

REGULAR MEETING OF THE MAYOR AND COUNCIL
HELD AT THE
MUNICIPAL COURT /COUNCIL CHAMBERS
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY
WEDNESDAY APRIL 27, 2016

MOVE TO EXECUTIVE SESSION:

On motion of Councilman Visconti, seconded by Councilman Kulmala, the following resolution be introduced, adopted and duly passed on roll call vote:

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, (N.J.S.A. 10:4-12) permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist,

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland, County of Bergen, State of New Jersey, as follows:

1. The public shall be excluded from discussion of action upon the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:
Potential Litigation
3. The Mayor and Council shall release and disclose to the general public the discussion and actions taken on the subject matter of the above mentioned closed session once the Mayor and Council has arrived at a final decision on the specified subject matter.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

CLOSE EXECUTIVE SESSION:

On motion of Councilman Jensen, seconded by Councilman Talamini, the Executive Session be closed.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

MEETING CALLED TO ORDER: By Mayor Schwager at 7:35 pm.

ROLL CALL: Mayor Schwager called the meeting to order and the Clerk called the roll. Present: Mayor Schwager, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti. Absent: None. Also Present: Lisa M. Duncan, Borough Clerk; Richard Kunze, Borough Administrator; Brian Chewcaskie, Borough Attorney; Donna Mollineaux, Chief Financial Officer.

SALUTE TO THE FLAG:

MOMENT OF SILENCE:

MEETING ANNOUNCEMENT: Mayor Schwager announced this meeting is being held in accordance with the Open Public Meetings Law duly announced and included in the schedule of regular meetings.

MAYOR'S REPORT:

The Library is going to have practice AP exams for students for free. The Library will be holding computer classes for adults on Wednesdays. Mayor Schwager advised that Oakland has an Access for All Committee and anyone who is interested on serving on the committee should contact her. Mayor Schwager advised that she did a reverse 911 message last week about speeding. She asked everyone to adhere to the speed limits for the safety of our children. Rising Phoenix will help clean up Great Oak Park on April 30th and May 21st. At the last meeting, Councilman Jensen mentioned the Marine Corps breakfast. The Oakland Elks also do a breakfast. On May 13th, the Oakland Elks will hold a Beefsteak Comedy night to help send two local special needs children to Camp Moore. May 15th, the Elks will host breakfast which helps supports special needs childrens and veterans.

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Visconti, this portion of the meeting be opened for public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

Frank Monaco, 60 Thackeray, asked if a plaque could be done for Jack Tauber for his service to the community. He advised that the First Aid Squad is a wonderful organization.

Mike Pritchard, 23 Calumet Avenue, spoke of meetings sponsored by the County on needs for older adults.

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilman Jensen, seconded by Councilman Biale, this portion of the meeting be closed to public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

APPOINTMENT OF JUNIOR FIREFIGHTER

On motion of Councilman Kulmala, seconded by Councilman Jensen, Riley Beach be appointed as a junior firefighter to the Oakland Volunteer Fire Department.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

CERTIFICATE OF APPRECIATION-VIVIAN KING

Mayor Schwager presented a Certificate of Appreciation to former Recreation Commissioner Vivian King. It read:

Recreation Commissioner from 2011 - 2015. Vivian was the only female on the commission for most of her term. She led as an independent voice with a passion for always doing what is right for Oakland's youth. Vivian's work, effort and time is greatly appreciated by the Borough of Oakland as she will always be a part of the Oakland Recreation Family.

CERTIFICATE OF APPRECIATION-TIM PERNETTI

Mayor Schwager presented a Certificate of Appreciation to former Recreation Commissioner Tim Perneti. It read:

Recreation Commissioner from 2011-2015. Tim served as football and cheerleading commissioner where he implemented innovative safety measures. He set into motion upgrades and positive changes that will benefit these programs for many years to come. Tim's leadership and calming affect with the Recreation Commission is appreciated by the Borough of Oakland.

