

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

MOVE TO EXECUTIVE SESSION:

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

Discussion ensued over litigation with Hill International as well as a potential litigation matter.

Mayor Szabo entered the meeting at 7:25 pm.

CLOSE EXECUTIVE SESSION:

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

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

MEETING CALLED TO ORDER: By Mayor Szabo at 7:48 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. Absent: Councilmembers Stagg, Visconti. 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 advised there will be a ceremony in Vet's Park tomorrow at 10:45 am in honor of Veteran's Day.

APPOINTMENT TO THE OAKLAND VOLUNTEER FIRE DEPARTMENT:
On motion of Councilman Pignatelli, seconded by Councilman Di Pentima, the appointment of Tyler LeRoy to the Oakland Volunteer Fire Department be approved.

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

Chief Sondervan advised there is family tradition Tyler's grandfather was a member of the Wyckoff Fire Department, his uncle is a former Chief in Wyckoff and his father is going to be an Assistant Chief for the Oakland Fire Department.

Mayor Szabo advised that volunteers are so important to the community. The volunteers are the heart and soul of the community.

PROCLAMATION: OAKLAND WOMAN'S CLUB

Mayor Szabo read the following proclamation in honor of the Oakland Woman's Club 55th Anniversary:

WHEREAS, we are gathered here tonight to pay tribute to the Woman's Club of Oakland, Inc. which is celebrating its 55th Anniversary; and

WHEREAS, the Woman's Club of Oakland is a non-political and non-sectarian organization that serves the Borough of Oakland by promoting education, supporting public welfare and striving for a higher moral and social standard; and

WHEREAS, in promoting education, the Woman's Club sponsors a Junior High School Student to attend the Girl's Career Institute at Douglass College; it also awards one Scholarship to a graduating High School Student; and

WHEREAS, in their civic contribution, the Woman's Club annually donates funds to Camp Sunshine/Snowflake, has made donations to the Oakland Public Library, names streets in the Borough, organizes the Woman's Club of Oakland Woman of the Year Award, and have been

past contributors through their Community Improvement Project to the Recreation Fields and the Danny Hughes Playground; and

WHEREAS, monthly, members volunteer at the Community Health Clinic. During the Holiday Season and on Valentines Day, residents of the New Jersey Veteran's Home in Paramus receive greeting cards, the Eastern Christian Health Care Center receives home baked cookies for Easter, stamps are collected for the Jewish War Veteran's Organization, and aluminum tabs are collected for Ronald McDonald House; and

WHEREAS, during Thanksgiving and Christmas, the members collect funds to purchase "holiday" baskets. The baskets are packed with the donations of food received, and the decorated baskets are then delivered to the families of Oakland in need. In addition, the Woman's Club co-sponsors and coordinates the ever-popular "Breakfast with Santa".

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Oakland wish to extend their heartfelt congratulations and best wishes to the members of the Oakland's Woman's Club on their 55th Anniversary. The Mayor and Council, on behalf of the Children, Young Adults, Families and Senior Citizens of the Community, would also like to recognize and thank the members of the Oakland Woman's Club for their individual time and efforts. The Community is greatly enhanced by your generosity and contributions.

Woman's Club President Cheryl Piccoli thanked the Mayor and Council for their recognition. She is proud of the Club's contributions to the community.

PRESENTATION ON HIGHLANDS CONFORMANCE:

Mayor Szabo advised that whether to opt in or opt out is a major policy decision for the Council. This is being funded by a grant from the State of New Jersey. The Borough is also performing a TDR analysis which is being done with a State grant.

Steve Lydon of Burgis Associates advised that the Highlands Act of 2004 defined the boundaries of the Highlands region. Oakland is located within the Highlands region. There are established boundaries of the planning and preservation area. Oakland has 2622 acres in the preservation area and 3000 acres in the planning area. 53% of the Borough is in the planning area. The area is north of Long Hill Road and east of the Ramapo River. The Highlands Council produced a regional master plan. On December 8th, Oakland, along with other towns and counties in the preservation area, is required to adopt a resolution to conform its planning and land use documents to the Highlands regional master plan for the preservation area. The preservation area is intended to preserve large areas. It is critical to the Highlands to protect the core characteristics and aesthetics. The preservation area has strict requirements for development. The planning area talks about economic development. The Mayor and Council will have to make a decision whether they want to conform in the planning area as we have to in the preservation area. Oakland is mostly developed. The build-out analysis shows there is very little development left. Mr. Lydon spoke of the limited availability left for individual septic. There is limited land available for future sustainable growth.

