

REGULAR MEETING OF THE MAYOR AND COUNCIL
HELD AT THE
MUNICIPAL COURT /COUNCIL CHAMBERS
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY
WEDNESDAY JUNE 25, 2008

MOVE TO EXECUTIVE SESSION:

On motion of Councilman Visconti, seconded by Councilwoman Marcalus, 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, Stagg.

Discussion ensued over personnel matters, the Borough Attorney's contract, and library litigation. No action taken.

CLOSE EXECUTIVE SESSION:

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

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

MEETING CALLED TO ORDER: By Mayor Szabo at 8:00 pm.

ROLL CALL: Mayor Szabo called the meeting to order and the Clerk called the roll. Present: Mayor Szabo, Councilmembers Burns, Di Pentima, Marcalus, Pignatelli, Stagg, Visconti. Absent: None. 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: 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 advised that Assembly Bill 500, Roberts Bill, was passed by the Senate and the Assembly and the Senate. This eliminates RCA's which is a huge mistake. This will force growth and have a devastating impact. This bill wants to substitute RCA's which are privately donated with public trust funds. The League of Municipalities was opposed to this. It is bad legislation. Mayor Szabo advised that COAH is allowing municipalities to use the Housing trust funds to offset doing the third round plan.

OPENED FOR PUBLIC DISCUSSION:

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

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

Charlie McCormack, 161 Manito Ave, questioned if there is a ban on outdoor seating for restaurant establishments. Mayor Szabo commented that the present zoning ordinance does not allow outdoor seating but the downtown plan does. Mr. McCormack asked when this will be addressed. Mayor Szabo advised there should be an ordinance introduced at the next meeting.

CLOSED FOR PUBLIC DISCUSSION:

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

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

APPROVAL OF MINUTES: MAY 28, 2008

On motion of Councilwoman Stagg, seconded by Councilman Pignatelli, the minutes from the Mayor and Council meeting of May 28, 2008 be approved.

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

APPROVE SIGN REQUEST-FAMILY REACH FOUNDATION

Mayor Szabo commented that a request was received from the Family Reach Foundation to hang a banner across Ramapo Valley Road to advertise their October 12th walkathon. Mayor Szabo advised that they requested permission last year and they were directed to put a sign up on municipal property. Councilwoman Marcalus questioned if the Borough would put the sign up because she would not be in favor if it required using Borough resources. Mayor Szabo responded they would have to put the sign up. He advised it is a worthwhile cause but if the Council allows this organization to place a banner across Ramapo Valley Road, they will be inundated with requests from other organizations. Councilwoman Stagg commented that she thought in the past, the Council would not allow organizations to put banners across Ramapo Valley Road. Mr. Kunze commented it is his understanding that the organization is looking for the Council to support their request to the County. Councilman Burns commented he does not like signs hanging across the road even for Borough functions since he feels it is a safety hazard because it is distracting to motorists. He would not be in favor of this especially if the organization puts the sign up themselves. Mr. Kunze responded he would have a problem using public resources to put the banner up. Mayor Szabo commented he would make it clear to the organization that they are welcome to use Bush Plaza. He commented there is too much liability to put a sign over a right-of-way and either the County or the Borough would have to require insurance. He advised that the event can be promoted on the website and Channel 77. Councilman Visconti commented that the Council has had brief discussions in the past about the placement of signs. He suggested that there should be a policy written so that the Council doesn't keep having the same discussion. The consensus of the Council was to have the sign placed in Bush Plaza.

PUBLIC HEARING ON BERGEN COUNTY OPEN SPACE GRANT APPLICATION-PINNACLE PROPERTY

Councilwoman Stagg explained that every year the Borough has asked Bergen County for the open space grant. The Borough has asked for money for Pinnacle previously and was asked to withdraw the application. This year, the Borough is going to reapply for the money to purchase the Pinnacle property. She commented that the County and State have been supportive of this purchase. She explained that the area is an open byway for wildlife. The Council feels strongly that this area should be preserved. Therefore, we are going to request grant money from Bergen County and the State.

OPEN TO THE PUBLIC:

On motion of Councilwoman Stagg, seconded by Councilman Burns, the following portion of the meeting be opened to the public.

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

No comments made from the public.

CLOSE TO THE PUBLIC:

On motion of Councilwoman Stagg, seconded by Councilman Burns, the following portion of the meeting be closed to the public.

