

**MAYOR & COUNCIL
REGULAR MEETING
August 13, 2020
7:00 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 Thomas Mulligan presiding. Mayor Mulligan called the meeting to order at 7:00 p.m.

Mayor Mulligan 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 7:00 p.m. on this date. Mayor Mulligan announced the location of the fire exits.

Councilmembers Present

Melissa Burnside
Russell Greuter
Thomas Haynes
James Hurley
Patrick McDonald
Robert Smith - Council President

Councilmembers Absent

Borough Attorney Joseph J. Bell, Jr., Esq., was also present.

Everyone present participated in the salute to the flag.

APPROVAL OF MINUTES

Upon motion by Councilman Greuter, seconded by Councilman Hurley, and carried unanimously upon voice vote, the minutes of the June 25, 2020 Regular Meeting, July 9, 2020 Regular Meeting, and July 21, 2020 Special Meeting were approved.

COUNCIL/COMMITTEE COMMENTS

Councilman McDonald – Personnel Committee

Parks and Recreation - Councilman McDonald reported that Summer field use ended without incident and fields are fully booked for the Fall.

Councilman Hurley - Finance and License Committee

Payment of Bills - Upon motion by Councilman Hurley, seconded by Councilwoman Burnside, and carried unanimously upon voice vote, that the bills presented to the Borough of Rockaway for payment by the Borough, as evidenced by proper vouchers, be referred to the Committee or unit contracting for same, and, when endorsed by them and approved by appropriate action of Council, that they are to be paid.

Councilman Hurley provided an update on various capital projects, including the Stabilization of the Stone Arch over Fox's Brook, for which the bid opening was recently held and bids are currently under review by the Historical Engineer.

Councilman Haynes – Public Utility and Works Committee

Councilman Haynes reported that the Department of Public Works repaired two water main breaks, the water tanks have received their yearly inspection and maintenance, and the sewer lining project is almost complete. Morris County Mosquito Commission is assisting with cleanup of Fox's Brook.

Two Department of Public Works positions are currently posted.

Council President Smith asked that Councilman Haynes relay to the Superintendent of the Department of Public Works that many storm drains throughout the Borough that need to be cleared.

Councilman Haynes requested a closed session for personnel.

Councilman Greuter - Ordinance Committee

Councilman Greuter reported that the Police Department made 4 arrests and issued 22 summonses in the month of July.

Councilman Greuter reported that JCP&L is not reimbursing municipalities for the cost of police officers utilized due to downed wires during the recent storm; the Police Chief is looking into alternative ways to recover funds, such as FEMA or Morris County.

Councilwoman Burnside - Fire Committee

Councilwoman Burnside provided a COVID update.

Library - Councilwoman Burnside shared that the Library Board of Trustees have approved dedicating the Spring Room Joyce Kanigel.

Fire Department – Councilwoman Burnside reported that the Fire Department scheduled drills on August 12th and 19th; the drill on the 19th will be at the Fire Academy.

Councilwoman Burnside commended Police Officers Flynn and Weischedel for their efforts in caring for her neighbor while waiting for an ambulance to arrive recently.

Council President Smith - Ordinance Committee

Council President echoed Councilwoman Burnside’s sentiments regarding the Police Department and the level of care and compassion provided to residents.

Council President Smith asked that the Mayor and Council review a draft truck ordinance in their folders and provide feedback to him prior to the Ordinance Committee meeting on the 24th.

ATTORNEY'S REPORT

The Attorney reported that Fox Lake Dam property acquisition is now complete; the deed has been filed.

MAYOR'S REPORT

Mayor Mulligan provided an update on the recent storm. More than 1,500 Rockaway Borough residents were initially without power. Communication with JCP&L was constant during the storm and thereafter. Mayor Mulligan expressed his appreciation for the efforts of the Police Chief, OEM Director and Coordinator, Fire Marshal, Police Department, Fire Department, and Department of Public Works in keeping Borough residents safe.

Mayor Mulligan reported that the contract for Borough Engineer expires December 31st and asked that Council President Smith and Councilman Hurley begin the process of going out for RFP.

Mayor Mulligan requested a closed session for personnel.

ADMINISTRATOR'S REPORT

Administrator Reiche reported that regulations, expectations, and communication were among items discussed at a recent Department of Public Works staff meeting.

