Action; and

WHEREAS, the Superior Court appointed James T. Kyle, PP, AICP as the Special Master, as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, with the assistance of the said Special Master, the Borough, FSHC and RPM Development Group engaged in extensive good faith negotiations, which resulted in an agreement on the various substantive issues, terms and conditions set forth in the Settlement Agreement, a copy of which is attached as Exhibit A hereto; and

WHEREAS, there is a well-established policy favoring the settlement of litigation, and the settlement of Mount Laurel litigation in particular is advisable, because it avoids the expenditure of limited public resources and avoids the risks associated with such litigation; and

WHEREAS, pursuant to the settlement negotiations between the parties, FSHC will support the Borough's Housing Plan and its approach to meeting the Borough's Prior Round and Third Round obligations, and will join in the Borough's request that the trial court find that it is fair to the interests of lower-income households in New Jersey and entitles the Borough to protection from Mount Laurel litigation through July 1, 2025; and

WHEREAS, the Mayor and Council are of the opinion that the settlement of the Borough's DJ Action is in the best interest of the residents of the Borough because it eliminates the uncertainty and expense of litigation, and will result in approval of the Borough's Housing Plan, which, in turn, will maintain the Borough's immunity from all Mount Laurel lawsuits through July 2, 2025..

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 Clerk are hereby authorized to execute the Settlement Agreement attached hereto as Exhibit A, and to undertake all reasonable and necessary steps to effectuate the foregoing.
 2. The Mayor and Council direct the Borough's Affordable Housing Counsel to file the fully-executed Settlement Agreement with the Superior Court for review and approval at a duly-noticed Fairness Hearing; (b) take all actions reasonable and necessary to secure an Order approving the Settlement Agreement, and (c) base3d on same, proceed toward securing judicial approval of the Borough's Housing Plan, after it is drafted, adopted by the Borough's Land Use Board and endorsed by the Mayor and Council.
 3. This Resolution shall take effect according to law.
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RESOLUTION 138-20: RESOLUTION APPOINTING LINDA ENGELMANN AS DEPARTMENT ASSISTANT
BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris and State of New Jersey, that Linda Engelmann is hereby appointed to the position of Department Assistant and is hereby employed by the Borough of Rockaway at salary within the salary ordinance, effective Tuesday, September 1, 2020.

DATE: September 3, 2020

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor