

REGULAR MEETING OF THE MAYOR AND COUNCIL
HELD AT THE
MUNICIPAL COURT /COUNCIL CHAMBERS
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY
WEDNESDAY AUGUST 26, 2009

MOVE TO EXECUTIVE SESSION:

On motion of Councilwoman Marcalus, seconded by Councilman Visconti, 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:
Negotiations, Litigation, Personnel
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 Marcalus, Pignatelli, Visconti.

Discussion ensued over various litigation matters. No action taken.

CLOSE EXECUTIVE SESSION:

On motion of Councilman Pignatelli, seconded by Councilman Burns, the Executive Session be closed.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

MEETING CALLED TO ORDER: By Mayor Szabo at 7:37 pm.

ROLL CALL: Mayor Szabo called the meeting to order and the Clerk called the roll. Present: Mayor Szabo, Councilmembers Burns, Marcalus, Pignatelli, Visconti. Absent: Councilmembers Di Pentima, Stagg. Also Present: Lisa M. Duncan, Borough Clerk; Richard Kunze, Borough Administrator; Brian Chewcaskie, Borough Attorney; Borough Engineer Steven Busanic.

SALUTE TO THE FLAG:

MOMENT OF SILENCE:

MEETING ANNOUNCEMENT: Mayor Szabo 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: Mayor Szabo attended a meeting this past Monday with the Fathers Club, Mothers Club and Recreation to try to resolve the issues of the Rec stand. The goal is to open the stand in time for football season. They talked about some ways to recruit volunteers but there are still some issues to be ironed out. Mayor Szabo advised that the kick-off meeting for the Green Team will be held on September 2nd at the Senior Center. This is the first step toward Sustainable Jersey certification. Mayor Szabo attended a workshop on sustainable movement and some good ideas came from that workshop. Mayor Szabo spoke of a recent appellate Court decision on Mount Laurel which he finds disturbing. The implications of this decision really affect municipalities.

OPENED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

Reverend Nathan Busker, Ponds Reformed Church, advised that in 2010, Ponds Church will celebrate its 300th anniversary. The Church wants to celebrate the many achievements over the years. Reverend Busker hopes the town will join the celebration. He would like to know if the Mayor and Council will designate 2010 as the year of Ponds Church. Mayor Szabo advised that the Council will issue proclamations in support of the Church.

Charles McCormack, 161 Manito Avenue, asked if the WOLF meetings are still ongoing. Mayor Szabo advised that WOLF is trying to coordinate contracts and share services. The group met again last week. The Mayors put the Administrators in charge of putting together an action plan. However, there has to be a benefit to everyone. Mayor Szabo will meet tomorrow with the Northwest Bergen Mayors Association to discuss union contracts. Mr. McCormack advised that there is an Economic Development Council on the books. He asked if this would be reinstated because he believed it would be a benefit. Mayor Szabo advised that there is a Chamber of Commerce and the Planning Board gets into economic issues. He has to think about whether creating another entity is the solution.

Frank Monaco, 60 Thackeray Road, spoke about the Rec stand and advised he has questions about Recreation expenditures. He asked about the possibility of a paid Recreation Director. Mayor Szabo advised that this has not been formally discussed by the Mayor and Council.

Mike Guadagnino, 34 Hopper Street, advised that the FLOW youth hockey organization is recruiting players. He thanked the Mayor for Monday's meeting and advised it was productive. He gave an update on Recreation signups for various sports. The 12-year travel baseball team went to Cooperstown this week to play in a tournament. This is the third year the team has gone to Cooperstown and they raise money through fundraising.

Al DiGiacomo, 24 Long Hill Road, commended the First Aid Squad and Police Department for responding to a medical emergency.

CLOSED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

APPROVAL OF MINUTES: AUGUST 12, 2009

On motion of Councilman Pignatelli, seconded by Councilwoman Marcalus, the minutes from the Mayor and Council meeting of August 12, 2009 be approved.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

RESOLUTION 09-197 AUTHORIZE SALE OF PROPERTY

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

WHEREAS, the following 3 properties owned by the Borough of Oakland are not needed for public purposes:

Block 3301 Lot 11
Block 5505 Lot 5
Block 4303 Lot 9; and

WHEREAS, it is in the best interest of the Borough of Oakland to advertise these properties for public sale to the highest bidder.

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 above properties shall be advertised for public sale pursuant to all requirements and procedures set forth in the Local Lands and Buildings Law (N.J.S.A. 40A:12-1 et. seq.) subject to the following conditions:

(a) Bids shall be received by the Borough Administrator on October 14, 2009, at 6 pm at Municipal Building, Municipal Plaza, Oakland, New Jersey, in the manner of a public auction in accordance with procedures to be announced by the Borough Administrator.

- (b) A minimum bid for each lot is hereby established in the following amounts:
Block 5005 Lot 5 - \$295,000

Block 4303 Lot 9 - \$230,000
Block 3301 Lot 11 - \$235,000

(c) All bids shall be referred to the Borough Council for review and final approval pursuant to N.J.S.A. 40A:12-13a. The Borough of Oakland reserves the right to accept the highest bid or to reject any and all bids including the highest bid, and shall make its decision known by resolution within fourteen (14) days after bids are received.

(d) Bidders shall make payment as follows:

Cash or certified check within fifteen (15) minutes of the closing bidding	10%
Plus	
Cash or certified check on or before October 28, 2009	15%
Plus	
Cash or certified check at a closing to be held on or before November 30, 2009	75%

(e) Upon the close of bidding the highest qualified bidder, as designated by the Borough Administrator, shall submit cash or certified check in the amount of 10% of his bid and shall immediately execute an offer to purchase at his bid price, which offer shall include the terms and conditions specified herein. Said offer shall be irrevocable for sixty (60) days from the date of the public sale.

(f) Title shall be conveyed by Bargain and Sale deed with final payment to be made as described above at a closing to be arranged between the purchaser and the Borough of Oakland pursuant hereto.

(g) At closing of title purchaser shall submit an additional sum of money equal to the costs of all advertising of the sale, legal, title and appraisal fees and the recording of the Deed.

(h) Failure to comply with any of the above requirements or to close on or before November 30, 2009 shall entitle the Borough of Oakland to rescind the prior bid approval, terminate any and all rights of the designated bidder in said property and retain all monies therefore deposited.

(i) All lots are conveyed subject to existing encumbrances, liens, zoning regulations, easements, other restrictions, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefitting said property.

(j) The Borough makes absolutely no representations or warranties regarding the premises, other than that the Borough certifies its ownership and right to convey marketable and insurable title.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

RESOLUTION 09-198 BOND ANTICIPATION NOTES

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

WHEREAS, the Borough of Oakland, in the County of Bergen, New Jersey (the "Borough") intends to issue a \$ 1,295,695 bond anticipation note, dated August 20, 2009 and payable February 11, 2010 (the "Note"); and

WHEREAS, the Borough desires to designate the Note as a "qualified tax-exempt obligation" pursuant to Section 265 (b)(3) of the Code;

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

SECTION 1: The Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265 (b)(3) of the Code.

SECTION 2: It is hereby determined and stated that (1) said Note is not a "private activity bond" as defined in the Code and (2) the Borough and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$ 30 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2009.

SECTION 3: It is further determined and stated that the Borough has, as of the date hereof, issued the following tax-exempt obligations (other than the Note) during the calendar year 2009, viz:

<u>Amount</u>	<u>Dated-Due</u>
\$ 6,226,925 BANs	2/11/09-2/11/10

SECTION 4: The Borough will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, said Borough does not covenant to do so, and hereby expressly states that a covenant is not made hereby.

SECTION 5: The issuing officers of the Borough are hereby authorized to deliver a certified copy of this resolution to the original purchaser of the Note and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2009 dated as of the date of delivery of the Note.

SECTION 6: This resolution shall take effect immediately upon its adoption.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

Councilman Visconti read the following memo into the record:

TO: Mayor and Members of the Borough Council
FROM: Jim Mangin – CFO
DATE: August 17, 2009
RE: Bond Anticipation Note Sale

On August 13, 2009 we conducted a Bond Anticipation Note sale for temporary financing in the amount of \$1,295,695. These notes fund Ordinance 08-586 for \$1,067,695 and Ordinance 09-588 for \$228,000.

The winning bid was awarded to TD Bank with a Net Interest Cost of \$9,170.28 or 1.49%. Other bids were accepted by:

	Net Interest Cost (\$)	Net Interest Cost (%)
Valley National Bank	\$9,231.83	1.50 %
Columbia Bank	\$11,324.37	1.84%
Oppenheimer & Co., Inc.	\$16,458.02	2.6741%
Jannery Montgomery Scott	\$16,844.03	2.7368 %

These notes will mature on February 11, 2010 to coincide with our existing Bond Anticipation Notes.

This report is issued in accordance with N.J.S.A. 40A:2-28 and the Borough of Oakland Cash Management Plan adopted January 28, 2009. I would ask that this report be read into the minutes of the next Borough Council meeting.

RESOLUTION 09-199 AUTHORIZE ENGINEER-CDBG ROAD PROGRAM

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

WHEREAS, the Borough will be receiving a Community Development Block Grant for the improvement of certain roadways in the Borough; and

WHEREAS, the Borough must pay for the engineering services with respect to the construction plans and specifications, and construction oversight and inspection services; and

WHEREAS, Boswell McClave Engineering has submitted a proposal dated May 1, 2009, for the aforesaid engineering services; and

WHEREAS, the Mayor & Council desire to award this project to Boswell McClave Engineering;

NOW, THEREFORE, be it Resolved by the Mayor and Council of the Borough of Oakland that the firm of Boswell McClave Engineering is hereby retained in connection with the Community Development Block Grant for road paving of various streets within the Borough of Oakland, and in accordance with Boswell McClave's May 1, 2009 proposal; and be it further

RESOLVED that Boswell McClave will be paid for the services outlined in the proposal the estimated fee of not to exceed \$7,500 for the design phase, and not to exceed \$10,000 for the construction phase, without further approval of the governing body; and be it further

RESOLVED that the Borough Attorney is authorized to prepare an appropriate agreement, and the Mayor is hereby directed to execute the contract on behalf of the Borough; and be it further

RESOLVED that the Chief Financial Officer has certified the existence of current funds in Account #C04-55-915-001, available for the payment of said services described above; and be it further

RESOLVED that the award of this contract is one for professional services, for which no public bidding is necessary; and be it further

RESOLVED that the Borough Clerk shall maintain a copy of this Resolution and the contract with Boswell McClave, in her offices, for public inspection.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

RESOLUTION 09-200 AUTHORIZE SETTLEMENT-ELKS CLUB

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

WHEREAS, the Borough Police filed summonses against the Elks Club Lodge Number 2167, with respect to alleged liquor license violations; and

WHEREAS, the Elks Club Lodge appealed from the preliminary determination of the Special Prosecutor to the Mayor & Council; and

WHEREAS, the Elks Club Lodge consented to a resolution of the pending charges;

NOW, THEREFORE, be it Resolved by the Mayor and Council of the Borough of Oakland that the Borough shall undertake to dismiss the charge which is pending against the Elks Club Lodge Number 2167 under N.J.A.C. 13:2-23.1(a) asserting service of liquor to a person under the age of 18; and the Elks Club Lodge accepts a violation under N.J.A.C. 13:2-18.8(a) (9, 11), concerning failure to obtain a social affair permit; and be it further

RESOLVED by the Mayor & Council that the Elks Club Lodge liquor license is hereby suspended for five consecutive Mondays, to wit, August 31st, September 7th, September 14th, September 21st, and September 28th, 2009; and be it further

RESOLVED that the Borough Clerk shall send notification of this settlement of charges to the Alcoholic Beverage Commission in Trenton.

Councilman Burns explained that there were two charges-one for serving a person under age 18 and one for failure to obtain a social affairs permit. The first charge was dismissed because of a lack of evidence. This suspension is appropriate for the minor infraction of not getting a social affairs permit.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

RESOLUTION 09-201 AWARD BID WELL 7

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

WHEREAS, on August 20, 2009, the Borough received three bids for the Rehabilitation of Well No. 7; and

WHEREAS, the Borough Administrator, Borough Attorney and Water & Sewer Engineer have determined that the bid from A.C. Schultes of Woodbury Heights, NJ was the lowest responsible bid and thereby recommend its approval; and

WHEREAS, the Mayor and Council wish to accept the bid for a cost of \$ 77,800; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account# C-06-56-597-102;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the bid for Rehabilitation of Well No. 7 is hereby awarded to A.C. Schultes of Woodbury Heights, NJ in the amount of \$ 77,800; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to sign a contract with A.C. Schultes of Woodbury Heights, NJ

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

INTRODUCTION: ORDINANCE NO.09-CODE-604

The Clerk was directed to take from table Ordinance No. 09-Code-604 and read by title for its first reading.

The Clerk then read by title Ordinance No. 09-Code-604 entitled: "AN ORDINANCE AUTHORIZING THE SALE OF REAL PROPERTY KNOWN AS BLOCK 2501, LOT 14 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF OAKLAND, ALSO KNOWN AS LAKEVIEW TERRACE"

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

BE IT RESOLVED that an Ordinance entitled, "An Ordinance Authorizing The Sale Of Real Property Known As Block 2501, Lot 14 On The Official Tax Map Of The Borough Of Oakland, Also Known As Lakeview Terrace", be introduced;

That said Ordinance be considered for final adoption at a meeting on September 9, 2009 at the Municipal Court/Council Chambers, 10 Lawlor Drive, Oakland, New Jersey at 7:30 P.M.

That said Ordinance be published in full in The Record on or before August 30, 2009 together with notice of this introduction and of the time and place for further consideration for final passage, and that the Clerk post a copy of said Ordinance in the Municipal Building and make copies available to the public.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

Councilman Burns explained this bid is only open to contiguous property owners. We had gone out to bid once before but the Tax Assessor was asked to reevaluate the minimum bid.

FINAL PUBLIC HEARING: ORDINANCE NO. 09-CODE-602

The Clerk was directed to take from the table Ordinance No. 09-Code-602 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE SUPPLEMENTING CHAPTER 20 OF THE BOROUGH OF OAKLAND CODE

ENTITLED "STORMWATER MANAGEMENT" SO AS TO REGULATE THE
OUTDOOR APPLICATION OF FERTILIZER"

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Pignatelli, seconded by Councilwoman Marcalus, this portion of the meeting be opened for public discussion.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

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

BE IT RESOLVED that an Ordinance entitled, "An Ordinance Supplementing Chapter 20 Of The Borough Of Oakland Code Entitled "Stormwater Management" So As To Regulate The Outdoor Application Of Fertilizer", 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 Burns, Marcalus, Pignatelli, Visconti.

FINAL PUBLIC HEARING: ORDINANCE NO.09-CODE-603

The Clerk was directed to take from the table Ordinance No. 09-Code-603 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE AMENDING BOROUGH OF OAKLAND CODE CHAPTER 2-6A.3 ENTITLED "EMERGENCY SERVICE VOLUNTEERS-LENGTH OF SERVICE AWARDS PROGRAM-OAKLAND FIRST AID SQUAD"

OPENED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilman Pignatelli, seconded by Councilwoman Marcalus, this portion of the meeting be closed to public discussion.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

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

BE IT RESOLVED that an Ordinance entitled, An Ordinance Amending Borough Of Oakland Code Chapter 2-6a.3 Entitled "Emergency Service Volunteers-Length Of Service Awards Program-Oakland First Aid Squad", 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 Burns, Marcalus, Pignatelli, Visconti.

WORK SESSION:

CREW ENGINEER PROPOSAL-WELL 8

Mr. Kunze advised that this was on the agenda a couple of meetings ago. The budget for the Engineering for the backup Well 8 project was \$ 100,000. The Crew proposal was over that amount. Crew revised their proposal to come in within the \$ 100,000 budget. Mayor Szabo asked if we could insert language not to exceed that amount and that the scope of services is limited to what is authorized. Mr. Kunze responded that is standard. Councilman Burns commented that we might not move forward with the entire contract because we may not get a permit from DEP. Mr. Kunze responded that Crew already went to the DEP and the DEP said they would approve a permit. This will be listed for resolution on the September 9th agenda.

COUNCIL REPORTS:

Councilman Pignatelli: He advised that West Oakland Avenue will be closed on August 31st for five days in order to redo the railroad crossing.

Councilman Burns: He has no report for Shade Tree or Recreation.

Councilman Visconti: He advised that the Knights of Columbus will be holding a Horseshoe Tournament on September 19th.

Councilwoman Marcalus: She advised that the September Senior Center newsletter will be available tomorrow. She advised that people are allowed now to vote by mail and applications are available at Borough Hall.

Councilman Pignatelli advised that the Fire Department 100th Anniverary celebration will be held on September 12th. There will be a parade at 11 am. He advised that the Fire Department does a fantastic job.

BILLS TO BE PAID:

On motion of Councilman Visconti, seconded by Councilwoman Marcalus, 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 Burns, Marcalus, Pignatelli, Visconti.

MEETING ADJOURNED:

On motion of Councilman Pignatelli, seconded by Councilman Visconti, the meeting be adjourned at 8:28 pm.

ROLL CALL: All yeas, Councilmembers Burns, Marcalus, Pignatelli, Visconti.

Lisa M. Duncan, Borough Clerk
September 9, 2009

Mayor John P. Szabo, Jr.

Date Approved