APPROVAL OF MINUTES: MARCH 28, 2016 BUDGET

On motion of Councilman Biale, seconded by Councilman Jensen, the minutes from the Mayor and Council Budget meeting of March 28, 2016 be approved.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

APPROVAL OF MINUTES: APRIL 13, 2016

On motion of Councilman Biale, seconded by Councilman Kulmala, the minutes from the Mayor and Council meeting of April 13, 2016 be approved.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

APPROVAL OF MINUTES: APRIL 13, 2016 EXECUTIVE

On motion of Councilman Biale, seconded by Councilman Kulmala, the minutes from the Mayor and Council Executive Session of April 13, 2016 be approved.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

APPROVE RAFFLE LICENSE RL1274

On motion of Councilman Biale, seconded by Councilman Jensen, approval be granted for Raffle License RL1274 for Blue and Gold Touchdown Club to hold an on-premise 50/50 on June 18, 2016 at the Oakland Recreation fields.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

APPOINTMENT TO ACCESS FOR ALL:

Mayor Schwager appointed Robert Freund to a three-year appointment to the Access for All Committee. The term will expire December 31, 2018.

APPROVE SIGN REQUEST:

On motion of Councilman Jensen, seconded by Councilman Biale, approval be granted to the Oakland Fire Department Ladies Auxiliary to post a sign at Bush Plaza to advertise their Fish and Chips Fundraiser to be held June 11, 2016.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

APPROVE SOCIAL AFFAIRS PERMIT

On motion of Councilman Biale, seconded by Councilman Visconti, approval be granted for a Social Affairs Permit for the Oakland Elks for a special childrens charity fundraiser event to be held May 13, 2016 from 6:30 pm to 11:00 pm.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

PUBLIC HEARING ON BUDGET:

OPEN TO THE PUBLIC:

On motion of Councilman Jensen, seconded by Councilman Talamini, the following portion of the meeting be opened to the public.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

No comments made.

CLOSE TO THE PUBLIC:

On motion of Councilman Jensen, seconded by Councilman Biale, this portion of the meeting be closed to the public.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

Borough Auditor Frank DiMaria advised that the Departments Salaries and Wages and Other Expenses budgets are under 2%. The municipal increase is 1.84% and the Borough is not utilizing any one-time gimmicks which is good. He spoke of the need to comply with the surplus policy and that is the reason an amendment needs to be done. After the amendment, you will be using \$ 857,000 of surplus funds. Regarding the Library budget, if you appropriate more than the 1/3 mil requirement, it will come from the municipal levy unless surplus is utilized. The Borough has the Reserve for Uncollected Taxes as well as the budgeted amount to use for tax appeals.

RESOLUTION 16-97 AMENDMENT TO BUDGET

On motion of Councilman Jensen, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, the local municipal budget for the year 2016 was approved on the 23rd day of March, 2016; and

WHEREAS, the public hearing on said budget has been held as advertised; and

WHEREAS, it is desired to amend said approved budget;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland, in the County of Bergen, State of New Jersey, that the following amendments to the approved budget of 2016 be made:

	From	To	
GENERAL REVENUES			
Surplus Anticipated	650,000.00	850,000.00	200,000.00
Total Misc Revenues	3,314,971.98	3,514,971.98	200,000.00
Subtotal General Revenues	3,969,871.98	4,169,871.98	200,000.00
TOTAL GENERAL REVENUES	18,512,791.98	18,712,791.98	200,000.00
GENERAL APPROPRIATIONS			
(C) Operations - Capital Improvements Excluded from CAPS			
Capital Improvement Fund	500,000.00	700,000.00	200,000.00
Total Capital Improvements Excluded from "CAPS"	700,000.00	900,000.00	200,000.00
Total Operations Excluded From "CAPS"	3,477,270.98	3,677,270.98	200,000.00
Subtotal General Appropriations	18,319,791.98	18,519,791.98	200,000.00
9. Total General Appropriations	18,512,791.98	18,712,791.98	200,000.00

BE IT FURTHER RESOLVED, that the Governing Body of the Borough of Oakland does hereby approve this amendment to the approved budget for the Fiscal Year 2016.

BE IT FURTHER RESOLVED, that two certified copies of this Resolution be filed forthwith in the office of the Director of Local Government Services for his certification of the Fiscal Year 2016 local municipal budget so amended.

BE IT FURTHER RESOLVED, that this Resolution shall be advertised in the May 2, 2016 edition of "The Record" and that a hearing will be held on this amendment at the Council Chambers on May 11, 2016 at 7:30 pm.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-98 AUTHORIZE AMENDMENT TO MUNICIPAL SHARED SERVICES AGREEMENT

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, on or about June, 2015, the Borough of Oakland entered into a Municipal Shared Services Defense Agreement with the Municipal Group (the "Agreement") in connection with the declaratory judgment action filed under Docket No. BER-L-006359-15 and pending in the Bergen County Superior Court; and

WHEREAS, the Municipal Group retained Econsult Solutions to prepare the Solutions Report and to assist the members in determining their third round affordable housing obligations; and

WHEREAS, the Municipal Group has requested an immediate contribution of \$2,000.00 to continue to fund the ongoing litigation between the Municipal Group members and their adversaries, including all intervenors, the Fair Share Housing Center and the New Jersey Building's Association; and

WHEREAS, the Municipal Group has requested that all members commit to making such \$2,000.00 in order to continue the collective defense of the pending litigation; and

WHEREAS, the Mayor and Council authorizes the additional expenditure to the Municipal Group in the amount of \$2,000.00 in order to continue the collective defense of the pending litigation; and

WHEREAS, the Mayor and Council authorizes the issuance of a check in the amount of \$2,000.00 payable to the Attorney Trust Account of Jeffrey R. Surenian and Associates, LLC.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Oakland hereby approves the additional expenditure to the Municipal Group and payable to the Attorney Trust Account of Jeffrey R. Surenian and Associates, LLC in the amount of \$2,000.00 to continue to fund the ongoing litigation between the Municipal Group members and their adversaries.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be provided to the Chief Financial Officer, Jeffrey R. Surenian and Associates, LLC and the Borough Attorney.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-100 SUPPORT S-981 E-WASTE MANAGEMENT ACT

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, New Jersey's Electronic Waste Management Act (N.J.S.A. 13:1E-99.94 et seq.) requires manufacturers that sell electronic products in New Jersey to develop and fund programs that provide convenient, free recycling of televisions, computers and monitors; and

WHEREAS, it is illegal to dispose of these items, which often contain toxic materials, in the regular trash stream and many counties and municipal environmental commissions would host free collection stations or collection events that have been supported by manufacturer recycling contracts; and

WHEREAS, over time, some manufacturers have looked for ways to minimize or avoid their obligations under the E-Waste law and in the past few years, they have had increasing success which is affecting the ability of counties and municipalities to offer free collection events causing material to pile up at various collection sites, as well as at homes; and

WHEREAS, in late 2015, Governor Christie vetoed a bill that would have reformed some of the provisions of the E-Waste law to get recycling programs back on track; and

WHEREAS, the New Jersey Legislature is now reconsidering the bill for 2016 in hopes of conducting a vote again; and

WHEREAS, the Mayor and Council of the Borough of Oakland are concerned about the lack of e-waste recycling and the potential harmful disposal of hazardous and toxic e-wastes; and

WHEREAS, the Mayor and Council believes it is in the best interest, health and welfare of the citizens of the Borough that the Borough support the current bills before the New Jersey Legislature, Assembly A-2375 and Senate S-981.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Oakland hereby support the current bills before the New Jersey Legislature, Assembly A-2375 and Senate S-981, and urge the Legislature to adopt same expeditiously.

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Oakland that a true copy of this Resolution in support of the current bills shall be sent to the Assembly and Senate representatives of the Borough of Oakland with a copy to the Governor as follows:

Senator Gerald Cardinale
Assemblyman Robert Auth
Assemblywoman Holly T. Schepisi
Governor Chris Christie.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-101 TAX REFUND BLOCK 903, LOT 3

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, the Tax Assessor of the Borough of Oakland has recorded and received a Civil Court Judgment, from the Tax Court of New Jersey that the Block 903 Lot 3 at 3 Stony Point Road, in the Borough of Oakland, for the year 2014-2016 has filed a Court Judgment, and it has been settled;

THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Treasurer is authorized and directed to refund the amount as stated below:

Ditkas Gillen P.C.
Attorneys for Steven & Camille Gatto
596 Anderson Avenue, Suite 301
Cliffside Park, NJ 07010

Block: 901 Lot: 3
Refund \$ 4,730.27

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Oakland that copies of this resolution be provided to the Tax Collector and the Treasurer.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-102 AUTHORIZE REFUND TAX LIEN 15-00015

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, the Oakland Tax Collector has received funds from a property owner or other party of interest for redemption of a Tax Sale Lien 15-00015, Block 3401 Lot 18, better known as 64 Grove Street on April 8th, 2016, and

WHEREAS, lien holders are entitled to payment for redemption of the Tax Lien upon receipt of funds by the Tax Collector, and

