

**MAYOR & COUNCIL
REGULAR MEETING
JULY 11, 2013
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 July 11, 2013. Mayor Greuter announced the location of the fire exits.

Councilmembers Present

Thomas Donofrio
Joyce Kanigel
Joseph Vicente
Melissa Burnside - Council President

Councilmembers Absent

Thomas Mulligan
John Willer

Richard Beilin, Esq., representing Borough Attorney Edward Wacks, Esq., was also present.

Everyone present participated in the salute to the flag.

APPROVAL OF MINUTES

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, the minutes of the June 27, 2013 Regular Meeting were accepted as submitted.

CORRESPONDENCE

Mayor Greuter reported that Karen Fitzgerald, 18 Longview Rd., sent an e-mail requesting that the Longview Road block party date be changed to August 3 instead of August 10, with a rain date of August 4.

On motion by Councilman Vicente, seconded by Council President Burnside, and unanimously carried by voice vote to accept the correspondence, approve the request, and to forward same to the Police, Public Works, and Fire Departments.

ORDINANCE NO. 15-13, Introduction & First Reading

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
AMENDING CHAPTER 247, WATER, AND
CHAPTER A263, FEES,
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

Councilman Donofrio moved that this ordinance be taken up and passed on first reading and that the Borough Clerk be authorized to have the ordinance published in accordance with the law in *The Citizen* and the *Daily Record* for hearing and final passage on August 8, 2013.

Said motion was seconded by Councilman Vicente and passed as follows upon call of the roll:

Roll Call: Ayes: Donofrio, Kanigel, Vicente, Burnside
Nays: None

ORDINANCE NO. 11-13, Public Hearing & Adoption

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
AMENDING CHAPTER A263, FEES,
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

WHEREAS, the Mayor and Council of the Borough of Rockaway have determined that a need exists for certain fees charged under Chapter A263, Fees, Section A263-1, Fees established, of the Code of Ordinances of the Borough of Rockaway to be amended in order to reflect the actual costs of the relevant services; and

WHEREAS, the water rates were last amended in 2010; and

WHEREAS, the Mayor and Council are authorized to charge and collect said water service charges pursuant to N.J.S.A. 40:14B-21.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that the following amendments be made to Chapter A263, Fees, Section A263-1, Fees established, as follows:

Section I

1. Subsections N (1) (c) is hereby repealed in entirety and modified to read as follows:

"N. Chapter 247, Water.

(1) Article I, General Regulations

(c) Fee for turning off water service so that property owner may make repairs and then turning service back on: \$40 during normal business hours when scheduled with 48 hours' notice. If the request to turn off water service during normal business hours is made with less than 48 hours' notice, the fee increases to \$80. If the water service must be turned off and/or on outside of normal business hours and an emergency call-out is required, there will be a charge of \$60 per hour per employee with a minimum charge of three hours per employee.

2. Subsections N (1) (d) [1] [a], [1] [b], and [4] are hereby repealed in entirety and modified to read as follows:

"N. Chapter 247, Water.

(1) Article I, General Regulations

(d) Rates.

[1] The following minimum charges and rates per quarter-annually based upon the cubic feet used for all customers of the water utility system of the Borough of Rockaway shall be:

[a] For the first 1,300 cubic feet: minimum charge of \$62.

[b] All water consumed over and above 1,300 cubic feet, in addition to the minimum fee of \$62 for the first 1,300 cubic feet, shall be charged at the rate and according to the amount consumed as follows:

Amount (cubic feet)	Fee
Next 1,300 in excess of the first 1,300	\$6.65 per 130 cubic feet per quarter
Next 1,300 in excess of the first 2,600	\$7.00 per 130 cubic feet per quarter
Next 1,300 in excess of the first 3,900	\$7.60 per 130 cubic feet per quarter
Next 1,300 in excess of the first 5,200	\$8.00 per 130 cubic feet per quarter
In excess of the first 6,500	\$8.40 per 130 cubic feet per quarter.

[4] Multiple units on a single meter. The owner of the building shall be charged a minimum quarterly charge of \$62, multiplied by the number of units serviced by that one meter."

