

REGULAR MEETING OF THE MAYOR AND COUNCIL
HELD AT THE
MUNICIPAL COURT /COUNCIL CHAMBERS
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY
WEDNESDAY DECEMBER 10, 2008

MOVE TO EXECUTIVE SESSION:

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

Discussion about personnel matters and litigation. No action took place.

CLOSE EXECUTIVE SESSION:

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

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

MEETING CALLED TO ORDER: By Council President Pignatelli at 8:05 pm.

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

SALUTE TO THE FLAG:

MOMENT OF SILENCE:

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

OPENED FOR PUBLIC DISCUSSION:

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

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

Roger Marchese, 44 Manito Avenue, hopes that the tennis project will come to fruition soon. He hopes the project will move along quickly so the tennis program can begin in May. Borough Engineer Tichacek advised that he did receive a report on the perimeter borings and the report was favorable. The issue is there is loose material. He will propose to compact the material. There will be a substantial sub-base and asphalt layer so there should be no issues with the courts. The second borings were taken today. Mr. Tichacek has begun to prepare the specifications in order to go out to bid by the beginning of January. Councilwoman Marcalus questioned that the only problem with Courts 1, 2 and 3 is to compact the soil and make it solid. Mr. Tichacek commented that seven borings were taken from the fence line of all six courts. The results are uniform and no organics were found. He doesn't think there will be organics in the borings taken today either. He expects the results to be uniform. Mr. Tichacek advised that there will be 6" of gravel and 4" of asphalt on the courts. With the substantial sections plus good compacting of the sub-base, the courts should last a long time. He advised that in 1999 the courts were just resurfaced and nothing was done with the subsurface. Mr. Marchese confirmed that in the 90's there was no compacting of the sub-base.

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, Di Pentima, Marcalus, Pignatelli, Visconti.

APPROVAL OF MINUTES: OCTOBER 29, 2008

On motion of Councilman Di Pentima, seconded by Councilman Visconti, the minutes from the Mayor and Council meeting of October 29, 2008 be approved.

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

APPROVAL OF MINUTES: NOVEMBER 12, 2008

On motion of Councilman Di Pentima, seconded by Councilwoman Marcalus, the minutes from the Mayor and Council meeting of November 12, 2008 be approved.

Councilwoman Marcalus advised there was a page missing from the set of minutes distributed.

MOTION TO TABLE:

On motion of Councilman Burns, seconded by Councilwoman Marcalus, the minutes from November 12, 2008 be tabled.

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

APPROVAL OF MINUTES: NOVEMBER 25, 2008

On motion of Councilwoman Marcalus, seconded by Councilman Di Pentima, the minutes from the Mayor and Council meeting of November 25, 2008 be approved as amended on page 7.

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

RESOLUTION 08-203 AWARD BID-SKYVIEW SAND FILTER

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

WHEREAS, on November 13, 2008 the Borough of Oakland received four bids for the Skyview/Hibrook Sewage Treatment Plant Intermittent Sand Filter Repair; and

WHEREAS, the Borough Administrator, Water and Sewer Engineer and Borough Attorney have reviewed the bid of \$180,542 from D.R. Mullen Construction Co., Oakland, NJ and have found it to be the responsible low bid; and

WHEREAS, the Chief Financial Officer has certified that the funds are available in the Capital Budgets - Account #C-07-07-575-002 (\$130,542) and #C-07-07-584-001 (\$50,000).

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland, that the bid for the Skyview/Hibrook Sewage Treatment Plant Intermittent Sand Filter Repair is hereby awarded to D.R. Mullen Construction Co., Oakland, NJ at a cost of \$180,542.

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

RESOLUTION 08-204 AUTHORIZE CREW ENGINEERING-WELL 8 PERMITTING

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

WHEREAS, the Borough of Oakland desires to construct a backup well for the existing Well No. 8; and

WHEREAS, the Borough must prepare and submit applications to the New Jersey Department of Environmental Protection for approval to construct the backup well; and

WHEREAS, Crew Engineers has submitted a proposal dated August 8, 2008 and the cost for the permitting phase of this project would not exceed \$ 10,000; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account #C-06-06-585-001 for this proposal.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that Crew Engineers is hereby authorized to proceed with the permitting phase for the project at a cost not to exceed \$ 10,000.

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

RESOLUTION 08-205 AUTHORIZE SETTLEMENT-D.E.P.

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

WHEREAS, since in or about 1988, the Borough has maintained underground oil storage tanks for use by the Borough's Department of Public Works, and located at the Public Works facility; and

WHEREAS, the oil tanks apparently were never registered with the New Jersey Department of Environmental Protection when they were installed in or about 1988; and

WHEREAS, neither the NJDEP nor the Borough was aware that the tanks had not been registered, until in or about February, 2008; and

WHEREAS, the failure to register and perform certain monitoring and inspection on such tanks constitutes a violation of NJDEP regulations; and

WHEREAS, the Borough has negotiated a Settlement Agreement with NJDEP concerning the violations; and

WHEREAS, the execution of the Settlement Agreement is in the best interests of the Borough at this time;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of Borough of Oakland that the Mayor and Administrator be, and they are hereby authorized and directed, to execute a Settlement Agreement with NJDEP, whereby the Borough will pay the total sum of \$15,000 as penalty for the violations described above, said payment to be made on or before February 20, 2009; and be it further

RESOLVED that the CFO will certify either the present existence of monies or the availability of monies prior to such payment.

Councilwoman Marcalus commented that the Borough was fined quite a bit of money and was able to negotiate the fine down. Councilman Burns questioned what the original fine was. Mr. Kunzse advised there were three fines of \$ 15,000 each for a total of \$ 45,000.

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

RESOLUTION 08-206 AUTHORIZE SETTLEMENT AGREEMENT

Mr. Muhlstock advised that, at the suggestion of the labor attorney, there should be wording in the resolution that approval is subject to negotiation of one clause on confidentiality.

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

WHEREAS, Stephen Fitzgerald has submitted a letter of resignation from service with the Borough of Oakland and has agreed to execute a Settlement Agreement and Release; and

WHEREAS, the Mayor and Council have reviewed the terms and conditions of the Settlement Agreement and Release and determined those terms to be in the best interests of the Borough of Oakland.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council do hereby accept the letter of resignation and hereby ratify and approve the Settlement Agreement and Release between the Borough of Oakland and Stephen Fitzgerald subject to negotiation of a non-substantive provision regarding confidentiality.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign the Settlement Agreement and Release.

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

Councilman Pignatelli advised that Resolution 08-207 will be carried to the next meeting.

RESOLUTION 08-208 AUTHORIZE PAYMENT OF SCHOOL TAXES

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

WHEREAS, the Borough of Oakland as collector of taxes is required to remit said taxes monthly to the Oakland Board of Education and the Ramapo Indian Hills Regional High School District.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland that the Chief Financial Officer is hereby authorized to wire these funds to the local and regional school districts in the following amounts and for the following period:

December 2008

Oakland Board of Education	\$2,396,030.62
Ramapo Indian Hills Regional	\$795,580.53

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

RESOLUTION 08-209 CANCEL OUTSTANDING CHECKS

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

WHEREAS, there exists certain outstanding checks from several bank accounts of the Borough that have remained outstanding for more than six months;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland, that based upon the recommendation of the Chief Financial Officer that the following outstanding checks be voided and the funds returned to the cash account of the applicable fund:

Current Fund Bank Account #70100918

Check #	Date	Amount	Check #	Date	Amount
62939	02-11-05	\$132.95	65048	02-10-06	\$138.65
62972	02-11-05	\$627.57	65176	02-24-06	\$17.34
63028	02-25-05	\$1,704.35	65355	03-24-06	\$250.50
63111	03-11-05	\$180.50	65982	07-14-06	\$15.00
63554	03-25-05	\$900.00	66850	11-24-06	\$275.00
64036	08-12-05	\$616.88	66935	12-13-06	\$750.00
64093	08-26-05	235.00	67215	01-24-07	\$50.00
64321	10-07-05	\$1,000.00	67293	02-16-07	\$2,284.93
64476	11-11-05	\$37.50	67276	02-16-07	\$214.62
64639	11-25-05	\$230.00	67317	02-16-07	\$200.00
64737	12-16-05	\$116.95	70045	03-16-07	\$35.00
Total		\$10,012.74			

Payroll Fund Bank Account #70101159

Check #	Date	Amount	Check #	Date	Amount
18312	07-11-03	\$1,678.25	7496	04-28-06	\$57.60
738	11-28-03	\$58.95	10704	07-20-07	\$1,927.08
Unknown	unknown	\$58.95	11494	10-26-07	\$11.87
Unknown	unknown	\$58.95	11670	11-23-07	\$571.14
5954	09-16-05	\$57.61			
Total		\$4,480.40			