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$ 4,522.16, payable to TWR cust Ebury Fund 2 NJ LLC, P.O. Box 54908, New Orleans, LA 70154;

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$ 8,000.00 (Premium) to the aforementioned lien holder.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-103 AUTHORIZE REFUND TAX LIEN 13-00009

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, the Oakland Tax Collector has received funds from a property owner or other party of interest for redemption of a Tax Sale Lien 13-00009, Block 1606 Lot 25, better known as 88 Truman Boulevard on February 2, 2016, and

WHEREAS, lien holders are entitled to payment for redemption of the Tax Lien upon receipt of funds by the Tax Collector, and

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$ 26,756.16, payable to MTAG cus for Alterna Funding I, LLC, P.O. Box 54817, New Orleans, LA 70154;

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$ 9,000.00 (Premium) to the aforementioned lien holder.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-104 REFUND TAX OVERPAYMENT BLOCK 2703, LOT 2

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, an overpayment has been made to block 2703 lot 2, better known as 3 Post Road, due to a double payment;

THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Treasurer is authorized and directed to refund the amount as stated below:

The Arc of Bergen & Passaic
223 Moore Street
Hackensack, NJ 07601

Block: 2703 Lot: 2
3 Post Road
Refund: \$ 32,338.75

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Oakland that copies of this resolution be provided to the Tax Collector and the Treasurer.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-105 AUTHORIZE REFUND RECREATION FEES

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, the Borough of Oakland has received a request for a refund of Soccer Registration Fees in the amount of \$50.00; and

WHEREAS, N.J.S.A. 40A:5-17 requires governing body approval for said refund;

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council of the Borough of Oakland hereby authorize a refund to:

Bonny Heina, 40 Minnehaha Blvd., Oakland, NJ 07436 refund due \$50.00.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-106 HIRE SEASONAL LABORERS

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

BE IT RESOLVED that the Mayor and Council hereby authorize the hiring of the following seasonal laborers for the Department of Public Works:

<u>NAME</u>	<u>EFFECTIVE DATE</u>	<u>SALARY</u>
Sean Kicinski	April 28, 2016	\$12.00/hour
Thomas McPhee	April 28, 2016	\$11.00/hour
Dylan Morgan	April 28, 2016	\$11.00/hour

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-107 AMEND SALARY RESOLUTION

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

BE IT RESOLVED that Resolution 16-36 on non-union salaries be amended as follows:

<u>Name</u>	<u>Position</u>	<u>2016 Salary</u>
Kathlyn Gurney	Planning and Zoning Board Secretary	\$ 306.41 per meeting

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

RESOLUTION 16-108 AUTHORIZE ELECTRONIC TAX SALE

On motion of Councilman Biale, seconded by Councilman Visconti, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, NJSA 54:5-19.1 authorizes electronic tax sales pursuant to rules and regulations to be promulgated by the Director of the Division of Government Services, and

WHEREAS, the Director of the Division of Local Government Services has promulgated rules and regulations for pilot programs, and

WHEREAS, the Director of the Division of Local Government Services has approved NJ Tax Lien Investors/RealAuction.com to conduct pilot programs, and

WHEREAS, the rules and regulations authorize the municipality to submit an application for participation in the pilot program for an electronic tax sale, and

WHEREAS, an electronic tax sale is innovative and provides a greater pool of potential lien buyers, thus creating the environment for a more complete tax sale process, and

WHEREAS, the Borough of Oakland wishes to participate in the pilot program for an electronic tax sale.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Oakland, New Jersey, that the Tax Collector is hereby authorized to complete an application to participate in the electronic tax sale program and submit same to the Director of the Division of Local Government Services.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

FINAL PUBLIC HEARING: ORDINANCE NO. 16-CODE-733

The Clerk was directed to take from the table Ordinance No. 16-Code-733 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER VII ENTITLED TRAFFIC, SECTION 7-10 ENTITLED "TEMPORARY PARKING PROHIBITED FOR SNOW PLOWING AND REMOVAL" OF THE CODE OF THE BOROUGH OF OAKLAND.

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Visconti, this portion of the meeting be open for public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Visconti, this portion of the meeting be closed to public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

On motion of Councilman Biale, seconded by Councilman Kulmala, the following resolution be introduced, adopted and duly passed on a roll call vote.

BE IT RESOLVED that an Ordinance entitled, An Ordinance Amending And Supplementing Chapter Vii Entitled Traffic, Section 7-10 Entitled "Temporary Parking Prohibited For Snow Plowing And Removal" Of The Code Of The Borough Of Oakland, be adopted;

BE IT FURTHER RESOLVED that the Borough Clerk be and she is hereby directed to cause said Ordinance to be published by title in The Record in the manner provided by law.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

FINAL PUBLIC HEARING: ORDINANCE NO. 16-CODE-734

The Clerk was directed to take from the table Ordinance No.16-Code-734-and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled " AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER VII ENTITLED TRAFFIC, SECTIONS 7-39.3 ENTITLED "REGULATION FOR THE MOVEMENT AND THE PARKING OF TRAFFIC ON ALL OTHER PRIVATE PROPERTY" OF THE CODE OF THE BOROUGH OF OAKLAND

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Kulmala, this portion of the meeting be open for public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Visconti, this portion of the meeting be closed to public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

On motion of Councilman Visconti, seconded by Councilman Kulmala, the following resolution be introduced, adopted and duly passed on a roll call vote.

BE IT RESOLVED that an Ordinance entitled, An Ordinance Amending And Supplementing Chapter Vii Entitled Traffic, Sections 7-39.3 Entitled "Regulation For The Movement And The Parking Of Traffic On All Other Private Property" Of The Code Of The Borough Of Oakland, be adopted;

BE IT FURTHER RESOLVED that the Borough Clerk be and she is hereby directed to cause said Ordinance to be published by title in The Record in the manner provided by law.

Councilman Jensen asked who is going to enforce this ordinance. Mr. Chewcaskie responded that the Police would have the authority to enforce this ordinance under the general provisions of Title 39. Councilman Jensen asked if the Police will only be allowed to go on to private property at the request of the property owner. Mr. Chewcaskie responded this ordinance gives the Police the ability to enforce traffic laws at Copper Tree Mall. There is already an existing ordinance. He explained that various sections of the parking lot are being changed to time restricted parking at the request of the property owner. Councilman Jensen asked if the Police can go onto private property. Mr. Chewcaskie responded that they can. Councilman Biale asked the reason the owner is requesting this change. Mr. Chewcaskie responded they wish to move some of the 30 minute spaces adjacent to some of the stores to allow a greater number of people to utilize the vendors.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

FINAL PUBLIC HEARING: ORDINANCE NO. 16-BOND-735

The Clerk was directed to take from the table Ordinance No.16-Bond-735 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled " AN ORDINANCE AMENDING SECTION 5 OF BOND ORDINANCE NO 14-BOND-704 FINALLY ADOPTED ON AUGUST 13, 2014 IN ORDER TO REVISE THE AMOUNT REFERRED TO THEREIN.'

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Visconti, this portion of the meeting be open for public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Visconti, this portion of the meeting be closed to public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

On motion of Councilman Talamini, seconded by Councilman Biale, the following resolution be introduced, adopted and duly passed on a roll call vote.

BE IT RESOLVED that an Ordinance entitled, AN ORDINANCE AMENDING SECTION 5 OF BOND ORDINANCE NO 14-BOND-704 FINALLY ADOPTED ON AUGUST 13, 2014 IN ORDER TO REVISE THE AMOUNT REFERRED TO THEREIN.', be adopted;

BE IT FURTHER RESOLVED that the Borough Clerk be and she is hereby directed to cause said Ordinance to be published by title in The Record in the manner provided by law.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

WORK SESSION:

ORDINANCE TO BAN TOBACCO SALES TO PERSONS UNDER 21:

Councilman Talamini advised that the Board of Health feels strongly about this. The neighboring towns are doing ordinances. Mayor Schwager asked what changed their minds because a couple of years ago she asked the Board to look at this ordinance. Mr. Kunze explained that a couple of years ago, none of the surrounding towns had done an ordinance so the Board did not see a need to do an ordinance. Mayor Schwager asked if the Board is suggesting to follow the sample ordinance from Wyckoff.

Councilwoman Coira is opposed to this because the State raised the age from 18 to 19. Councilwoman Coira is opposed to smoking but feels this is going to hurt local businesses. Trenton should be regulating this. Councilman Jensen is also opposed to this ordinance. If an 18-year old can go into the military, they are able to make their own decision about smoking. He is also against smoking but it is a decision that adults should be making. The government should

not be making the decision. Councilman Biale feels somewhat the same. If an 18-year old is old enough to vote and serve in the military, they can make their own decision about smoking.

Mayor Schwager asked what would happen if someone under age 21 was caught smoking. Councilwoman Coira responded that it would be illegal according to the ordinance. Mr. Kunze asked if the Board was recommending the entire ordinance or just the sale of tobacco. Councilman Talamini was not sure. Councilman Kulmala agreed that this is an overreach. The State has changed the age to 19 and he does not think that the local government should regulate this issue.

Councilman Talamini asked if the Council is allowed to make laws that are counter to State law. Mr. Chewcaskie responded that municipalities can make laws to strengthen the Statutes. For instance, you can do an ordinance to establish a higher age limit. Councilman Talamini also doesn't feel the Mayor and Council should do an ordinance but the Board of Health asked that this be brought forth.

The consensus was to not move forward.

RIVER PROJECT BID:

Councilman Visconti explained that two years ago, the Flood Commission brought forth the concept of doing a river restoration project. Over the past year, we have worked toward doing a design/build project so it can be put out to bid. Mr. Chewcaskie advised that on February 17, 2016, two bids were received from T.R. Weniger in the amount of \$369,800 and Equity Environmental Engineering in the amount of \$539,175. Equity's bid was declared non-responsive when it was determined that they did not possess a Public Works Contractor Certification at the time of the bid opening. A pre-award meeting was held on March 16th with Weniger and Princeton Hydro. A meeting was then held on April 6th with the Flood Commission members to discuss various concerns raised by the Flood Commission Chairman. The Engineer was directed to hold another pre-award meeting. That meeting was held on April 21st. Boswell has issued a letter dated April 25th making a recommendation to award the bid to Weniger. Mr. Chewcaskie has reviewed the documentation and has provided an opinion as to responsibility of bidding and consequences. Mr. Chewcaskie advised that the Flood Commission submitted concerns over confidence with the low bidder. The Flood Commission has asked if the project can be re-scoped. Mr. Chewcaskie does not believe that the project can be re-scoped based on the specifications prepared. He advised that the Mayor and Council can choose to award the bid as per the recommendation of the Borough Engineer or they can opt not to do the project at all.

Councilman Kulmala asked if both Weniger and Princeton Hydro are going to be involved in the project. Mr. Chewcaskie explained that this is a design/build project. Weniger does not have the capability to design the project so they brought in Princeton Hydro. Both Princeton Hydro and Weniger have agreed to put in the contract that there will be onsite supervision by Princeton Hydro. Councilman Kulmala asked if we can expand on the bonds. Mr. Chewcaskie responded that there are three bonds. The bid bond is part of the bid. In the event the bidder fails to enter into a contract, the bonding company will pay damages. Once a contract is entered into, a performance guaranty is submitted. If the contractor does not complete the project, the bonding company is responsible. Once a project is complete, there is a maintenance bond that is held for two years. This will be issued once Princeton Hydro provides a certification of completion.

Mr. Chewcaskie advised that the Borough has obtained an extension from Weniger for an additional 30 days to award the bid. The Mayor and Council have until May 8th to award the bid. Mr. Kunze advised that we will have to ask for another extension since our meeting is not until

May 11th. Councilman Visconti asked if the Council wishes to move forward with awarding the bid. Mayor Schwager asked what happens if the bid is rejected. Councilman Visconti responded that means the project will not be done. Mr. Chewcaskie reiterated that the Mayor and Council can only reject bids for the decision not to do the project. Mayor Schwager asked if we can reject the bid for any other reason. Mr. Chewcaskie responded there is no valid reason to reject the bids because we have a vendor that meets the requirements of the specifications. Mayor Schwager asked if we choose to scrap the project, can we never do the project. Mr. Chewcaskie responded the project may be able to be done some time in the future but cannot be done now.

Mr. Talamini commented that we have already spent \$ 30,000 to go out to bid for this project. If the Council decides not to do the project, will we lose the \$ 100,000 grant. Mr. Kunze responded that he does not know if the DEP will allow a substitute project for the grant. Councilman Visconti advised that the low bid was \$ 369,000. The net cost to the Borough will be \$ 269,000 plus engineering costs. Mayor Schwager commented that this project is not supposed to help flooding. Councilman Visconti advised this project is to restore the river by using hydrology to move silt to the banks. The objective is to keep the river in a more natural state to take care of itself. There is a benefit to this project. The question is do we want this vendor to do the project. The Flood Commission does not feel the vendor is capable but our professionals think otherwise.