3. Subsection N (1) is hereby amended to add the following:

"N. Chapter 247, Water.

(1) Article I, General Regulations

(h) Final readings/change of ownership or tenancy. The fee for a final/special reading shall be \$45 for each reading when scheduled with 72 hours' notice. If the request for a final/special reading is made with less than 72 hours' notice, the fee increases to \$70.

(i) Minimum charge for any service call: \$25."

Section II

1. This Ordinance may be renumbered for codification purposes.
2. 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.
3. 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.
4. This Ordinance shall take effect September 1, 2013.

DATE: July 11, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor Greuter opened the meeting to the public.

Mr. David File, Andrea Dr., asked for an explanation of the increase in water rates.

Chief Financial Officer Marie Goble explained that the water utility should be self-liquidating; fees must pay the expenses. This increase should sustain us for five years and enable us to put money aside for future repairs. If the rates are "too high," the next increase may be in six or seven years.

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

On motion by Councilman Vicente, and seconded by Councilman Donofrio, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Kanigel, Vicente, Council President Burnside
Nays: None

ORDINANCE NO. 12-13, Public Hearing & Adoption

**BOND ORDINANCE PROVIDING FOR ROAD IMPROVEMENTS
IN THE BOROUGH OF ROCKAWAY, COUNTY OF MORRIS
AND STATE OF NEW JERSEY,
APPROPRIATING THE AGGREGATE OF \$400,000 THEREFOR AND
AUTHORIZING THE ISSUANCE OF \$285,000 BONDS
OR NOTES OF THE BOROUGH TO FINANCE THE COST OF AND FOR MAKING
THE DOWN PAYMENT FOR SAID IMPROVEMENTS HEREIN AUTHORIZED**

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 the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The improvements and purposes described in Section 3 of this Bond Ordinance are hereby authorized as general improvements to be made or acquired by the Borough of Rockaway, County of Morris, New Jersey (hereinafter referred to as the "Borough"). For the said improvements or purposes stated in Section 3 of this Bond Ordinance, there is hereby appropriated \$400,000, including the aggregate sum of \$15,000 as the down payment for the improvements or purposes, as required by the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.*, (hereinafter the "Law"). The down payment has been made available by virtue of provisions for down payments or capital improvements purposes in the current budget or in one or more previously adopted budgets.

Section 2. For the financing of said improvements or purposes and to meet the part of said \$400,000 appropriation not otherwise provided for hereunder, negotiable Bonds of the Borough are hereby authorized to be issued in a principal amount not to exceed \$285,000 pursuant to the Law. In anticipation of the issuance of said Bonds, negotiable bond anticipation notes of the Borough in a principal amount not exceeding \$285,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law. In the event that Bonds are issued pursuant to this Ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the Bonds so issued. If the aggregate amount of outstanding Bonds and notes issued pursuant to this Ordinance shall at any time exceed \$285,000, the moneys raised by the issuance of said Bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding, at maturity. Each Bond anticipation note issued pursuant to this Ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within the limitations prescribed by the Law. Each of said notes shall be signed and shall be under the seal of said Borough and attested as permitted by law. The appropriate Borough officers are hereby authorized to execute said notes and to issue said notes in such form as they may adopt in conformity with law. The power to determine all matters in connection with this Ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer of the Borough (the "Financial Officer"), who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law and the Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. The Financial Officer is authorized and directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of notes pursuant to this Ordinance is made, such report to include the principal amount, description, interest rate and maturity of the notes sold, the price obtained and the name of the purchaser.

