

**MAYOR AND COUNCIL
REGULAR MEETING AGENDA
JUNE 24, 2021
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 June 24, 2021 at 6:30PM, to take place remotely only, will now be held in-person at the Community Center, 21-25 Union Street, Rockaway, New Jersey, as well as remotely via Zoom Webinar using either the link or telephonic information provided below. Formal action will be taken.

The meeting agenda and any document that would be made available to members of the public in hard copy at the time of the meeting will be available on the Borough's website, www.rockawayborough.org forty-eight (48) hours in advance of the meeting.

Public comments may be made at the time of the meeting or submitted in advance. In advance of the meeting, members of the public are welcomed to submit questions or comments by electronic mail or in written letter form. Comments submitted via email should be sent to comments@rockawayborough.org. Comments submitted in letter form should be sent to Kimberly Cuspilich, Acting Borough Clerk, 1 East Main Street, Rockaway, NJ 07866. All such questions or comments must include the name and address of the submitter and must be received by the Acting Borough Clerk no later than 4:30 pm on the day prior to the scheduled meeting.

Participation for this meeting will be offered via Zoom Webinar or by telephone as follows:

You are invited to a Zoom webinar.

When: June 24, 2021 06:30 PM Eastern Time (US and Canada)

Topic: Mayor and Council Meeting

Please click the link below to join the webinar:

<https://zoom.us/j/93658655671?pwd=NnVMZlkyTVdHVGRZVTRmNTljb21YQT09>

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 646 876 9923 or +1 301 715 8592 or +1 312 626 6799 or +1 346 248 7799 or
+1 408 638 0968 or +1 669 900 6833 or +1 253 215 8782

Webinar ID: 936 5865 5671

Passcode: 078071

1. CALL TO ORDER

Council Member	Present	Absent
Councilman Greuter		
Councilman Haynes		
Councilman Hurley		
Councilman McDonald		
Councilman Smith		
Council President Burnside		

2. PLEDGE OF ALLEGIANCE

3. APROVAL OF MINUTES *Regular Meeting March 25, 2021*

Moved	Seconded	Voice Vote	
		In favor:	Against:

4. DISCUSSION *2020 Audit*

5. CORRESPONDENCE

6. COUNCIL REPORTS

7. REPORT OF ATTORNEY

8. REPORT OF MAYOR

9. REPORT OF ADMINISTRATOR

10. REPORT OF CLERK

11. CONSENT AGENDA

- 111-21 Request Approval of Item of Revenue and Appropriation (Municipal Alliance)
- 112-21 Approve 2021-2022 Alcoholic Beverage Control Licenses
- 113-21 State Compliance with Local Finance Board Audit Requirements
- 114-21 Adopt Corrective Action Plan
- 115-21 Award Contract (Recreation - Installation of Sand for Public Swimming Beach Area)
- 116-21 Award Contract (Church and Academy Street Water Main Replacement)
- 117-21 Authorize Execution of Deed of Historic Preservation Easement for Fox’s Brook Culvert
- 118-21 Authorize Execution of Amended Settlement Agreement Fixing the Borough’s Affordable Housing Fair Share Obligation

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

12. MEETING OPEN TO THE PUBLIC (please limit comments to 3 minutes or less)

13. CLOSED SESSION (if necessary)

14. ADJOURNMENT

Moved	Seconded	Voice Vote		Time
		In favor:	Against:	

RESOLUTION 111-21: REQUEST APPROVAL OF ITEM OF REVENUE AND APPROPRIATION N.J.S.A. 40A:4-87 (MUNICIPAL ALLIANCE)

WHEREAS, N.J.S.A. 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 2021 in the sum of \$2,000.00, which is now available for National Night Out, for drug and alcohol free community policing.

BE IT FURTHER RESOLVED, that the like sum of \$2,000.00 is hereby appropriated under the Municipal Alliance; and

BE IT FURTHER RESOLVED, that the above will be used for National Night Out for drug and alcohol free community policing in the amount of \$2,000.00.

DATE: June 24, 2021

Borough of Rockaway

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 112-21: APPROVE 2021-2022 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, 2021 to June 30, 2022:

<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, LLC t/a Ramada Inn	Marilyn Avenue off Route 46 Rockaway, NJ 07866
1434-33-002-011	Dellavalle Holdings, LLC t/a Tavern on the Rocks	9 Wall Street Rockaway, NJ 07866
1434-33-003-006	March 18th Inc. t/a Caffé Navona	147 U.S. Hwy. 46 West Rockaway, NJ 07866
1434-33-005-002	Mill Lane Tavern Inc. t/a Mill Lane Tavern	8 Mill Lane Rockaway, NJ 07866
1434-33-006-005	TRV Corp. t/a The Exchange Restaurant	160 East Main Street Rockaway, NJ 07866
1434-33-007-004	Rockaway Lanes, Inc. t/a Rockaway Lanes	365 Route 46 Rockaway, NJ 07866
1434-33-012-010	Brick 46 Inc.	68 Route 46 East Rockaway, NJ 07866
143-33-004-004	Skat Inc t/a Shenanigans	75 Maple Ave Rockaway, NJ 07866
1434-33-010-007	Damian Mexican Foods LLC t/a Riviera Maya	116 Route 46 Rockaway, NJ 07866

and;

WHEREAS, the following named applicant has duly filed an application for a Class "C" Retail license known as Plenary Retail Distribution License for the period from July 1, 2021 to June 30, 2022:

1434-44-008-004	Lusardi Liquors, Inc. t/a Rockaway Wines & Liquors	73 West Main Street Rockaway, NJ 07866
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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

DATE: June 24, 2021 Borough of Rockaway

ATTEST: Kimberly Cuspilich, Borough Clerk BY: Thomas Mulligan, Mayor

RESOLUTION 113-21: 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 2020 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.