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

Councilman Burns questioned if we are going to apply to the State for funding. Mayor Szabo replied that Oakland is a planning incentive community. We just have to send a letter with a request for funding to the State by September 30th. Councilwoman Stagg commented that it is incredibly important that the residents consider the open space trust for re-funding again this year. It is important for the reason that we don't have submit an application to the State, we just receive the funds. Councilwoman Marcalus questioned what would happen if they gave us money and Pinnacle wouldn't sell. Mayor Szabo responded that would become an issue. Pinnacle has to be willing to sell. He commented that maybe with today's market, there would be more incentive for them to sell. Councilman Burns confirmed that in order to receive open space funds, it requires approval of the seller.

PUBLIC HEARING ON BUDGET AMENDMENT:

Councilman Di Pentima explained that the amount to be raised by taxes has increased by \$ 978,000. That is a 7.3% increase over last year and is 3.6 tax points. For the average assessed home of \$ 484,000, that amounts to an additional \$ 163.58 over last year. Councilman Di Pentima explained that appropriations increased by \$ 1,214,000 or 7 ½% over the 2007 level. Councilman Di Pentima also explained that the amount of State Aid was reduced by \$ 170,000. Even with the cut, the miscellaneous revenues has increased by \$ 235,000 due to an increase in fees. On the expense side, the cap expenses went up \$ 602,000. The two primary factors in that increase are salary which went up \$ 449,000 with \$ 234,000 of that due to retirement payouts and insurance increased \$ 247,000. The rest of the expenses decreased. The non-cap expenses are driven by items not within the Council's control such as pension contributions, library payment and debt service. The non-cap expenses increase was driven by a pension contribution increase of \$ 311,000 and increase to debt service of \$ 324,000. Part of that increase in debt service was for correction of the prepayment of BAN's. However, that is being offset by a release of surplus so the net to the taxpayer is zero. The reserve for uncollected taxes which is calculated based on the amount of collections of the prior year increased by \$ 30,000. The overall budget is a \$ 17.4 million. Councilman Di Pentima advised that the increases are on the downward trend. The increase in 2006 was 15%, the increase in 2007 was 8.8% and the increase in 2008 is 7.3%. The percentage of cap expenses to the total budget has declined. The non-cap expenses have increased because pension contribution has increased. The pension payment will start to stabilize soon. Councilman Di Pentima thanked Borough Auditor Frank Di Maria, Councilman Visconti, and Borough Administrator Rich Kunze for their work on the budget.

Councilman Visconti commented that he learned a lot this year working with the Finance Committee. The budget process is complicated and the budget document is complicated. The legislation that governs municipalities is intense. He thanked Councilman Di Pentima, Frank DiMaria and Richard Kunze for their work.

Mayor Szabo commented that the leadership of Councilman Di Pentima on the budget has been exemplary. He also thanked Mr. DiMaria, Mr. Kunze and Councilman Visconti.

OPEN TO THE PUBLIC:

On motion of Councilman Di Pentima, seconded by Councilman Visconti, the following portion of the meeting be opened to the public.

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

Mike Kozak, 24 Cayuga Ave, questioned what percentage of the budget is cap expenses. Councilman Di Pentima responded that cap expenses make up 72% of the total budget or

approximately \$ 12,570,000. Of the cap expenses, salaries and wages are contractual but other expenses can be controlled. The non-cap expenses include mandated costs such as library, pension contribution and debt service. Mr. Kozak commented that residents don't understand that this budget is only for the municipal portion of the tax bill. Mr. Kozak commented that Councilman Burns enlightened the residents about the increases the police are receiving. He feels the Borough should get givebacks from the Police because pension is calculated based on what we have on the payroll. Councilman Di Pentima responded that everyone is contributing the same to pension. However, the police and teachers have high profiles. The unions have worked with Oakland. He advised that the State has to help mandate change. For instance, legislation now caps the payout for sick leave for a public employee at \$ 15,000. The Borough will begin negotiations this year with unions. Mr. Kozak commented he has read about arbitration. The public should be aware of what costs really are and then maybe they would realize we have to fight the State. Mr. Kozak commented that he feels that down the road, people will be thankful the BAN payoff "accident" happened. Mr. Kozak commented that in the minutes of the special meeting for the defeated regional school budget, Councilman Burns commented that no one from the public attends to voice concerns. Mr. Kozak commented that is because the public is counting on elected officials to do what is best.

CLOSE TO THE PUBLIC:

On motion of Councilman Di Pentima, seconded by Councilman Pignatelli, the following portion of the meeting be closed to the public.

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

INTRODUCTION: ORDINANCE NO. 08-CODE-576

The Clerk was directed to take from table Ordinance No. 08-Code-576 and read by title for its first reading.

