

**MAYOR & COUNCIL
REGULAR MEETING
AUGUST 8, 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 August 8, 2013. Mayor Greuter announced the location of the fire exits.

Councilmembers Present

Thomas Donofrio
Joyce Kanigel
Thomas Mulligan
Joseph Vicente
John Willer

Councilmembers Absent

Melissa Burnside - Council President

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 Mulligan, and carried unanimously upon voice vote, the minutes of the July 25, 2013 Regular Meeting were accepted as submitted.

CORRESPONDENCE

Positive West Nile Virus - Mayor Greuter reported that, according to the Health Officer, during routine mosquito testing, the Morris County Mosquito Commission found a positive West Nile virus result in the Donatoni Community Park. The Commission treated the park on Tuesday.

Environmental Investigation - Mayor Greuter read the August 2, 2013 letter from Holt Public Affairs, LLC stating that Motiva Enterprises is conducting an environmental investigation and/or remediation on I-80 and Green Pond Rd., Tax Block 22103, Lot 7; and Franklin Ave./Rt. 46, Tax Block 33, Lot 6.02.

Mayor Greuter read the July 26, 2013 letter from Tracy Casiano, for the Rockaway Rowdies Soccer Committee, requesting to hold the soccer opening day parade on Saturday, September 7, 2013 at 10:30 a.m. from Thomas Jefferson School to Donatoni Field.

Councilman Mulligan explained that the Chief Financial Officer and Treasurer have advised that the Recreation Trust Fund will be unable to pay for overtime as was originally contemplated in the 2013 budget. As an organization that is considered to be a "quasi-group" of the Borough, the Rockaway Rowdies Soccer Committee would be billed for the actual cost of overtime.

On motion by Councilman Mulligan, seconded by Councilman Vicente, and carried by majority voice vote, with Councilman Willer voting no, to accept the correspondence, inform the Rockaway Rowdies Soccer Committee that the request for the parade is accepted, provided that the Committee cover the actual cost of overtime, and forward same to the Fire, Police and Public Works Departments.

COUNCIL/COMMITTEE REPORTS

Councilwoman Kanigel - Finance and Licensing Committee

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

Sanitary Sewer Manhole Rehabilitation Project - Eight bids were received on August 7 for the Sanitary Sewer Manhole Rehabilitation Project. The base bids ranged from \$91,200 from National Water Main Cleaning to \$724,925 from Proshot Concrete.

Emergency Generators - Strunk-Albert Engineering issued a report regarding the cost of installing generators at the Municipal Building/Fire Station, Police Station, and the DPW Garage. We will wait for word on a federal grant.

Water Utility - Well No. 6 is down; waiting to hear what the problem is or if there is any blockage. The leak detection company found a leak on Herrick Drive.

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

Councilman Mulligan - Ordinance Committee

Teamsters Contract Negotiations - Councilman Mulligan spoke with Jill Pitman, Teamsters Business Agent regarding the upcoming contract negotiations. Councilman Mulligan suggested that a discussion be held with the labor attorney to prepare a draft proposal prior to an initial meeting in September.

Recreation - An end of the year bonfire will be held on August 15 at Park Lake, organized by Fire Marshal Tom Trapasso. The Fire Department will also provide safety measures.

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

Councilman Vicente - Personnel

Shared Services - Councilman Vicente spoke with Andover Township who has satisfactorily utilized the State for Construction Department services since November 2011. He will compare the State fees and Rockaway Township's fees with our fees. He would like a decision to be made in September.

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

Councilman Willer - Fire Committee

Fire Department - The Fire Department approved junior membership of Daniel Lovenberg, accepted the resignations of Daniel Levin and Amanda Dreiss, dropped Roy Chavez's application, called drills on August 6 (National Night Out), 8, 19, 26, and for officers on August 12. The Department requested permission to participate in the Boonton parade on August 31 with 410, 411, 412, 413 and 414.

Upon motion by Councilman Willer, seconded by Councilman Mulligan, and carried unanimously upon voice vote, to approve the actions of the Fire Department and to grant permission to take equipment to the Boonton parade on August 31, with one engine remaining in the Borough.