Payroll Agency Fund Bank Account #70101159

Check #	Date	Amount
Unknown	unknown	\$505.00

Water Operating Fund Bank Account #70100934

Check #	Date	Amount	Check #	Date	Amount
Unknown	unknown	\$2.69	unknown	unknown	\$250.00
Unknown	unknown	\$150.56	unknown	unknown	\$39.85
Unknown	unknown	\$5.00	30148	06-01-07	\$691.50
Unknown	unknown	\$300.00	30373	11-20-07	\$62.17
Total		\$1,501.77			

Trust Fund Bank Account #70100942

Check #	Date	Amount	Check #	Date	Amount
Unknown	unknown	\$282.99	unknown	unknown	\$1,150.00
Unknown	unknown	\$301.76	unknown	unknown	\$282.16
Unknown	unknown	\$150.00	unknown	unknown	\$133.68
Unknown	unknown	\$72.23			
Total		\$2,372.82			

Councilman Di Pentima advised that this is routine cleanup of the books and records.

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

Councilman Pignatelli advised that Resolution 08-210 for the DEP Trail grant will be pulled from the agenda.

RESOLUTION 08-211 AUTHORIZE DEED OF CONSERVATION EASEMENT

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

WHEREAS, the Borough of Oakland purchased certain premises from New Jersey Capital Partners, known as Block 3101, Lot 8 (f/k/a Block 3105, Lot 3); and

WHEREAS, the County of Bergen, by the Bergen County Open Space Trust Fund, is contributing the sum of \$ 1.5 million dollars toward the purchase thereof; and

WHEREAS, the parties have previously entered into a Grant Agreement dated September 18, 2008; and

WHEREAS, the Deed of Conservation Easement has been reviewed by the Borough Attorney;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Mayor is authorized and directed to execute the Deed of Conservation Easement between the Borough of Oakland and the County of Bergen.

Councilwoman Marcalus explained that the deed states that the land can only be used for open space. The Borough cannot do anything on this land without approval by the County. Mr. Muhlstock advised that open space includes passive recreation. The whole basis of the grant was for open space.

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

WORK SESSION:

GARBAGE SPECIFICATIONS:

Mr. Kunze advised that the current garbage contract is due to expire in March 2009. Mr. Kunze has been reviewing the bid specifications with Assistant Superintendent Marcucilli and Recycling Coordinator MacMahon to see what changes we might want to make. The bid process is different than other bids. There must be a minimum of sixty days between bid advertisement and receipt of bids. Therefore, we will need to advertise in the next few weeks to meet the timeline and award the bid. The bid specs will ask for the cost for each year of the contract and we will take the number of years that is in our best interest. Mr. Kunze advised that he would like to bid a once a week collection as an option. A reduction in garbage collection days may increase the collection of recyclables.

Mr. Kunze advised the start time for the new contract will go back to 7:00 am which is the time stated in Borough ordinance. Mr. Kunze advised that the Borough would like to realize revenue for the sale of metal materials. There will be language put in the contract regarding end of the day notification. The company must notify the Borough before they leave for the day in case there are residents that have been missed in the pickup. The fine amounts for violations are being updated.

Mr. Kunze spoke about recycling. The Borough is now legally able to recycle plastics numbered 1 to 7. The Borough currently only recycles plastics number 1 and 2. This change will occur before the contract ends. Mr. Kunze explained that the Borough does dual stream recycling which means that commingled and paper goods are separated. More municipalities are moving to single stream recycling which means all recycling is put in the same pail. Single stream recycling does increase the amount of recyclables. Mr. Kunze advised he is not recommending a move toward single stream recycling at this time. Recyclables have taken a nosedive due to the economy. Currently the Borough receives \$ 60 per ton for paper. If the Borough switches to single stream, the vendor will not offer revenues. Assuming a 20% increase in recycling, there would be a \$ 32,000 reduction in tipping fees. However, the Borough would lose \$ 88,000 in recycling revenues. The net loss would be \$ 56,000. In the next year or two when the market picks up, single stream recycling may be more viable.

Mr. Kunze advised he is looking to go out to bid in the next couple of weeks. Councilwoman Marcalus commented that the last time the Borough went out to bid, we bid an option of once a week pickup for six months. Mr. Kunze responded that the feedback he received was that the savings was not much of a difference. Councilman Burns commented that the vendor thought he would be picking up twice garbage on the once a week pickup so there was very little difference in price. Since there was a minimal difference in price, the Council at the time decided to go with the twice a week pickup for the convenience of the residents. Councilman Visconti asked if

there is any indication on a cost increase. Mr. Kunze responded that towns that have recently gone out to bid are experiencing a 10% cost increase. Mr. Kunze is looking to bid on a year by year basis to phase in any increases. He advised that some vendors would give a better price to lock in a contract for several years. Some vendors find it hard to bid that far out with the current economic conditions.