Councilman Biale commented that as legislators, they are charged with the caretaking of all things including the river. He chooses to maintain the river and not to throw away the grant money. Councilman Visconti thinks we should move forward with the project. The Mayor and Council have a fiscal responsibility to the community. The professionals have ensured that the vendor is capable of doing the job. Councilman Kulmala asked if there will be a lot of DEP oversight since this is a groundbreaking project. Councilman Visconti responded that this project does not require a DEP permit. However, because this is a design/build project, the engineer is involved. Princeton Hydro is a renowned firm and they will have someone onsite during placement of the boulders. The Flood Commission asked for 6 to 8 items to be put into the contract and Weniger and Princeton Hydro agreed to that. Councilman Jensen feels the project should be done. Councilwoman Coira agreed the project should be done especially since the professionals assured the vendor is qualified. Councilman Talamini agreed it would be a shame not to do the project. Councilman Kulmala asked if we don't award the bid, will the project just die. Mr. Chewcaskie responded that if the bid is not awarded, the project cannot legally move forward.

NEW BUSINESS:

Councilman Talamini advised that he received an email from the Manito student council. They are asking to plant flowers at Borough Hall and to get a tour of Borough Hall.

COUNCIL REPORTS:

Councilman Talamini: The school budget passed. The Board of Health will meet on May 19th.

Councilman Kulmala: He attended the townwide cleanup on April 23rd. The OCC took a video of the cleanup.

Councilman Biale: He met with the Seniors last Friday. They have concerns over the restroom project and Senior housing. He will meet with them again on May 20th. He has a meeting with the Senior Club on June 9th. Councilman Biale commented that only 453 people voted in the school election. It is a waste of money to hold that election. Taxpayer money is being spent to open the polls for 453 people to vote. Mayor Schwager responded that she asked Councilman

Talamini to bring this up to the school board. Councilman Talamini advised that the issue with the vote being in November is that people don't get to vote on the budget.

Councilman Visconti: Spoke about the events at the Library. There were 75 people at Great Oak Park for the cleanup. He thanked everyone who participated. The boy scouts completed the project at Nuckel's Pass. The Park meeting was held last night. They are trying to get donations from a tree service to clear more trees. The next Flood Commission meeting will be held May 9th. The next Park Committee meeting will be held on May 17th at 8 pm at the Danny D'elia building. Rising Phoenix is working on restoring the miniature golf course.

Councilman Jensen: The Planning Board will meet May 12th at 7 pm at the Senior Center. It is mosquito season. He asked Councilman Biale to see if the Bergen County Mosquito Commission can come to spray.

Councilwoman Coira: The Borough received Tree City USA designation again. She congratulated and thanked the Shade Tree Commission for all their efforts. The Shade Tree Commission will hold Arbor Day on April 29th at 2 pm at Heights Elementary school. Councilwoman Coira supports the move of the school election to November. She advised that the school board can make the move or the Council can do it.

Councilman Talamini advised that the school board is getting the costs of the election together. He will report on it once he gets the figures.

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Kulmala, this portion of the meeting be opened for public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

Roy Bauberger, 51 Demarest, commented that he spent a lot of time working on the river restoration project. He feels the bidder is not qualified. He doesn't understand why we can't reduce the scope of the project. Mr. Chewcaskie responded that the grant was based on the specific scope of the project. We cannot get around litigation by reducing the scope of the project. Mr. Bauberger advised they will be working in the Army Corps of Engineers project area so it is a flawed bid. If the project is done wrong, it can do more damage than good. Mayor Schwager asked if Mr. Bauberger thinks it is better to leave the river the way it is now. Mr. Bauberger responded it is not but someone with experience and with the skill set is needed to do the project. Councilwoman Coira advised that the vendor did another project. Mr. Bauberger responded they did not do this type of project. He advised he spent weeks walking the river with Trout Unlimited. We are looking for a competent capable bidder. Councilwoman Coira explained that there were only two bids and one was not conforming. Legally the Mayor and Council's hands are tied. She asked Mr. Bauberger if he has confidence in Princeton Hydro. Mr. Bauberger responded he did but they are not the operator. Councilwoman Coira stated that Princeton Hydro is beyond qualified. The Mayor and Council have a legal responsibility to either award the bid or just not do the project. Mr. Chewcaskie explained that the lowest responsible bidder meets the minimum requirements. Municipalities must award to the lowest responsible bidder. That is the law.