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

ATTORNEY'S REPORT

Met with Thiokol/ATK and EPA regarding Thiokol/ATK's obligation to continue to pay for the air stripper. Requested a closed session to discuss potential litigation (EPA).

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

RESOLUTION 110-13: AWARD CONTRACT (POLICE DEPARTMENT – COMPUTER SERVER)

WHEREAS, there exists a need to install and replace the computer server at the Rockaway Borough Police Department at 33 Maple Avenue; and

WHEREAS, a diligent attempt to obtain several quotes was made by the Chief of Police, with the lowest response being received from Zaphyr Technologies, 628 State Route 10 West, Suite #14, Whippany, New Jersey 07981, (973-560-9050); and

WHEREAS, a Certificate of Availability of Funds has been filed by the Borough of Rockaway Treasurer; and

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

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 \$18,630 with Zaphyr Technologies, 628 State Route 10 West, Suite #14, Whippany, New Jersey 07981, (973-560-9050) to install and replace the computer server at the Rockaway Borough Police Department at 33 Maple Avenue.
2. A copy of this resolution, and of the subject agreement, shall be made available for inspection in the office of the Borough Clerk.

DATE: August 8, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

CERTIFICATION FOR AVAILABILITY OF FUNDS

I, YOLANDA DYKES, Treasurer, of the Borough of Rockaway, in the County of Morris, New Jersey, do hereby certify that funds in the amount not to exceed \$18,630 as stated in their contracts are currently available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Zaphyr Technologies, 628 State Route 10 West, Suite #14, Whippany, New Jersey 07981, for the purpose of: Server for Police - Use by the Police Department.

The funds are chargeable to Budget year: 2012 and 2013

Budget Line Item#: 01-203-36-427-208 \$ 5,306.65

01-201-36-472-208 \$ 2,452.29

01-201-25-240-214 \$10,871.06

DATE: August 6, 2013

BY: Yolanda Dykes, Treasurer

ORDINANCE NO. 17-13, Introduction & First Reading

ORDINANCE OF THE BOROUGH OF ROCKAWAY

MAYOR AND COUNCIL

AUTHORIZING THE SALE OF A CERTAIN PARCEL OF

EXCESS REAL PROPERTY (BLOCK 40, LOT 76)

NOT NEEDED FOR PUBLIC USE,

LOCATED IN THE BOROUGH OF ROCKAWAY,

PURSUANT TO N.J.S.A.§40A:12-13(A) AND (B)

Councilman Mulligan 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 September 12, 2013.

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

Roll Call: Ayes: Donofrio, Mulligan, Vicente, Willer

Nays: Kanigel

ORDINANCE NO. 15-13, Public Hearing & Adoption

**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**

WHEREAS, the Borough of Rockaway owns and operates a water system that provides water service within the Borough and to certain properties located in the Township of Rockaway and Township of Denville; and

WHEREAS, in December 2012 the Borough was advised by the New Jersey Department of Environmental Protection (NJDEP) that NJDEP would not accept any permit applications for water main extensions or connections if the associated peak demand exceeds the "available firm capacity" of the Borough's water system; and

WHEREAS, as defined by NJDEP regulations, the term "firm capacity" means adequate pumping equipment and/or treatment capacity to meet "peak daily demand" as determined under N.J.A.C. 7:10-11.5(e)1 when the largest pumping station or treatment unit is out of service; and

WHEREAS, the "firm capacity" is significantly lower than the amount of water the Borough's water system is permitted to pump under its NJDEP Water Allocation Permit; and

WHEREAS, the "available firm capacity" is the water system's "firm capacity" minus the "peak daily demand", as calculated by NJDEP based upon a number of factors, including the average daily demand as recorded in the peak month of the prior 5 years; anticipated peak daily water demand based upon previously permitted or committed water main extensions or connections; and estimations of anticipated peak daily water demand by residential and nonresidential development based upon tables in the NJDEP regulations, with the sum of these tabular estimations to be multiplied by a peaking factor of three (3); and