Councilman Burns asked if in addition to the year by year breakdown, if we can bid for a three or five year contract. Mr. Kunze advised that bidding year by year would let the Council decide the number of years to take for the contract. Councilman Burns asked if Mr. Kunze checked the start time for outside vendors collecting garbage. For example, the vendor at the Copper Tree Mall starts earlier than the Borough's vendor does. Mr. Muhlstoc responded that the Borough's noise ordinance designates a 7:00 am start time. A letter should be sent to the owner of the Copper Tree Mall that their contractor is violating the Borough's ordinance. Councilman Burns commented that he does not know why we would have paper and commingled in one container. Councilman Di Pentima responded that the recycler separates the recyclables at their facility. Councilman Burns expressed concern about the bidding process and time frame. The last time the Borough went out to bid for garbage collection, we had to reject bids. The contract had expired and the Borough had to pay an interim fee. He is concerned that may happen again.

2009 MEETING SCHEDULE:

The Borough Clerk explained that the meeting schedule was prepared according to the second and fourth Wednesday schedule the Mayor and Council are currently using. There is a conflict in November because the second Wednesday is Veteran's Day. Ms. Duncan explained the Council could hold a meeting a different day that week. However, the Council Chambers is booked on Tuesday November 10th and Thursday November 12th so the meeting would have to be held at the Senior Center.

Councilman Burns preferred to hold the meeting on Tuesday November 10th. Councilman Di Pentima commented the meeting would have to be held at the Senior Center. He suggested holding the meeting on November 9th. Councilman Burns commented it should be November 9th if it is going to be televised. Councilwoman Marcalus commented that she preferred November 10th. The consensus of the Council was to hold the meetings on Tuesday November 10th at the Senior Center and Tuesday November 24th at the Council Chambers.

The Oath of Office/Reorganization meeting will be held on January 4th at 3:00 pm. Councilwoman Marcalus suggested having Executive Session at 7:00 pm and begin the formal meeting at 7:30 pm for the 2009 meetings. If there needs to be additional discussion for Executive, it could be done after the meeting. Councilman Pignatelli commented that Executive Session was increased to one hour because it was necessary. Councilwoman Marcalus commented it would be nice to start at 7:30 pm. Councilman Di Pentima commented that the idea is feasible. For the most part, the Council can get Executive Session done in a half hour. For nights that additional time is needed, we can begin at 6:30 or do it after the meeting. Councilman Burns advised he prefers to leave as is. He prefers not to split Executive Session. This item will be carried so the Mayor and Councilwoman Stagg can voice their opinion. Councilman Pignatelli commented that the Mayor proposed moving the December 23rd meeting to 5:30 pm with a limited agenda. He asked if there was any objection. Mr. Kunze advised there may be one or two administrative items that need to be done. The consensus was to move the December 23rd meeting to 5:30 pm at Borough Hall.

NEW BUSINESS:

Councilman Di Pentima asked for a status on the DPW fuel tanks. Mr. Tichacek responded that all underground work is complete and the lot is paved. We are waiting for delivery of the canopy which should occur tomorrow. By next week, the DPW should be pumping gas. Councilman Di Pentima responded it is disheartening that the project has taken so long.

COUNCIL REPORTS:

Councilwoman Marcalus: The Planning Board meets on December 11th at 7:30 pm and the agenda is routine. The Senior Club will hold a New Year's Eve party from 7:30 pm to 1:00 am at the Senior Center.

Councilman Visconti: He advised that Library usage is up 11% this year. There are a lot of programs offered.

Councilman Burns: The Shade Tree Commission met at the beginning of the month. There is no report for Recreation.

Councilman Di Pentima: The Public Events Tree and Menorah Lighting ceremony was well attended. The Indian Hills High School choir did a great job. He thanked the chairperson for the event, Marie Fabrizio. He thanked Starbucks for providing coffee for the event. Starbucks is looking forward to an opening in early February.

Councilman Pignatelli: He advised that the Fire Department will drive Santa around on the fire truck on December 13th and 14th.

BILLS TO BE PAID:

On motion of Councilman Di Pentima, seconded by Councilman Visconti, 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, Di Pentima, Marcalus, Pignatelli, Visconti.

MEETING ADJOURNED:

On motion of Councilman Di Pentima, seconded by Councilman Visconti, the meeting be adjourned at 9:10 pm.

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

Lisa M. Duncan, Borough Clerk
December 23, 2008

Mayor John P. Szabo, Jr.

Date Approved