By December 8th, Oakland must adopt a resolution to conform to the preservation area. The Borough has time to make a decision on planning area conformance. Mr. Lydon advised that the decision on planning areas are reversible. If the Borough is going to comply, there should be a Whereas clause included in the resolution that acknowledges that the decision can be reversed. If the Borough conforms, the Borough will have access to the property tax stabilization fund.

Mr. Lydon advised that the Borough's affordable housing plan is due June 8th. The Highlands build out analysis shows 16 units of growth share and future septic systems without counting exemptions. Affordable Housing counts growth share of 20% of market rate growth. If there are 16 units available for growth, 3.2 would be for affordable housing. The Borough would still be responsible for development between 2004 and 2008. If the Borough decides to conform to the Highlands, it will help adjust prior round obligations. If the Borough doesn't comply, the Borough will have prior round units of 220 plus 138 prospective growth share units plus the development from 2004 to 2008. Mr. Lydon advised that was the tipping factor for some municipalities who decided to conform. Mr. Lydon reiterated that the Borough would need 3.2 growth share units if it conforms to the Highlands and 138 units if it goes with COAH. Mayor Szabo advised that the number can be altered through a vacant land adjustment. Mr. Lydon responded it could be altered if the Borough opts in with the Highlands. Councilman Pignatelli commented that the Borough land cannot sustain an additional 358 units. Mr. Lydon responded that the Highlands is also saying that. However, COAH says the Borough can find the land. Mayor Szabo commented he would rather deal with conformance than with COAH. Councilwoman Marcalus asked if COAH would back off. Mr. Lydon explained that COAH had to sign an agreement with the Highlands Council for Highlands municipalities. Under the Highlands, the Borough can send up to 50% of its affordable housing obligation out of the Borough for a cash contribution. If the Borough does not opt in, it must address all affordable housing obligations in Oakland.

Mr. Lydon spoke of TDR's and advised that the Borough might want to receive development for the downtown area. He commented that the one thing that held back the downtown development is a lack of sewers. The Borough has an opportunity to work with the Highlands Council to sewer the downtown in a limited capacity. Councilwoman Marcalus asked the reasoning of the towns who rejected conformance. Mayor Szabo explained that they didn't want to deal with another bureaucracy. Mr. Lydon commented that Riverdale rejected conformance but Mahwah opted to conform. Mayor Szabo asked what specific actions need to be taken for conformance. Mr. Lydon responded that the Borough will have to change the Master Plan, adopt a Natural Resource Inventory and add a Highlands Element to the Master Plan. If the Borough chooses to opt in for the Planning area, there are no additional documents required. There will just be an expanded scope of documents.

Councilman Pignatelli commented that the Board of Health discussed the septic management ordinance. He questioned if the Borough is required to implement the ordinance. Mr. Lydon responded that the Borough must have an ordinance and the ordinance must be implemented by the health officer. Councilman Pignatelli voiced concern because the ordinance requires every septic to be pumped once every three years and to be inspected. Mr. Lydon advised that one of the options covers the entire town and one option affects only a subset of the town. Councilman Pignatelli commented that it was his understanding that the Borough is not required to implement the ordinance. Mr. Lydon responded that he provided two models from the Highlands Council. Mr. Kunze commented that he has seen a model septic ordinance that requires pumping and this model which requires inspection as well. He asked for clarification. Councilman Pignatelli commented that the Borough could need additional personnel to track inspections. That would not be fair to the taxpayers. Mr. Lydon will check into the ordinance and get back with an answer. Mayor Szabo advised that the discussion on conformance will continue at the Planning Board level.

OPENED FOR PUBLIC DISCUSSION:

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

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

Vivian King, 113 Hiawatha Blvd, congratulated Councilmembers Pignatelli and Visconti on winning the election. She advised that the bathrooms at the Rec building are looking better. She asked if the bathrooms by the roller hockey rink could get hand sanitizer like the ones by the D'Elia building. She thanked everyone for their help with the bathrooms.

Joe Gaul, 79 McNamee Street, thanked the Police and First Aid Squad for their response when he fell.

Louis Keel, 101 East Oak Street, asked if there was a way to paint the platforms on the playground with a bright paint so his grandson who is almost blind can distinguish the platform from the ground. Mayor Szabo responded that the Borough can use CDBG money for ADA compliance. He will discuss this with the Recreation Commission and try to get funding for next year. Mr. Kunze commented that it might be a nominal expense. Mayor Szabo advised that the Borough can do intermediate steps but will have to address larger steps with CDBG.