WHEREAS, NJDEP has advised the Borough that the "firm capacity" of the Borough's water system is less than 500,000 gallons per day (gpd) and its "available firm capacity" is currently 284,000 gpd; and

WHEREAS, the "available firm capacity" of the water system will fluctuate based upon changes in NJDEP's calculation of "peak daily demand"; and

WHEREAS, the governing body has determined that it is appropriate to monitor the "firm capacity" and "available firm capacity" of the Borough's water system, and to develop a system to allocate the limited water resources available for future development or redevelopment, including the Borough's own public purpose water needs.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Rockaway, County of Morris, that the following amendments be made to the Code of the Borough of Rockaway:

Section I

1. Chapter 247, Article I, General Regulations, §247-3, "Extensions or changes in mains", is hereby amended by adding the following new subsection E:

"E. All applications shall be subject to the provisions of Article IV of this Chapter 247."

2. Chapter 247, Article I, General Regulations, §247-9, "Introduction to premises; change of existing supply," is hereby amended by adding the following sentence at the end of subsection A: "Said application shall be subject to the provisions of Article IV of this Chapter 247."

Section II

1. Chapter 247, Article II, Meters, §247-36, "Bypassing meter unlawful", is hereby repealed in entirety and modified to read as follows:

"All Borough water used on any premises must pass through a meter. No bypass or connection between the meter and the main shall be made or maintained by any person."

Section III

1. There is hereby added to Chapter 247 the following new Article IV, "Allocation of Water Capacity":

"Article IV. Allocation of Water Capacity

§247-44. Limitation on Connection to Water System

No future connections to the Borough of Rockaway municipal water system shall be made except with specific approval for the requested water allocation by the Mayor and Council through the adoption of a resolution approved by an affirmative vote of the governing body.

§247-45. Water Usage Monitoring

- A. There is hereby created a Water Allocation Review Committee which shall monitor water usage and shall review and make recommendations to the Mayor and Council regarding the distribution and/or redistribution of water allocations among municipal and non-municipal uses. The Committee shall consist of the Superintendent of the Department of Public Works, the Borough Engineer, and at least one member of the Council's Public Works/Public Utilities Committee appointed by the Mayor.
- B. The Water Allocation Review Committee shall make recommendations to the Mayor and Council regarding the distribution and/or redistribution of water allocations among municipal and non-municipal uses whenever the Borough of Rockaway receives any new water allocation by the NJDEP. Further, in the event water allocated to any use category is reasonably anticipated to be depleted based upon approved allocations, the distribution as set forth herein shall be reviewed by the Committee. The Committee shall recommend any redistribution of water allocation to the Mayor and Council, which shall consider any recommendation after a public hearing duly advertised in accordance with the procedures of the adoption of a municipal ordinance.

§247-46. Set Aside for Municipal Purposes

A portion of the current balance of the Borough's available spare "Firm Capacity", as established by the NJDEP, shall be set aside for municipal and public purposes. For purposes of this Article, "municipal and public purposes" shall mean the expansion, addition or construction of municipal buildings, parks and the like in which water allocation is necessary, public or private schools, colleges and educational institutions, and any redevelopment project within designated redevelopment areas. The initial amount shall be 75,000 gpd, subject to future adjustments by the Mayor and Council. Upon the receipt of any new water allocation amount granted to the Borough by the NJDEP, 25 percent of that new allocation shall be set aside for municipal and public purposes, subject to future adjustments by the Mayor and Council.

§247-47. Water Allocation Priority for Non-Municipal Purposes

- A. The balance of the Borough's available "firm capacity" after the set aside for municipal purposes shall be available for reservation for non-municipal purposes in accordance with §247-48.
- B. The owner of any property within the Borough's water system service area for which the Borough has signed a Bureau of Safe Drinking Water Permit application to be filed with NJDEP as of September 1, 2013 shall be afforded first priority in purchasing a water allocation permit.