Section 3. The improvements hereby authorized and the purposes for the financing of which said obligations are to be issued is are as follows:

Improvement/ Acquisition	Estimated Cost	NJ Department of Transportation Grant	Down Payment (Capital Improvement Fund)	Estimated Amount of Bonds & Notes	Period of Usefulness (Years)
1. Halsey Avenue Improvements, to include all improvements, equipment, costs and appurtenances related thereto and/or necessary therefore.	\$175,000	\$100,000	\$3,750	\$71,250	10
2. Road Resurfacing of various Borough Roads, to include all improvements, equipment, costs and appurtenances related thereto and/or necessary therefore.	\$225,000	\$-0-	\$11,250	\$213,750	10
TOTAL	\$400,000	\$100,000	\$15,000	\$285,000	

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this Bond Ordinance are not current expenses and is property or improvements which the Borough may lawfully acquire or make as general improvements, 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 all said purposes is within the limitations of the Law taking into consideration the amount of the obligations authorized for each such purpose, according to the reasonable life thereof, computed from the date of the Bonds authorized by this Bond Ordinance, the average period of usefulness is 10 years.

(c) The Supplemental Debt Statement required by the Law has been duly made and filed in the office of the Borough 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, and such Statement shows that the gross debt of the Borough determined as provided in said Law is increased by this Bond Ordinance by \$285,000 and obligations authorized hereunder will be within all debt limitations prescribed by said Law.

(d) Amounts not exceeding \$80,000 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed and permitted under N.J.S.A. 40A:2-20 of the Law may be included as part of the costs of said improvement and are included in the foregoing estimates thereof.

Section 5. Any grant or other moneys received for the purposes described in Section 3 hereof in addition to the funds expressly appropriated in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligation issued pursuant to this Ordinance and the amount of the obligations authorized herein for such purpose shall be reduced accordingly.

Section 6. The governing body of the Borough hereby covenants on behalf of the Borough to take any action necessary or to refrain from taking action in order to preserve the tax exempt status of the debt obligations authorized hereunder as is required under the Internal Revenue Code of 1986, as amended, including compliance with said code with regard to the use, expenditure, investment, timely reporting and the rebate of investment earnings as may be required thereunder.

Section 7. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and, unless paid from other revenues of the Borough, the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation as to rate or amount.

Section 8. The Capital Budget of the Borough is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board of the New Jersey Department of Community Affairs showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services, is on file with the Borough Clerk and is available there for public inspection.

Section 9. The Borough reasonably expects to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 of this ordinance and paid prior to the issuance of any bonds or notes authorized by this ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein has been or is reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "control group" as the Borough, within the meaning of Treasury Regulations Section 1.150-1, pursuant to their budget or financial policies with respect to any expenditures to be reimbursed. This Section is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures towards the costs of the improvement or purpose described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 1.150-2, and no action (or inaction) will be an artifice or device in accordance with Treasury regulation 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

Section 10. The provisions of this bond ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this ordinance shall be declared invalid, illegal, or unconstitutional, the remaining provisions shall continue in full force and effect.

Section 11. To the extent that any previous Ordinance or resolution is inconsistent with or contradictory hereto, said Ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 12. This Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Law.

DATE: July 11, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

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

On motion by Councilman Donofrio and seconded by Councilman Vicente, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Kanigel, Vicente, Burnside
Nays: None

COUNCIL/COMMITTEE REPORTS

Councilwoman Kanigel - Finance and Licensing Committee

Library - Thanked Ms. Goble and Yolanda Dykes, Treasurer, for meeting with the Library Board of Trustees.

Payment of Bills - Upon motion by Councilwoman Kanigel, seconded by Councilman Vicente, 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.

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Finance and License Committee report.

Councilman Donofrio - Public Works/Public Utilities Committee

Public Works - DPW repaired the valve on the Crestwood booster station.

Upon motion by Councilman Vicente, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Public Works/Public Utilities Committee report.

Councilman Vicente - Personnel

The Fire Department's Family Festival is being held July 11, 12 and 13; fireworks will be on July 13.

Upon motion by Councilman Donofrio, seconded by Councilwoman Kanigel, and carried unanimously upon voice vote, to accept the Personnel Committee report.

Council President Burnside - Public Safety Committee

Board of Health - The Board of Health passed a resolution thanking retiring sanitarian Steve Widuta for his years of service. The Board will soon present to the Mayor and Council the code that they would like to adopt regarding the monitoring of tanning salons. There are at least three salons in the Borough, but the State code is not being enforced by the State. Such an ordinance would allow the Health Department to conduct inspections.