The Clerk then read by title Ordinance No. 08-Code-576 entitled: "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 13, SECTION 10 OF THE BOROUGH OF OAKLAND CODE, ENTITLED "WATER AND SEWER-FEE SCHEDULE"

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

BE IT RESOLVED that an Ordinance entitled, An Ordinance Amending And Supplementing Chapter 13, Section 10 Of The Borough Of Oakland Code, Entitled "Water And Sewer-Fee Schedule", be introduced;

That said Ordinance be considered for final adoption at a meeting on July 9, 2008 at the Municipal Court/Council Chambers, 10 Lawlor Drive, Oakland, New Jersey at 8:00 P.M.

That said Ordinance be published in full in The Record on or before July 2, 2008 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.

Discussion ensued. Councilman Burns commented it does not specifically indicate what the costs previously were and what it will be. This rate increase is being made

retroactive and Councilman Burns does not like to rebill residents. The minimum charge doesn't indicate what it is increasing from. Mayor Szabo explained the ordinance was prepared by the Auditor. Mr. DiMaria explained this was driven by the budget process. The amount of rents received is required to support the utility. The rates could not be determined until the budget for the utility was determined. He explained a full year of the new rates is required or it would not line up with the utility's operating budget. Councilman Burns commented that the Water Committee was not advised on what the rates would be. He will not vote on the ordinance unless he has details. He would like to know what the numbers are, how they were derived and what the percentage increase is. Mr. DiMaria explained that the water rates are increasing 5% and the sewer rates are increasing 4%. That is the least amount that is necessary to support the utility budgets. Trenton needs to review the water and sewer utility budgets and will limit the increase to only what was necessary. The State accepted all the documentation provided and the rate increase is where the State felt that we needed to be at. Councilman Burns questioned if this is based on usage and collection from last year. Mr. DiMaria responded he had to supply the State with historical data from the past three years. The sewer ordinance is simpler in concept in form than the water ordinance. The sewer rates need to be fair and proportionate between residential and commercial. Councilman Di Pentima commented that the Council has little to say in regards to the utility because the State ratifies the rates. The rates are based on the Borough being a self-liquidating utility. The State will not allow us to put in a cushion and the rates are based on the prior three years data. The increase needs to be retroactive because it won't support the utility budget. Councilman Pignatelli questioned if the State considered using surplus. Mr. DiMaria explained that the entire utility budget was looked at. The utility would be at a deficit in operations without the rate increase. The State would not allow adoption of the utility budget without a rate increase. Councilman Pignatelli explained he does not want to see an increase unless it is entirely necessary but he also doesn't want to wait and have a double-digit increase. Mr. DiMaria advised if the budget is increasing by 4 or 5%, then the rents should go up in proportion to the spending. Councilman Visconti questioned when the last increase occurred. Mr. DiMaria responded that the sewer rates were increased last year and the water rates were increased in 2004. Councilman Visconti commented that an increase of 5% over the last four years would seem to be in line with costs. Councilman Di Pentima advised there was a sewer increase last year but we knew it had to be a two-year phase in. He advised that the sewer surplus has been used up. The water utility has a surplus but the auditor has advised not to tap that surplus this year.

Councilwoman Stagg commented she is appalled at the scenario that the Finance Committee is coming up with water and sewer rates. She has been asking for a water and sewer rate increase over the last two years and was told by the Finance Committee it could not be done. Now all of a sudden, the Finance Committee is raising rates and the Water and Sewer Committee has not seen the information. She advised that maybe some rates should be different so she will move to table until the Water and Sewer Committee can discuss this. She agrees that the rates need to be increased but the Water and Sewer Committee should have been included. She moved to table the ordinance for further discussion. Mayor Szabo explained that if the introduction of the ordinance is tabled, the Council cannot adopt the budget. The rates could not be done earlier because the State needed to finish their review. Councilwoman Stagg responded she cannot support this ordinance because the Water and Sewer Committee should have been involved.

MOTION TO TABLE:

On motion of Councilwoman Stagg, seconded by Councilman Burns, the introduction of Ordinances 08-Code-576 and 08-Code-577 be tabled.

ROLL CALL: Yeas, Councilmembers Burns, Stagg.

Nays, Councilmembers DI Pentima, Marcalus, Pignatelli, Visconti.

Councilman Di Pentima explained that the sewer rates were increased last year. The water rates were not increased last year because surplus was used. He advised that the Finance Committee did not dictate the rates. The CFO and Auditor came up with the rate increase. Councilman Visconti questioned if the rates could be raised higher than what the State has mandated. Mr. DiMaria responded that this is where the rates are required to be.