Administrator Reiche notified Mayor and Council that a report from the Water Clerk is included in their folders, however, a more detailed report is being sought through Vital.

CLERK'S REPORT

No report.

RESOLUTIONS (CONSENT AGENDA ITEMS)

Resolution 123-20 was pulled from the Consent Agenda; after further discussion it was tabled until the next meeting of the Mayor and Council.

Upon motion by Councilman Greuter, seconded by Councilman Hurley and carried unanimously upon call of the roll, Resolutions 117-20, 118-20, 119-20, 120-20, 121-20, 122-20, 124-20, 125-20, 126-20, 127-20, 128-20, 129-20 were adopted.

- #117-20 Authorize Change Order No. 1 (Recreation – Smith Field Fencing)
- #118-20 Award PSA (Fox Lake Dam – Hunter Research)
- #119-20 Award PSA (Fox Lake Dam – Melick Tully)
- #120-20 Request Approval for Support of Dover and Rockaway Rail Realignment Project
- #121-20 Award Contract (Herrick Drive Water Main Improvements, Section One)
- #122-20 Approve Employee Carryover of Five Vacation Days
- #123-20 Grant Leave of Absence (DPW Worker)
- #124-20 Approve Participation in a Safe and Secure Communities Program
- #125-20 Award Contract (Office Supplies)
- #126-20 Award Contract (Ice Control)
- #127-20 Approve 2020-2021 Alcoholic Beverage Control License (Lusardi Liquors)
- #128-20 Authorize Right-of-Way Agreement with Planet Networks
- #129-20 Recognize the 100th Anniversary of the 19th Amendment

ORDINANCE NO. 11-20, Public Hearing & Adoption

On motion by Councilman Hurley and seconded by Councilman McDonald, to offer the following ordinance as read by title on second reading:

BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$630,000 FOR FOX LAKE DAM REPAIRS AND IMPROVEMENTS IN AND BY THE BOROUGH OF ROCKAWAY, IN THE COUNTY OF MORRIS, NEW JERSEY, AND AUTHORIZING THE ISSUANCE OF \$598,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF ROCKAWAY, IN THE COUNTY OF MORRIS, NEW JERSEY (NOT LESS THAN TWO-THIRDS OF ALL MEMBERS THEREOF AFFIRMATIVELY CONCURRING) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance has heretofore been authorized to be undertaken by the Borough of Rockaway, in the County of Morris, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the supplemental amount of \$630,000, such sum being in addition to the \$320,000 appropriated therefor by Section 3(8) of Bond Ordinance #04-11, the \$768,000 appropriated therefor by Section 3(c) of Bond Ordinance #12-15 and the \$720,000 appropriated therefor by Section 3(d) of Bond Ordinance #14-16 of the Borough, finally adopted May 12, 2011, July 9, 2015 and September 8, 2016, respectively, (the "Original Bond Ordinances"), and including the sum of \$31,500 as the additional down payment required by the

Local Bond Law. The additional down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the additional cost of the improvement or purpose not covered by application of the additional down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$598,500 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement heretofore authorized and the purpose for the financing of which the bonds are to be issued is Fox Lake Dam repairs and improvements, including all work and materials necessary therefor and incidental thereto, as described in the Original Bond Ordinances.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$2,316,100, including the \$304,000 authorized by Section 3(8) of Bond Ordinance #04-11, the \$729,600 authorized by Section 3(c) of Bond Ordinance #12-15, the \$684,000 authorized by Section 3(d) of Bond Ordinance #14-16 and the \$598,500 bonds or bond anticipation notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$2,438,000, including the \$320,000 appropriated by Section 3(8) of Bond Ordinance #04-11, the \$768,000 appropriated by Section 3(c) of Bond Ordinance #12-15, the \$720,000 appropriated by Section 3(d) of Bond Ordinance #14-16 and the \$630,000 appropriated herein.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers

thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$598,500, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An additional \$105,000 is estimated therefor herein for items of expense listed in and permitted under N.J.S.A. 40A:2-20 for the purpose or improvement.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

DATE: August 13, 2020

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

Mayor Mulligan opened the meeting to the public.

There being no comments, Mayor Mulligan closed the public hearing.