Upon motion by Councilman Donofrio, seconded by Councilman Vicente, and carried unanimously upon voice vote, to accept the Public Safety Committee report.

ATTORNEY'S REPORT

COAH - The Supreme Court held that Governor Christie did not have the authority to abolish COAH. Still need to decide what to do with the funds he is trying to get.

Litigation - Donatoni Community Park - A mediation session will be held on July 15. If an agreement is reached, it would be subject to the Governing Body's review and approval.

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Borough Attorney's report.

MAYOR'S REPORT

Requested a closed session for Donatoni Community Park litigation issue.

Park Lake Dredging - A meeting was held with Recreation Director Adrianna Smith; Superintendent, Department of Public Works Joseph Rossi; Mark Denesiuk from the Borough Engineer's office; and Environmental Committee member Joyce Freiermuth regarding the Park Lake dredging. The areas to be dredged in priority order are: (1) area by Lakeside Drive (2) swim lanes and (3) area by the beach. Work must be done between August 16 and November 1.

Upon motion by Councilman Vicente seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Mayor's report.

CLERK'S REPORT

Bingo/Raffle License Approvals - Approved an off-premise merchandise raffle license for Coming Home Rescue for August 17, 2013 at Brick 46, 69 Route 46.

Approved an on-premise 50/50 raffle license and an on-premise merchandise raffle license for Coming Home Rescue for October 27, 2013 at Pawsitive Experience, 114 Beach St.

Upon motion by Council President Burnside, seconded by Councilman Donofrio and carried unanimously upon voice vote, to accept the Clerk's report.

RESOLUTIONS (CONSENT AGENDA ITEMS)

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

RESOLUTION 102-13: 2012 TONNAGE GRANT APPLICATION

WHEREAS, the Mandatory Source Separation and Recycling Act., P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs;

WHEREAS, the New Jersey Department of Environmental Protection is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, the resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of Mayor and Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway that the Borough of Rockaway hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Sylvia Banbor, Recycling Coordinator, to ensure that the said Application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated trust fund to be used solely for the purpose of recycling.

DATE: July 11, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

PUBLIC PORTION

Mayor Greuter opened the meeting to the public.

Referring to the Park Lake dredging, Ms. Joyce Freiermuth, 99 E. Flagge St., explained that, pending testing of the sludge from the dredging, we may have someone take it away. The amount of dredging to be done is limited to the amount of money available and DEP laws. If three feet of water is left in the lake, the lake won't have to be emptied completely.

Mr. Grow suggested placing additional sand in the beach area while the water level is lowered. Mayor Greuter will check with the Borough Engineer to see if this would be allowed.

Mr. Pat McDonald, Crestwood Rd., doesn't understand why the DEP can't force the Township of Rockaway to dredge its side. Mayor Greuter explained that Rockaway Township said they have other priorities. Council President Burnside suggested that the Governing Body attend the Township's budget meeting.

Mr. Grow asked if a political organization was allowed to be on the Main Street sidewalk, handing out pamphlets. Mr. Beilin explained that political speech is strongly protected under the Constitution.

Mr. McDonald said that the sign on the hockey court says it is open until 10:30 p.m.; however, the lights do not work. The Recreation Committee would like the court to be lit until 10 p.m. They want the lights on till 10, Memorial Day to Labor Day.

Following up on the discussion regarding the possibility of shared services with the Construction Department, Mr. Ken Banbor, 4 Maplewood Dr., reported that after the fees were changed, the Department actually made money in 2012. He suggested that a fee be charged to real estate agents who want to see records of houses that are being sold to determine if there are outstanding permits. According to Mr. Banbor, if the State were to provide this service, the Borough would have to provide an office space for the inspectors and TACO. Mayor Greuter has requested a proposal for this shared service from another town.

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

CLOSED SESSION

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

RESOLUTION 103-13: 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 Community Park).
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: July 11, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor and Council went into closed session at 8:15 p.m. and resumed the public meeting at 8:34 p.m.

ADJOURNMENT

The meeting adjourned at 8:34 p.m.

Approved: As Submitted

Sheila Seifert, Borough Clerk

Date: July 25, 2013