INTRODUCTION 08-CODE-576

ROLL CALL: Yeas, Councilmembers Di Pentima, Marcalus, Pignatelli, Visconti.

Nay, Councilwoman Stagg. Abstain, Councilman Burns.

INTRODUCTION 08-CODE-577

ROLL CALL: Yeas, Councilmembers Di Pentima, Marcalus, Pignatelli, Visconti.

Nay, Councilwoman Stagg. Abstain, Councilman Burns.

The public hearing for final adoption will be set for July 9th.

RESOLUTION 08-129 HIRE CLERK TYPIST

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

BE IT RESOLVED that the Mayor and Council hereby appoint Terri Malone to the position of Clerk Typist at the Oakland Municipal Court at an annual salary of \$ 34,300 effective Monday June 30, 2008.

Councilman Burns read the following statement:

Mayor Szabo, I hope you will bear with me for a few minutes as this matter is going to be somewhat difficult for me. I will not be voting on this resolution, but I want everyone, especially the public, to know that it has nothing directly to do with Terri Malone. I don't know Ms. Malone, but I'm sure she will do a good job or Judge Conte would not have recommended her appointment.

In December of last year, the Borough advertised for a Deputy Court Administrator. A current Borough employee and I both applied for the position and were the only two applicants. When I sent my cover letter and resume to the then Borough Administrator and Municipal Court Judge, I went out of my way to indicate that I did not expect or want any special consideration as a member of the governing body. I simply wanted to be given the same consideration that any other applicant would receive based on my background, especially my professional experience and abilities. I also knew that, if I was selected for this position, I would have to resign from the Council, which would be a decision that I would then have to make.

Upon being interviewed for the position, Judge Blum told me that, although I had no direct experience as a Deputy Court Administrator, I was otherwise certainly well qualified for the

position. However, before Judge Blum could make an official recommendation, the governing body decided to wait until a new Borough Administrator was appointed before proceeding further. The governing body then authorized and I supported the hiring of Terri Malone to provide temporary help in the court. Although I had volunteered to work in the position at no cost for a limited period of time, the Borough Attorney advised the governing body that I could not work in the court even on a temporary basis unless I resigned from the council, which I didn't feel I could do with no guarantee of being hired for the position.

I continued to wait for a decision on the selection of a candidate for this position. In the interim, in addition to hiring a new Borough Administrator, the governing body also replaced Judge Blum with Judge Conte. After waiting a while longer, I sent additional letters to the new Borough Administrator and the new Municipal Judge again indicating that I was still very interested in the position and that I didn't expect or want any special consideration. Coincidentally, at the same time, Judge Conte also sent a letter to the Borough recommending the hiring of Ms. Malone. Apparently Judge Conte had never been advised that there were two candidates who had formally applied for the position. When he received my letter, he retracted his recommendation and went to setup appointments to once again interview the candidates. However, the other candidate had decided to withdraw her application so I was the only candidate whom he interviewed for the position. Judge Conte also indicated that, although I didn't have any direct experience as a Deputy Court Administrator, I was well qualified based on my background and experience.

Although I was the only applicant for the position, Judge Conte has decided to recommend Ms. Malone for the position of Deputy Court Administrator even though the resolution lists the position as a clerk/typist. I can somewhat understand Judge Conte's position in that training another new employee at this time might not be in the best interest of the court. However, I don't believe that is fair to me as I was the only applicant for the position and Ms. Malone was only hired as a temporary until the position was filled.

Since the Borough has been paying the cost of temporary help rather than the normal salary of a Deputy Court Administrator for several months, I believe they could have accommodated the situation by continuing to pay for the temporary help for a few more months while I was being trained for the position. With my experience and background, I believe I would have learned the position in a relatively short time.

So, I don't believe that I have been treated fairly in this matter. I also don't believe that as a member of the borough council, I have relinquished any of the rights that any other citizen of this great country has. So, although I don't like doing so, especially as a member of the borough council, I will be contacting civil service and the EEOC to see if I might be entitled to some legal remedy for this situation. If necessary, I may also seek private legal counsel to help determine if I have been discriminated against in this matter. Based on this decision, I can not jeopardize my position by voting to approve this appointment. However, I do wish Terri Malone success in the position, which should be as a Deputy Court Administrator, as recommended by Judge Conte, rather than as a clerk typist.

Mayor Szabo called for a roll call:

ROLL CALL: Yeas, Councilmembers Di Pentima, Marcalus, Pignatelli, Visconti.
Nay, Councilwoman Stagg. Not Voting: Councilman Burns.