CLOSED FOR PUBLIC DISCUSSION:

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

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

REMOVE FROM TABLE:

On motion of Councilman Di Pentima, seconded by Councilman Pignatelli, the minutes from the Mayor and Council meeting of October 14, 2009 be removed from the table.

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

APPROVAL OF MINUTES: OCTOBER 14, 2009

On motion of Councilman Di Pentima, seconded by Councilman Burns, the minutes from the Mayor and Council meeting of October 14, 2009 be approved.

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

RESOLUTION 09-240 AUTHORIZE PURCHASE FORD CROWN VICTORIA

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 is in need of purchasing a total of two (2) police cars; and

WHEREAS, the Police Department wishes to purchase one (1) Ford Crown Victoria police car; and

WHEREAS, Cherry Hill Winner Ford of Cherry Hill, NJ has State Contract No. A72467 for the Ford Crown Victoria as per the specifications desired at a cost of \$20, 729.00; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account # 9-01-25-240-051;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Purchasing Agent is hereby authorized to issue a Purchase Order to Winner Ford of Cherry Hill for the purchase of one (1) Ford Crown Victoria police car at a cost of \$20, 729.00.

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

RESOLUTION 09-241 AUTHORIZE PURCHASE 2010 CHEVROLET IMPALA

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 is in need of purchasing a total of two (2) police cars; and

WHEREAS, the Police Department wishes to purchase one (1) 2010 Chevrolet Impala police car; and

WHEREAS, Chas S. Winner/Northeast Auto Outlet of Cherry Hill, NJ has State Contract No. A72469 for the Chevrolet Impala as per the specifications desired at a cost of \$19,550.00; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account # 9-01-25-240-051;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Purchasing Agent is hereby authorized to issue a Purchase Order to Chas S. Winner/Northeast Auto Outlet of Cherry Hill for the purchase of one (1) 2010 Chevrolet Impala police car at a cost of \$19,550.00.

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

RESOLUTION 09-242 ACCEPT AUDIT

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

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for 2008 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations"; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations", as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Oakland hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Councilman Di Pentima explained that the Council received the 2008 audit. There were 17 audit comments-some were new ones. In fact, a meeting was held tonight with one of the groups to address the audit comments. There will be follow-up meetings to address the other comments. There was good news with two key financial drivers for the health of the Borough. The interfund balance was drastically reduced. It is down from \$ 1.3 million to \$ 200,000. That \$ 200,000 represents the Open Space Trust money which will always be there because of a timing issue. The CFO has done a tremendous job consolidating and cleaning up bank accounts. He has closed seven old bank accounts already. Councilman Di Pentima explained that the surplus balance has been restored above the \$ 1 million level. Hopefully, with good management and the work of the Administrator and CFO, the surplus level will continue to grow. The more surplus the Borough has, the healthier the Borough is financially. That translates into lower borrowing costs. Mr. Mangin advised that a bond buyer would look at the audit for surplus and interfunds and the Borough's cash position which is strong. Mr. Mangin is overall happy with the audit although there is always room for improvement. This audit would show the Borough is in a strong financial position.

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

RESOLUTION 09-243 AUTHORIZE AGREEMENT-ADA COMPLIANCE

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 NJDOT requires ADA compliant handicap ramps along all roads repaired with NJDOT funds; and

WHEREAS, Bergen County road projects utilize NJDOT funds; and

WHEREAS, Bergen County claims that municipalities are responsible for improvements in the right-of-way of county roads; and

WHEREAS, Bergen County will only repave county roads within Oakland if we make any necessary ADA improvements; and

WHEREAS, the County will pay for any capital costs for the ADA improvements and the Borough will be responsible for any engineering and traffic control costs; and

WHEREAS, the Borough Council believes that this arrangement is in the best interest of the community;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council hereby authorizes the Mayor to execute the 2009 County Road Resurfacing Agreement, as required by the County.