§247-48. Reservation of Allocated Water Capacity; Water Allocation Permits

- A. All applications to reserve allocated water capacity shall be made to the governing body of the Borough of Rockaway on forms provided by the Borough Clerk. If an application for reservation of allocated water capacity is approved by resolution of the Mayor and Council, the reserved allocation shall be identified and established in such resolution.
- B. If an application for reservation of allocated water capacity is approved by the Mayor and Council, the applicant shall pay in advance as a nonrefundable reservation fee the connection fee established pursuant to this Chapter 247 and Chapter A263, as follows:
- (1) The nonrefundable reservation fee as established in Chapter A263 shall be due within 30 days of the Mayor and Council resolution approving the application for reserved water capacity.

- (2) An additional 20 percent of the nonrefundable reservation fee shall be due each year thereafter on the anniversary date of the approval until it is paid in full; provided, however, that if the applicant applies for a construction permit for the proposed project, the entire reservation fee shall be paid in full before such permit shall be issued. It is the applicant's responsibility to make all installment payments in a timely manner.
- C. A failure to pay any installment of the reservation fee within thirty (30) days after the due date thereof shall result in a forfeiture of the reservation and all previously paid installments of the reservation fee. It is the applicant's responsibility to make all installment payments in a timely manner.
- D. In the event the applicant fails to connect the proposed project to the Borough water system within five (5) years after approval of the reservation of water capacity, the reservation shall revert to the Borough and the reservation fee paid to the Borough shall be forfeited.
- E. Notwithstanding anything to the contrary set forth in this Article IV, the Mayor and Council reserve the right by resolution to suspend the receipt of applications and/or the approval of pending applications for reservation of allocated water capacity at any time upon a determination by the Mayor and Council that further water allocations would threaten the remaining water capacity of the municipality."

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

Section IV

1. Chapter A263, Fees, Section A263-1, Fees established, Subsection N, Chapter 247, Water, is hereby modified to add the following:

"N. Chapter 247, Water.

- (3) Article IV, Allocation of Water Capacity:

- (a) The nonrefundable application fee to apply for allocation of water capacity for non-municipal purposes shall be \$100.

- (b) Nonrefundable fee to reserve allocated water capacity for non-municipal purposes: \$5 per gallon per day of usage as estimated in accordance with N.J.A.C. 7:10-12.6 payable in five installments of 20 percent as determined by the Borough Engineer as follows:

- [1] The first installment of the nonrefundable reservation fee shall be due within 30 days of the Mayor and Council resolution approving the application for reserved water capacity.

- [2] An additional 20 percent of the nonrefundable reservation fee shall be due each year thereafter on the anniversary date of the approval until it is paid in full; provided, however, that if the applicant applies for a construction permit for the proposed project, the entire reservation fee shall be paid in full before such permit shall be issued. It is the applicant's responsibility to make all installment payments in a timely manner."

Section V

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 as provided by law.

DATE: August 8, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor Greuter opened the meeting to the public.

Mr. Robert Grow, 110 Lakeside Dr., asked for an explanation of water reservation.

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

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

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Willer
Nays: None

PUBLIC PORTION

Mayor Greuter opened the meeting to the public.

Mr. Andy Chop, 22 Stickle Ave., reported that 2 Elm St. has been abandoned for several years and is very run down and in poor condition. A foreclosure notice was published in the newspaper several years ago; the mortgage holder may have been Greentree. He requested that the Borough take steps to clean it up.

Mr. Grow asked for an explanation of the Recreation Trust Fund balance. Discussion ensued; the Chief Financial Officer and Treasurer will attend the next meeting of the Parks and Recreation Committee.

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 voice vote, the following resolution was adopted:

RESOLUTION 111-13: 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: Pending Litigation (EPA).
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 8, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor and Council went into closed session at 8:14 p.m. and resumed the public meeting at 8:32 p.m.

ADJOURNMENT

The meeting adjourned at 8:32 p.m.

Approved: As Submitted

Sheila Seifert, Borough Clerk

Date: August 22, 2013