RESOLUTION 08-130 ADOPTION OF BUDGET

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

(see attached)

Councilman Burns commented that the Finance Committee, Auditor and Borough Administrator put a tremendous amount of effort into this budget. However, since the rest of the Council was not involved in the budget, Councilman Burns will abstain from voting on this resolution because it goes along with the majority.

ROLL CALL: Yeas, Councilmembers Di Pentima, Marcalus, Pignatelli, Stagg, Visconti.
Abstain, Councilman Burns.

RESOLUTION 08-131 RATIFY EXTENSION OF WAIVER-EDEN

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

WHEREAS, the Mayor and Council adopted a Resolution approving EDEN Oakland Realty Partners' request for a variance respecting hours of operation for construction in accordance with the project known as Oakland Crossroads; and

WHEREAS, the approval of Mayor and Council is valid, by the Resolution's terms, through June 24, 2008; and

WHEREAS, the Developer has requested the Council to grant a further 60 day extension up to and through August 21, 2008;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Borough hereby extends the variance given to Oakland Crossroads, on the same terms and conditions as stated in Resolution dated June 11, 2008, through August 21, 2008.

Councilwoman Marcalus commented that the Police Department and Zoning office were supposed to provide comments before the Council approves the extension of waiver. Mr. Kunze advised that the Police Department and Construction Department responded that there were no problems with the project so far. Councilwoman Marcalus questioned what the hours were. Mr. Kunze advised this provided for evening and Saturday hours.

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

RESOLUTION 08-132 RATIFY WAIVER OF FEES-OLPH

The Borough Attorney advised the Councilmembers who recused themselves on this matter at the last meeting that there is not a conflict and therefore, they can vote.

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

WHEREAS, Our Lady of Perpetual Help Church, a non-profit organization, is undergoing a renovation project and has requested waiver of building permit fees;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the municipal portion of the permit fees be waived for the OLPH Church renovation project.

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

RESOLUTION 08-133 AUTHORIZE LEASE MODIFICATION AGREEMENT-SPRINT

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

WHEREAS, Sprint Spectrum, L.P. entered into a lease with the Borough of Oakland dated September 24, 2002 for premises located at the rear of Thornton Road, known as Block 3204, Lot 7.01; and

WHEREAS, Sprint Spectrum, L.P. has requested a modification of the lease to include an additional 595 square feet; and

WHEREAS, negotiations have ensued between the Borough of Oakland and Sprint Spectrum; and

WHEREAS, the Borough of Oakland and Sprint Spectrum have agreed to enter into a lease Modification Agreement (copy attached) setting forth the terms of their agreement;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Mayor and Council as follows:

1. The Mayor and Borough Clerk are hereby authorized to execute the Lease Modification Agreement between the Borough of Oakland and Sprint Spectrum.
2. A certified copy of this resolution shall be provided to Sprint Spectrum.

Councilwoman Stagg commented that the Water and Sewer Committee was proposing a water pump station be put in the same area that Sprint is proposing to put their equipment. She asked if this could be tabled until the Water and Sewer Engineer could look at this.

MOTION TO TABLE:

On motion of Councilwoman Stagg, seconded by Councilman Burns, Resolution 08-133 be tabled until the meeting of July 9, 2008.

ROLL CALL: Yeas, Councilmembers Burns, Marcalus, Pignatelli, Stagg, Visconti.
Nay, Councilman Di Pentima.

RESOLUTION 08-134 AMEND CAPITAL BUDGET

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

(see attached)

Mayor Szabo commented that the Council is doing this resolution to rebudget money in order to move forward on capital projects for the Skyview treatment plant. Councilman Di Pentima explained that this money was cancelled from an old bond ordinance and is being reappropriated.

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

RESOLUTION 08-135 AUTHORIZE NJDOT GRANT APPLICATION PAGE DR. SEC. 3

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

WHEREAS, the Borough is desirous of applying to the NJDOT for a 2009 Road Improvement Grant for Page Drive Section 3; and

WHEREAS, Boswell McClave Engineering has the expertise and knowledge necessary to prepare the application through NJDOT SAGE by the deadline of June 20, 2008;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Oakland formally approves the grant application for the above-stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2009-Oakland Borough-00259 to the New Jersey Department of Transportation on behalf of the Borough of Oakland.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Borough of Oakland and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

My signature and the Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

Mr. Kunze explained that the Council did a resolution for this already. However, the Borough has received notification from the DOT that they wanted the resolution in a new format. Borough Engineer Tichacek commented that the application was already submitted to the State but the State wants specific wording in the resolution.