Lew Levy, 112 Lakeview Terrace and Chairman of the Flood Commission, advised that he has a lot of concerns. There was a meeting held on April 21st and the Flood Commission was not

involved. The contractor is not qualified. This is an environmentally sensitive project. At the first pre-award meeting, the contractor had no idea what the Borough was talking about with the bank stabilization. Boswell cannot qualify this vendor when they have not done this type of work either. This company has never done this type of work. Princeton Hydro does not work for the Borough-they work for the contractor. The contractor can do irreparable harm if the boulders they place go down the river toward the Army Corps dam project. Then the Borough would be stuck paying for damages. Mr. Levy feels the bid was flawed. He wants to reject the bid because the entire area does not need to be done. He would re-bid using a smaller area for the scope of the project. Councilwoman Coira asked if Mr. Levy had confidence in Princeton Hydro. At first, Mr. Levy responded he did not then stated he did but Princeton Hydro was working for the contractor and he does not believe the contractor is qualified. Councilman Visconti stated this is an emotional issue but there were ad infinitum discussions on this matter. Mr. Levy was involved with the concept of the bid specs and making this a design/build project. Mr. Levy was involved throughout the process. The Borough went back twice to the bidder with the objections raised by the Flood Commission and the vendor agreed to every item. Councilman Visconti does not know how to assure the Flood Commission any further other than the reputations of Princeton Hydro, Boswell Engineering and the contractor. He does not know how Mr. Levy can state that he was not involved in the process. Mr. Levy advised that the Flood Commission unendorsed the project. Councilman Visconti responded that the Flood Commission asked the Borough to hold a second pre-award meeting with the contractor. Right before the meeting was to take place, the Flood Commission unendorsed the project. The Borough's professionals held the meeting anyway to do their due diligence. Councilman Visconti advised that things can go wrong with a project no matter what contractor is used.

Mayor Schwager asked what will happen if the project is not done. Mr. Levy advised that the river will continue to degrade. Mayor Schwager reiterated that there are two choices legally that can be done-award to Weniger or do not do the project at all. According to the Borough Attorney, downsizing the project is not enough of a change of scope to re-bid the project. Mr. Chewcaskie advised that the project has not changed at all just by saying there is less area to be done. That is not a substantial change. Councilman Talamini commented that even if the Borough were to re-bid the project, the same contractor can be low bidder again. He asked Mr. Levy what would happen at that point. Mr. Levy advised he had argued about the bid specs from the beginning. He feels that the Borough ended up with a bid spec that did not represent the project that was presented to the Mayor and Council by Trout Unlimited. Councilwoman Coira explained that the bid laws are written to prevent what Mr. Levy is trying to do to dodge this situation. The laws protect from corruption. The Mayor and Council have to abide by the laws. She explained that the Mayor and Council are following the laws to protect the taxpayers.

Jerri Angermueller, 24 Lakeview Terrace, advised that the Garden Club Plant Sale will take place May 7th behind Ponds Church. She thanked the Garden Club for donating the lilac bush to the Van Allen House.

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilman Biale, seconded by Councilman Kulmala, this portion of the meeting be closed to public discussion.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

BILLS TO BE PAID:

Councilman Jensen called for point of order. The Council did not have enough time to review the bills list. He asked for the bills list to be tabled to the next meeting. The CFO advised that certain bills are time sensitive such as the payment of taxes to the County. There was no second to the motion to table. Councilman Visconti suggested taking a ten minute recess to review the bills list.

MOTION TO RECESS:

On motion of Councilman Visconti, seconded by Councilman Biale, a ten minute recess be called to review the bills list.

ROLL CALL: Yeas, Councilmembers Biale, Coira, Kulmala, Talamini, Visconti.
Nay, Councilman Jensen.

MOTION TO APPROVE BILLS TO BE PAID:

On motion of Councilman Talamini, seconded by Councilman Biale, the following bills be submitted for payment:

(see following pages)

BE IT RESOLVED that the foregoing bills be paid and charged to their respective accounts when the funds are available.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

MEETING ADJOURNED:

On motion of Councilman Biale, seconded by Councilman Visconti, the meeting be adjourned at 9:45pm.

ROLL CALL: All yeas, Councilmembers Biale, Coira, Jensen, Kulmala, Talamini, Visconti.

Lisa M. Duncan, Borough Clerk
May 11, 2016

Mayor Linda H. Schwager

Date Approved