

**MAYOR & COUNCIL  
REGULAR MEETING  
SEPTEMBER 26, 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 Council President Melissa Burnside presiding; Mayor Greuter was absent. Council President Burnside called the meeting to order at 7:30 p.m.

Council President Burnside 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 September 26, 2013. Council President Burnside announced the location of the fire exits.

Councilmembers Present

Thomas Donofrio  
Joyce Kanigel  
Joseph Vicente  
John Willer  
Melissa Burnside - Council President

Councilmembers Absent

Thomas Mulligan

Borough Attorney Edward Wacks, Esq., was also present.

Everyone present participated in the salute to the flag.

PROCLAMATIONS

Council President Burnside read a proclamation designating the week of September 17-23, 2013 as "Constitution Week" in the Borough of Rockaway.

Council President Burnside read a proclamation declaring October 10, 2013 as "Put the Brakes on Fatalities Day" and calling upon everyone to put lifesaving behaviors into practice to improve safety on the roadways in our community and throughout the state.

APPROVAL OF MINUTES

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, the minutes of the September 12, 2013 Regular Meeting were accepted as submitted.

COUNCIL COMMENTS

Councilwoman Kanigel - Finance and Licensing Committee

*Historical Committee* - The historical marker on West Main Street will be dedicated tomorrow.

*44 Broad St.* - As a follow-up to Councilman Vicente's presentation on September 12, 2013, Councilwoman Kanigel would like to make a presentation on October 10 regarding the proposed project to build two or three houses at 44 Broad St. Based on a Penn State economist's formula, three houses would result in a negative revenue of \$36,998.

Councilman Donofrio - Public Works/Public Utilities Committee

*DEP Grant* - The DEP has up to \$3,000,000 available in grants for river desnagging and shoal dredging, however, the Engineer has identified some stipulations. It might be worthwhile to go further; we can submit letter of intent and can work with the County to submit a joint project.

*Turf Management* - The turf management contract expires at the end of the year. The Governing Body agreed to authorize the Superintendent, Department of Public Works, to solicit quotes for a one-year period.

*Water Department* - Two water leaks were repaired. A new water meter for the trailer park would cost \$8,500 and up to \$20,000 installed. Requested a closed session to discuss this potential litigation.

Councilman Vicente - Personnel

*Construction Department* - A meeting was held to discuss the proposed hours for the part-time Technical Assistant to the Construction Officer position; additional discussion will be held next week.

Councilman Willer - Fire Committee

*Fire Department* - The Fire Department called drills on September 9, 18 and 25 and approved full membership for Anthony D'Amico and Tiffani Hamman upon physical approval; placed Tami Chipko on administrative leave for school, and granted Andy Mackey three months medical leave. The Department will provide mutual aid support to other municipalities.

Upon motion by Councilman Willer, seconded by Councilman Donofrio, and carried unanimously upon voice vote, to approve the actions of the Fire Department.

Council President Burnside - Public Safety Committee

*Recreation* - Holiday house decorating contests will be held for Halloween and for December.

*Mayor's Activities* - Mayor Greuter attended a grand re-opening/ribbon cutting at Fitness Factory and participated in bagging groceries at Shop-Rite to collect funds to curb hunger.

ATTORNEY'S REPORT

*Property Sale* - The closing to sell the Addison Avenue property is scheduled for tomorrow.

*COAH* - The Supreme Court upheld the League of Municipalities' challenge to COAH's 2008 growth share formula calculation.

*Broad Street Encroachment* - The matter was resolved; the putting green was removed from the Open Space site.

Requested a closed session to discuss potential litigation (EPA/Thiokol/Air Stripper).

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

CLERK'S REPORT

*Verizon Pole* - The Verizon pole located on the corner of Dock Street and Wall Street is scheduled for replacement on October 4.

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

RESOLUTIONS (CONSENT AGENDA ITEMS)

Upon motion by Councilman Willer seconded by Councilman Vicente, and carried unanimously upon call of the roll, the following resolutions were adopted:

**RESOLUTION 128-13: AWARD CONTRACT (DPW – FRONT BUCKET REPLACEMENT)**

**WHEREAS**, there exists a need to replace a front bucket for the Department of Public Works; and

**WHEREAS**, a diligent attempt to obtain several quotes was made by the Supt., Department Public Works, with the lowest response being received from Jesco, 1275 Bloomfield Ave., Building #5, Unit 27C Fairfield, N.J. 07044, (973-882-8855); 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 enter into a contract in an amount not to exceed \$12,850 with Jesco, 1275 Bloomfield Ave., Building #5, Unit 27C Fairfield, N.J. 07044, (973-882-8855) to replace a front bucket for the Department of Public Works.
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: September 26, 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 \$12,850.00 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:

Jesco, 1275 Bloomfield Ave., Building #5, Unit 27C Fairfield, N.J. 07044, (973-882-8855) to replace a front bucket for the Department of Public Works

The funds are chargeable to Budget year: 2012 and 2013

Budget Line Item#: 01-203-36-472-203 \$621.46

01-201-36-472-203 \$12,228.54

DATE: September 26, 2013

BY: Yolanda Dykes, Treasurer

**RESOLUTION 129-13: 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 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 2012 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: September 26, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

ORDINANCE NO. 17-13, Public Hearing & Adoption

**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)**

**WHEREAS**, the Borough of Rockaway ("the Borough") is the owner of record of real property known as Block 40, Lot 76, also known as 311 West Main Street, located in the Borough ("the Property");and