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

RESOLUTION 08-136 APPOINT MUNICIPAL REPRESENTATIVE

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

WHEREAS, the Borough of Oakland has entered into a Cooperative Agreement with the County of Bergen as provided under the Interlocal Services Act N.J.S.A. 40A:8-1 et.seq. to participate in the Bergen County Open Space, Recreation, Farmland and Historic Preservation Trust Fund; and

WHEREAS, said Agreement requires that one municipal representative be appointed by the governing body of the community to be part of the Open Space Trust Municipal Park Improvement and Land Acquisition Program Regional Committee for the term of one year coinciding with the fiscal year July 1, 2008 through June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Oakland hereby appoints Councilwoman Elizabeth Stagg as its representative to participate on the Open Space Trust Municipal Program Regional Committee.

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

INTRODUCTION: ORDINANCE NO. 08-CODE-574 OPEN SPACE REFERENDUM

The Clerk was directed to take from table Ordinance No. 08-Code-574 and read by title for its first reading.

The Clerk then read by title Ordinance No. 08-Code-574 entitled: "AN ORDINANCE AUTHORIZING BINDING MUNICIPAL REFERENDUM ON CONTINUATION OF AN ANNUAL LEVY FOR OPEN SPACE TRUST FUND"

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

BE IT RESOLVED that an Ordinance entitled, An Ordinance Authorizing Binding Municipal Referendum On Continuation Of An Annual Levy For Open Space Trust Fund", be introduced;

That said Ordinance be considered for final adoption at a meeting on July 9, 2008 at the Municipal Court/Council Chambers, 10 Lawlor Drive, Oakland, New Jersey at 8:00 P.M.

That said Ordinance be published in full in The Record on or before June 29, 2008 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.

Councilwoman Stagg commented that the open space trust fund has done a world of good for Oakland. She hopes that it will continue. Mayor Szabo commented that the term should be for five years. Councilman Burns wanted to have the current assessment included in the interpretive statement. Councilwoman Stagg commented this question is for the people to decide and not the Council.

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

INTRODUCTION: ORDINANCE NO. 08-BOND-575 SEWER CAPITAL

The Clerk was directed to take from table Ordinance No. 08-Bond-575 and read by title for its first reading.

The Clerk then read by title Ordinance No. 08-Bond-575 entitled: "AN ORDINANCE OF THE BOROUGH OF OAKLAND, IN THE COUNTY OF BERGEN, NEW JERSEY PROVIDING FOR VARIOUS IMPROVEMENTS TO THE BOROUGH'S SEWER UTILITY AND APPROPRIATING \$232,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$ 232,000 IN BONDS OR NOTES OF THE BOROUGH OF OAKLAND TO FINANCE PART OF THE COST THEREOF"

On motion of Councilwoman Stagg, 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 Of The Borough Of Oakland, In The County Of Bergen, New Jersey Providing For Various Improvements To The Borough's Sewer Utility And Appropriating \$232,000 Therefor And Authorizing The Issuance Of \$ 232,000 In Bonds Or Notes Of The Borough Of Oakland To Finance Part Of The Cost Thereof", be introduced;

That said Ordinance be considered for final adoption at a meeting on July 9, 2008 at the Municipal Court/Council Chambers, 10 Lawlor Drive, Oakland, New Jersey at 8:00 P.M.

That said Ordinance be published in full in The Record on or before June 29, 2008 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, Di Pentima, Marcalus, Pignatelli, Stagg, Visconti.

FINAL PUBLIC HEARING: ORDINANCE NO. 08-CODE-573

The Clerk was directed to take from the table Ordinance No. 08-Code-573 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE REVISING, AMENDING AND REENACTING PARAGRAPHS 1 THROUGH 14 OF ORDINANCE NO. 07-CODE-562 TITLED "THE CODE OF THE BOROUGH OF OAKLAND, COUNTY OF BERGEN, STATE OF NEW JERSEY, ENTITLED "SALARIES OF MUNICIPAL EMPLOYEES"

OPENED FOR PUBLIC DISCUSSION:

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

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

No comments made.\

CLOSED FOR PUBLIC DISCUSSION:

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

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

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

BE IT RESOLVED that an Ordinance entitled, An Ordinance Revising, Amending And Reenacting Paragraphs 1 Through 14 Of Ordinance No. 07-Code-562 Titled "The Code Of The Borough Of Oakland, County Of Bergen, State Of New Jersey, Entitled "Salaries Of Municipal Employees", 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, Di Pentima, Marcalus, Pignatelli, Stagg, Visconti.