The above-mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Councilwoman Burnside, Councilman Greuter, Councilman Haynes, Councilman Hurley, Councilman McDonald, Council President Smith
Nays: None
Abstain: None

ORDINANCE NO. 12-20, Public Hearing & Adoption

On motion by Councilman Hurley and seconded by Councilwoman Burnside, to offer the following ordinance as read by title on second reading:

ORDINANCE NO. 12-20

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL AUTHORIZING LONG TERM TAX EXEMPTION
AGREEMENT BETWEEN BOROUGH OF ROCKAWAY AND
74 WEST MAIN STREET URBAN RENEWAL ASSOCIATES, LP**

WHEREAS, in compliance with the New Jersey Supreme Court’s March 10, 2015 decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J.1 (2015)(“Mount Laurel IV”), on or about July 7, 2015 , the Borough of Rockaway filed an action with the Superior Court of New Jersey (“Court”) in Morris County, entitled In the Matter of the Application of the Borough of Rockaway, County of Morris, Docket No. 1671-15, seeking a Judgement of Compliance and Repose approving its Housing Element and Fair Share Plan (“Affordable Housing Plan”), in addition to related relief, including temporary immunity from all Mount Laurel lawsuits; and

WHEREAS, the Court granted the Borough’s motion for temporary immunity from all Mount Laurel lawsuits, which was subsequently extended via a series of orders, and is still in full force and effect today; and

WHEREAS, 74 West Main Street Urban Renewal Associates, LP (the “Entity”) proposes to construct sixty-four (64) total senior rental units, sixty-three (63) of which would be Affordable Housing Units, along with one (1) market rate unit to be occupied by the on-site property manager and amenities (the “Project”) within the Borough of Rockaway), which will aid the Borough in complying with its affordable housing obligation, on a site described as Block 73, Lot 65 as shown on the official assessment map of the Borough of Rockaway, and commonly known as 74 West Main Street, Rockaway, New Jersey (the “Property”); and

WHEREAS, the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. authorizes a municipality to enter into a Financial Agreement with an urban renewal entity undertaking development and construction of a low or moderate income housing project, granting a long term tax exemption to the project; and

WHEREAS, the Entity is qualified to do business under the provisions of the New Jersey Long Term Tax Exemption Law and has made application to the Borough of Rockaway for (i) the approval of the Project; (ii) the grant of a long term tax exemption for the Project; and (iii) the execution of a Financial Agreement; and

WHEREAS, the Entity has presented to the Borough Council a Financial Agreement, which is attached hereto as Exhibit A, and which has attached as an exhibit a revenue projection for the Project which sets forth the anticipated revenue to be received by the Entity from the operation of the Project.

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

Section I

1. The Borough Council authorizes the execution of the Agreement substantially in the form attached hereto as Exhibit A and made a part hereof authorizing an in lieu tax payment of six and 28/100 percent (6.28%) of the Annual Gross Revenue of the Project.

2. The exemption from taxation on improvements to be constructed by the Entity on the be and is hereby approved for a period of thirty (30) years from the date of substantial completion of the Project, but only so long as the Entity is subject to and in compliance with the terms of the Financial Agreement and the Long Term Tax Exemption Law.
3. The Borough Council hereby authorizes and directs the Mayor to execute, on behalf of the Borough, the Agreement attached hereto as Exhibit A.
4. The Borough Council understands and agrees that the revenue projections set forth in exhibit to the Financial Agreement are estimates and that the actual payments in lieu of taxes to be paid by the Entity to the Borough shall be determined pursuant to the Agreement.
5. The Borough Council understands that the Entity may form a limited partnership or a limited liability company in which the Entity will be the general partner or managing member, respectively, and that the Borough may enter into the payment in lieu of taxes Agreement with such limited partnership or limited liability company.
6. An executed copy of the Financial Agreement authorized by this Ordinance shall be kept on file in the office of the Borough Clerk for purposes of review and record.
7. The Project, when completed, shall conform with all State laws and ordinances of the Borough of Rockaway relating to its construction and use.
8. The Entity shall pay an annual service charge based on six and 28/100 percent (6.28%) of the Annual Gross Revenue of the Project as set forth in the Financial Agreement. The annual service charge rate shall be fixed for the entire term of the tax exemption, but after the initial fifteen (15) years of the term the minimum annual service charge shall be determined as otherwise set forth in the Financial Agreement. Following submission of an annual auditor's report within ninety (90) days of the end of each fiscal or calendar year, the Borough and the Entity shall adjust any overpayment or underpayment determined for the audited period.
9. The Entity shall submit a total Project cost audit by certified public accountants within ninety (90) days following substantial completion of the project.
10. The Municipal Clerk is hereby authorized to forward a certified true copy of the Ordinance to 74 West Main Street Urban Renewal Associates, LP at 77 Park Street, Montclair, New Jersey 07042-2962. The Municipal Clerk is hereby authorized to forward a certified true copy of this Ordinance, and the Financial Agreement implementing it, to both the Municipal Tax Assessor and the Director of the Division of Local Government Services.