**WHEREAS**, the Mayor and Council of the Borough have determined that the Property is not needed for public use, and that it would be in the best interests of the Borough to sell the Property to the highest bidder by open public sale at auction or by private sale in the manner authorized by the governing statute.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Rockaway, County of Morris and State of New Jersey, in accordance with the authority granted by N.J.S.A. § 40A:12-13 as follows:

1. The Property may be sold by open public sale at auction to the highest bidder on a day and at a time to be determined by resolution of the Mayor and Council of the Borough of Rockaway duly adopted, the terms of which sale shall also be established by such resolution, after advertisement, publication and notice thereof as provided by law.
2. Pursuant to and as allowed by the Local Public Contracts Law and Local Land and Buildings Law, the Property may alternatively be sold at "private sale" as that term is defined in N.J.S.A. § 40A:12-13(b) upon the terms and conditions determined by resolution of the Mayor and Council of the Borough of Rockaway duly adopted, after advertisement, publication and notice thereof as provided by law.
3. By its action in duly adopting the within ordinance, the Borough hereby fixes the minimum net sales price (exclusive of auction commission, if any) for the sale of the Property ("the Required Minimum Bid") at \$550,000.00. If no bids are tendered in excess of the Required Minimum Bid, then all actual bids received shall be deemed rejected without the need for any further action by the Mayor and Council. All bids shall be based upon an "all cash" purchase, with minimum cash down payment of ten (10%) percent paid at the conclusion of the auction and the entire remaining balance of the purchase price paid within ten (10) calendar days thereafter. The Mayor and Council additionally reserve the right to reject any and all bids regardless of whether such bids meet or exceed the minimum bid established.
4. Bidders offering the minimum bid or greater may condition the bid. The Mayor and Council shall have the right to reject any bid which even meeting the minimum bid requirement contains a condition which the Mayor and Council deem unacceptable.
5. The Borough reserves the right in the future to install public utilities and other municipal uses, in, upon or under the land to be conveyed without payment for any such reserved right and the successful bidder shall agree to a reservation in the deed of conveyance for an easement or easements to the Borough to install and maintain such public utilities and other municipal uses. The Borough shall make every effort to place such utilities and other municipal uses in such place upon the Property so as to not unreasonably interfere with the development of the Property.
6. The conveyance the Property by the Borough shall be by "Quit Claim" Deed. The Borough makes no representations whatsoever as to the quality or insurability of title. Further, the Property is sold in its present condition, "as is". The Borough makes no representation about either (a) the amount of usable or buildable space or (b) the physical condition of the Property or any environmental condition which exists on the Property. The bidder understands that the Borough will not be responsible for any environmental condition, the same being the responsibility of the successful bidder.
7. The Property is located partially in the HT/LI (High Tech/Light Industrial) District and partially in the O-B (Office Business) District. The successful bidder shall agree to a provision in the deed of conveyance that shall limit the use of the Property to a principal use allowed in those Districts.
8. Nothing stated herein shall be read to either amend or modify any other Borough Ordinance, and all rights granted there under are expressly reserved. The sale of the Property shall be subject to the purchaser complying with all applicable Borough Code provisions concerning the development of the Property, and any other applicable law imposed by any county, state or federal government statute, rule or regulation.

This Ordinance shall take effect as provided by law.

DATE: September 26, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Council President Burnside opened the meeting to the public.

Mr. Rob Grow, 110 Lakeside Dr., asked if the entire property was buildable and was told that it is developable although there are wetlands.

There being no comments, Council President Burnside 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, Willer, Burnside  
Nays: None

#### PUBLIC PORTION

Council President Burnside opened the meeting to the public.

Mrs. Joyce Freiermuth, E. Flagge St., inquired if Councilman Vicente has a stake in the potential development of two or three houses on Broad Street. Councilman Vicente said he has no personal stake in it and is only looking out for the best interests of the Borough.

Mrs. Bonnie Hook, president of the Rockaway Borough Business Owners Association, presented an \$800 check for the Rockaway Food Closet representing \$400 from T-shirts sold at Celebrate Rockaway Day and a matching donation from the Association.

Mr. Grow asked where the money from the sale of the property would go. It will go into the general fund.

Mr. Pat McDonald questioned if Parks and Recreation Advisory Committee members who were appointed for one-year terms were eligible for re-appointment and was told that they could be re-appointed by the Mayor.

Fire Chief Sam Passarella reported on the recent activities of the Fire Department.

Mr. Eric Tulenko, Farview Rd., asked for the process to sell the Gee property (Ordinance 17-13). A resolution will be on the October 10 agenda setting forth the date and time of the auction.

There being no further comments, Council President Burnside 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 130-13: 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: Potential Litigation (EPA/Thiokol/Air Stripper and Trailer Park Water Meters).
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: September 26, 2013

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor and Council went into closed session at 8:24 p.m. and resumed the public meeting at 9:04 p.m.

EPA DECISION/WATER TREATMENT SYSTEM

Upon motion by Councilman Willer, seconded by Councilman Donofrio, and unanimously carried via voice vote, to authorize the Borough Attorney to send a letter to EPA that until the proof that the Klockner & Klockner plume has been cleaned up and is no longer affecting the Borough's production wells is acceptable to us and a proper hearing is held, ATK (successor to Thiokol) should continue to pay for the Borough's water treatment system.

ADJOURNMENT

The meeting adjourned at 9:05 p.m.

Approved: As Submitted

Sheila Seifert, Borough Clerk

Date: October 10, 2013