WORK SESSION:

SMOKING ORDINANCE:

Councilman Visconti asked that this be carried to the next meeting. He had been asked by the Municipal Alliance to bring forth a smoking ordinance for those under age 19. Councilwoman Marcalus has researched and found sample ordinances. However, the Council needs more time to review these sample ordinances. Councilman Burns commented that a number of ordinances are related to restriction to restriction of smoking at all fields and parks. The Recreation Commission is going to recommend the Council consider limiting smoking at the Recreation complex.

COUNTYWIDE EMERGENCY NOTIFICATION:

Mr. Kunze commented that the letter from the County seemed to indicate that if the County OEM continued the services, there would be no charge. The County went out to bid and got a new vendor. The Borough now has the ability to work directly with the vendor to do reverse 911 calls at a per call charge. The Borough can also choose to have the County OEM run the program at a per call charge. The cost is the same to the same to the Borough either way. Mr. Kunze recommended doing it in-house which gives more control. Councilman Pignatelli agreed with Mr. Kunze about having more control if the program is done in-house. Mayor Szabo asked if OEM Coordinator Roy Bauberger wanted to change. Mr. Kunze responded he has not spoken to him directly. Mayor Szabo asked him to speak with Mr. Bauberger. Councilman Burns commented this new firm is the one that had a glitch in the system. There should be something in the agreement that states if calls are erroneously made, there is no charge to the Borough. Mr. Kunze advised that the County has not executed the final contract yet with the vendor. Mayor Szabo advised he would like to hear from Roy Bauberger. Personally, he likes the idea of being able to manage the system. He advised that Roy should give a recommendation and then the Council can proceed.

LETTER FROM SENATOR O'TOOLE-COAH:

Mayor Szabo advised that Senator O'Toole is trying to get a handle and cap on the COAH numbers so towns who are basically built out are not forced with growth. Senator O'Toole is trying to reign in COAH to the extent he can. Councilman Burns commented that he thinks the Council should consider a resolution to support Senator O'Toole's legislation. The Senator had advised that five-year old aerial photographs were used in the study and land that was included as buildable space should not have been included. Mayor Szabo advised that when the bill is introduced, the Council can do a resolution. Councilman Di Pentima questioned what happens for towns that have no open space. Mayor Szabo advised that COAH projected growth for municipalities. Theoretically the towns that have no growth should have a smaller share. However, the numbers are off so the towns are getting penalized. Municipalities have to fight with COAH to show there is no room for growth. Councilman Di Pentima commented that the burden of proof then becomes the municipality's cost. Councilwoman Stagg advised that if COAH does not agree with the municipality, they are forcing the municipality to rezone. Councilman Di Pentima questioned if COAH could force Oakland to use land that we are preserving. Mayor Szabo responded they cannot touch open space.

LETTER FROM SENATOR O'TOOLE-BUDGET ALTERNATIVE:

Councilman Burns commented that someone should contact Senator O'Toole to see if he is looking for communities to oppose the State budget as adopted. He got the impression that the Republicans are still pushing for changes.

MODEL DCRP ORDINANCE:

Mr. Kunze advised that last year legislation was adopted to make changes to the pension regulations. Some positions such as elected officials as well as some appointed officials must join the DCRP. The State wants municipalities to adopt an ordinance specifying those positions. It applies mostly to Department Heads. However, there are exemptions for any person holding certifications. There are also exemptions if someone is already in PERS and there is no break in employment of two years or more. Mr. Kunze is waiting for clarification from the Labor Attorney on the positions of Library Director and Court Administrator. An ordinance will be prepared for introduction on July 9th.

PRELIMINARY FLOOD DAMAGE ASSESSMENT:

Mayor Szabo advised that the Borough needs a plan. Mr. Tichacek advised that to prepare a mitigation plan for the river is an extensive project. He advised that there needs to be a scoping session with FEMA and the DEP to get their input on what is needed for the plan. That would allow Boswell to prepare a better proposal. Councilman Di Pentima questioned what the cost of the plan will be. Mr. Tichacek advised the plan will cost between \$ 50,000 and \$ 100,000. Mayor Szabo advised that the Borough needs to have a plan in order to access funding for the project. Councilwoman Stagg commented she thought that Oakland is part of the County's plan. Mayor Szabo advised that the County plan addresses Oakland but to the specificity needed to address the problems such as bank stabilization. Mr. Tichacek responded that we have to look river-wide for a mitigation plan and not just at one area. Councilwoman Stagg commented that she has no objection to the \$ 2-3,000 level of effort but hopes to be included in discussions with Roy Bauberger before the plan goes further. Mayor Szabo commented that no one is helping the Borough because we don't have a mitigation plan. A resolution will be placed on the July 9th agenda to authorize Boswell.