Section II

1. 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.
2. 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.
3. This Ordinance shall take effect as provided by law.

DATE: SEPTEMBER 3, 2020

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

Mayor Mulligan opened the meeting to the public.

Joyce Freiermuth, 99 East Flagge Street – questioned the timing of this Ordinance as the project has not yet been approved by the Land Use Board.

Kathy Haake, 74 Rockaway Avenue - inquired as to the amount an apartment building would typically pay in property taxes.

There being no further comments, Mayor Mulligan closed the public hearing.

Council President Smith made a motion to table Ordinance 12-20 until the September 3, 2020 meeting.

Said motion was seconded by Councilwoman Burnside and passed upon the following call of the roll.

Roll Call: Ayes: Councilwoman Burnside, Councilman Greuter, Councilman Haynes, Councilman Hurley, Councilman McDonald, Council President Smith
Nays: None
Abstain: None

PUBLIC PORTION

Mayor Mulligan opened the meeting to the public.

Bonnie Hook, 23 Jackson Avenue – requested clarification on the affordable housing project; Mayor Mulligan provided some background information to Ms. Hook. Ms. Hook also inquired as to the reason that Union Street was included on the truck ordinance, but Jackson Avenue was not. It was explained that road improvements on Jackson was funded through a NJ DOT grant and there may be restrictions as a result of that grant; it is currently being looked into. Ms. Hook also requested a status on the removal of bamboo along the river; Mayor Mulligan asked Councilman Haynes to speak with the Superintendent of Public Works about cutting the bamboo.

Kathy Haake, 74 Rockaway Avenue - inquired about the number of units and whether or not the project would fulfill Rockaway Borough's requirement. Ms. Haake also expressed her concern over the impact to the school system.

Sheila Zeman, 27 Halsey Avenue – asked if children were allowed to ride bicycles on the sidewalk and expressed her concern for them riding in the street in certain areas.

Joyce Freiermuth, 99 East Flagge Street – asked if there could be a Zoom link available for the Mayor and Council meeting when the truck ordinance was introduced. Ms. Freiermuth also asked that the noise ordinance be reviewed in response to a recent incident with extremely loud music during daytime hours.

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

CLOSED SESSION

Upon motion by Councilwoman Burnside, seconded by Council President Smith, and adopted unanimously upon call of the roll (or voice vote), the following resolution was adopted:

RESOLUTION 130-20: 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:
 - Pending or Anticipated Litigation, Contract Negotiation, or Matters Falling Within Attorney-Client Privilege
 - Personnel (matter involving employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting)
 - Confidential Per Express Provision of Federal Law or State Statute
 - Release of Information Would Impair Right to Receive Federal Funds
 - Disclosure of Information Would Constitute Unwarranted Invasion of Individual Privacy
 - PBA Collective Bargaining Agreement Negotiations

Teamsters Collective Bargaining Agreement Negotiations
Purchase, Lease, or Acquisition of Real Property with Public Funds, or Investment of Public Funds
Tactics or Techniques to Protect Safety and Property of Public
Deliberations May Result in Imposition of Specific Civil Penalty

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 13, 2020

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

Mayor and Council went into closed session at 8:27 p.m. and resumed the public meeting at 8:54 p.m.

ADJOURNMENT

The meeting adjourned at 8:55 p.m.

Approved: As Submitted

Kimberly Cuspilich, Acting Borough Clerk

Date: March 25, 2021