DATE: June 24, 2021

Borough of Rockaway

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 114-21: 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 2020 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: June 24, 2021

Borough of Rockaway

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 115-21: AWARD CONTRACT (RECREATION – INSTALLATION OF SAND FOR PUBLIC SWIMMING BEACH AREA)

WHEREAS, there exists a need for installation of 354 tons of sand along the public swimming beach area; and

WHEREAS, a diligent attempt to obtain several quotes was made by the Recreation Director, with the lowest responsive quote being received from Hutton Construction LLC, 41 Village Park Road, Cedar Grove, NJ 07009 (973-857-2501); 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 by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that it does hereby authorize the installation of 354 tons of sand along the public swimming beach area by Hutton Construction LLC, 41 Village Park Road, Cedar Grove, NJ 07009 (973-857-2501) in the amount not to exceed \$20,603.00.

DATE: June 24, 2021

Borough of Rockaway

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 116-21: AWARD CONTRACT (CHURCH AND ACADEMY STREET WATER MAIN REPLACEMENT)

WHEREAS, on June 3, 2021 the Borough Clerk received nine (9) bid proposals for Church and Academy Street Water Main Replacement:

Reivax Contracting Group 68 Finderne Avenue Bridgewater, NJ 08807 \$493,017.00	PM Construction 1310 Central Avenue Hillside, NJ 07205 \$519,477.00	John Garcia Construction 183 Friar Lane Clifton, NJ 07013 \$627,057.57
MSP Construction 19-B Minneakoning Road Flemington, NJ 08822 \$722,407.00	The Shauger Group 429 Dodd Street East Orange, NJ 07017 \$838,555.00	Regal Utility Services Inc. 731 Warwick Turnpike Hewitt, NJ 07421 \$847,401.10
Colonnelli Bros. 409 South River Street Hackensack, NJ 07601 \$942,884.00	Sanitary Construction Co. 116 Fairfield Road Fairfield, NJ 07004 \$979,796.82	William J. Guarini 132 Mallory Ave Jersey City, NJ 07304 \$1,102,200.00

WHEREAS, the apparent low bidder was Reivax Contracting Group, 68 Findeme Avenue, Bridgewater, NJ 08807, with a bid in the amount of \$493,017.00; and

WHEREAS, upon review of the bids it was determined that Reivax Contracting Group failed to submit a properly completed consent of surety, 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, PM Construction, 1310 Central Avenue, Hillside, NJ 07205, with a bid in the amount of \$519,477.00, 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 \$519,477.00 with PM Construction, 1310 Central Avenue, Hillside, NJ 07205, for Church and Academy Street Water Main Replacement.
2. A copy of this resolution and the subject agreement shall be made available for inspection in the office of the Borough Clerk.

DATE: June 24, 2021

Borough of Rockaway

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 117-21: AUTHORIZE EXECUTION OF DEED OF HISTORIC PRESERVATION EASEMENT FOR FOX'S BROOK CULVERT

WHEREAS, the Borough of Rockaway received the 2018 Morris County Historic Preservation Trust Fund grant; and

WHEREAS, executing a Deed of Historic Preservation Easement was a condition of the 2018 Morris County Historic Preservation Trust Fund grant.

NOW THEREFORE BE IT RESOLVED the Mayor and Borough Clerk are hereby authorized and directed to execute said Deed of Historic Preservation Easement and take all steps necessary to comply with the conditions of the grant received.

DATE: June 24, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 118-21: AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AMENDED 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 a Settlement Agreement approved on September 3, 2020; and

WHEREAS, thereafter, RPM applied to the Rockaway Borough Land Use Board for preliminary and final site plan and subdivision approval to permit an age-restricted apartment building at the property located at Block 73, Lot 65, which application was denied by the Land Use Board on September 21, 2020; and

WHEREAS, on October 22, 2020, RPM filed a Complaint in Lieu of Prerogative Writs against the Borough of Rockaway, Borough Council of Rockaway, and Rockaway Land Use Board, which matter was resolved by an Amended Settlement Agreement with RPM that was approved by the Mayor and Council on April 8, 2021; and

WHEREAS, it is necessary to amend the settlement agreement with FSHC via a Second Amended Settlement Agreement to accurately reflect the effect on that agreement of the Amended Settlement Agreement with RPM; 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 Second Amended 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) based on same, proceed toward securing judicial approval of the Borough's Housing Plan, after it is adopted by the Borough's Land Use Board and endorsed by the Mayor and Council.
3. This Resolution shall take effect according to law.

DATE: June 24, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Borough Clerk

BY: Thomas Mulligan, Mayor