USE OF COAH TRUST FUND:

Mayor Szabo advised that the State is now allowing municipalities to use the COAH trust fund money to prepare the third round plan. The Borough should take advantage of this opportunity and we have already engaged Burgis Associates to do the plan. A resolution will be placed on the July 9th agenda.

COUNCIL REPORTS:

Councilwoman Marcalus: The DPW made honorable mention as one of the top 5 DPW departments in Bergen County in a poll in the Record newspaper. She congratulated the DPW.

Councilman Visconti: The Library is ready for its summer program and activities. On September 20th, there will be DooWop show to benefit the Library Foundation. Councilman Visconti announced that the new Portobello Restaurant opened and it is a spectacular place.

Councilwoman Stagg: She congratulated and thanked Borough Administrator Richard Kunze and his assistant Debbie Krebs for their efforts to get out all the grant applications due this week.

Councilman Burns: The Shade Tree purchased trees to be planted in the Borough right-of-way. There may be trees left if any resident is interested. The Recreation Commission held a meeting last night. Regarding background checks, there was an entry in the budget for that item.

However, there are two problems: the police don't do the background checks anymore and we need to find a firm that accepts Borough payment. Mr. Kunze will look into this when the Police Chief returns. Councilman Burns brought up the tennis courts. He advised that Roger Marchese has proposals and Mr. Kozak has proposals. He suggested maybe they will be able to meet with the Borough Engineer. Councilman Burns spoke about lights around the Recreation complex. They are old style lights. There may be a need for lights in the entire complex. There is also a problem with a number of burnt out bulbs. Mr. Kunze advised that the DPW has gotten a proposal for rental of a bucket truck at \$ 1,600 because the Fire Department's ladder truck is not available. Mr. Kunze has given authorization for the rental and use of Borough personnel to change the lights. We are trying to get this completed prior to the July 4th holiday. Councilman Burns advised that the Recreation Commission would like the Mayor and Council to consider a no smoking ordinance at the Recreation complex.

Councilman Di Pentima: advised that the Communications Commission did not meet. There has been an escalation in printing and postage costs for Crossroads so the Communications Commission is trying to determine if it can cut back on some costs. The carnival will be held on June 26th, 27th and 28th and the fireworks will be held on June 28th. He advised that Public Events Chairman Bob Fabrizio worked hard to find a new vendor for the rides and every night will be bracelet night. Councilman Di Pentima advised that all the booths are manned by local organizations.

Councilman Pignatelli: attended the Board of Health meeting. Board secretary, Karin Dubowick is doing an excellent job in getting information to the public. Councilman Pignatelli commented that he received a letter from a concerned resident regarding the condition of the bathrooms at the Recreation Field. He suggested that perhaps Councilman Burns can bring this to the Recreation Commission. Councilman Burns responded that this was discussed at the Recreation meeting last night. The cleaning firm goes in three times per week to check supplies and clean the bathrooms. The Recreation Commission is in the process of installing a new ceramic floor and locks on the bathrooms. The problem is that it is a public restroom. It can be cleaned in the morning and then be filthy by the afternoon. Councilman Pignatelli commented that during the heavily used season, it should be cleaned more. Councilman Burns responded that would have to be put in the contract. There is also no cleaning done on weekends when a lot of events occur at the Recreation complex. Councilman Pignatelli suggested that we look at the cost of an employee to do the cleaning or inquire as to the cost to add Saturday cleaning to the contract. Councilwoman Marcalus advised she asked for a meeting with Assistant DPW Superintendent to discuss this issue. Councilman Burns commented he would like to be invited to the meeting. Mr. Kunze advised he would be meeting with Mr. Marcucilli as well. We could make sure there are enough supplies in the bathrooms effective immediately.

Councilman Burns advised that there are new flower pots donated by Larry Levine. Councilwoman Marcalus had mentioned that several weeks ago. She thanked Larry Levine again for donating the flower pots and flowers.

BILLS TO BE PAID:

On motion of Councilman Di Pentima, seconded by Councilwoman Stagg, 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, Stagg, Visconti.

MEETING ADJOURNED:

On motion of Councilman Di Pentima, seconded by Councilman Visconti, the meeting be adjourned at 10:18 pm.

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

Lisa M. Duncan, Borough Clerk
July 23, 2008

Mayor John P. Szabo, Jr.

Date Approved