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

RESOLUTION 09-244 AUTHORIZE PHASE 1 ASSESSMENT-HERITAGE HILLS

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 is in the process of acquiring the 40 acre tract commonly referred to as "Heritage Hills"; and

WHEREAS, a portion of the purchase price will be reimbursed by the Green Acres Division of the New Jersey Department of Environmental Protection; and

WHEREAS, the Borough not only must comply with Green Acres environmental regulations, but also must satisfy its own environmental due diligence with respect to the premises; and

WHEREAS, the Borough has received a proposal from PetroScience dated October 22, 2009, in the amount of \$2,500 to conduct a Phase I Environmental Study, compliant with Green Acres regulations;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland, that the Borough does hereby retain the services of PetroScience, in order to prepare a Phase I Environmental Study with respect to the aforesaid premises, for the total sum of \$2,500, in accordance with its proposal dated October 22, 2009, which is annexed hereto and made a part hereof; and

BE IT FURTHER RESOLVED that the aforesaid award of contract is one for professional services, for which no public bidding is necessary or required; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified the existence of funds necessary in order to pay for the aforesaid services; and

BE IT FURTHER RESOLVED that the Mayor is authorized to execute an agreement with PetroScience for the aforesaid purpose; and

BE IT FURTHER RESOLVED that the Borough Clerk is directed to maintain a copy of this Resolution and the contract with PetroScience in her offices, for public inspection.

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

RESOLUTION 09-245 AMEND ANNUAL SALARY RESOLUTION

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 Council has received a request for a pay increase for Pat Burns, Deputy Tax Collector; and

WHEREAS, Ms. Burns did not receive an increase in 2007; and

WHEREAS, the amount requested is fair and equitable;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council hereby authorize an increase to Ms. Burns' salary from \$ 30 per hour to \$ 32 per hour effective January 1, 2009.

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

INTRODUCTION: ORDINANCE NO. 09-CODE-610 MUNICIPAL HOUSING LIAISON

The Clerk was directed to take from table Ordinance No. 09-Code-610 and read by title for its first reading.

The Clerk then read by title Ordinance No. 09-Code-610 entitled: "AN ORDINANCE SUPPLEMENTING CHAPTER 18 OF THE BOROUGH OF OAKLAND ENTITLED "AFFORDABLE HOUSING" SO AS TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF ADMINISTERING OAKLAND'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT"

On motion of Councilwoman Marcalus, 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 Supplementing Chapter 18 Of The Borough Of Oakland Entitled "Affordable Housing" So As To Create The Position Of Municipal Housing Liaison For The Purpose Of Administering Oakland's Affordable Housing Program Pursuant To The Fair Housing Act, be introduced;

That said Ordinance be considered for final adoption at a meeting on November 24, 2009 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 November 17, 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.

Mayor Szabo explained that the Borough needs someone as a point person to track Mt. Laurel compliance. The ordinance has designated the duties of the position. Councilwoman Marcalus asked the purpose of the ordinance. Mayor Szabo explained that the ordinance creates the position. Mr. Kunze advised this ordinance was based on the State's model ordinance. The municipality can choose what to do in-house as compared to hiring an outside consultant. Mayor Szabo commented that any stipend paid for the position could be funded through the affordable housing trust fund.

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

INTRODUCTION: ORDINANCE NO. 09-CODE-611 TOWING ORDINANCE

The Clerk was directed to take from table Ordinance No. 09-Code-611 and read by title for its first reading.

The Clerk then read by title Ordinance No. 09-Code-611 entitled: "AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 4-5 OF THE CODE OF THE BOROUGH OF OAKLAND-TOWERS AND WRECKERS"

On motion of Councilman Pignatelli, 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 To Amend and Supplement Chapter 4-5 Of the Code of The Borough of Oakland-Towers and Wreckers, be introduced;

That said Ordinance be considered for final adoption at a meeting on November 24, 2009 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 November 17, 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.

Councilman Pignatelli explained that this ordinance now requires background checks for towing operators, increases insurance requirements and updates fees that haven't been updated since 2000. This ordinance now protects people who are towed by the towing company.

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

FINAL PUBLIC HEARING: ORDINANCE NO.09-CODE-608

The Clerk was directed to take from the table Ordinance No. 09-Code-608 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE AMENDING AND SUPPLEMENTING THE SCHEDULES TO CHAPTER VII-TRAFFIC-OF THE CODE OF THE BOROUGH OF OAKLAND RELATING TO ONE WAY STREETS, NO STOPPING OR STANDING, PARKING PROHIBITED CERTAIN HOURS, NO PARKING, ENTRANCE AND EXITS, NO LEFT TURN, STOP INTERSECTIONS"

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Pignatelli, 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.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

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

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

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

BE IT RESOLVED that an Ordinance entitled, An Ordinance Amending And Supplementing The Schedules To Chapter Vii-Traffic-Of The Code Of The Borough Of Oakland Relating To One Way Streets, No Stopping Or Standing, Parking Prohibited Certain Hours, No Parking, Entrance And Exits, No Left Turn, Stop Intersections , 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.

FINAL PUBLIC HEARING: ORDINANCE NO. 09-CODE-609

The Clerk was directed to take from the table Ordinance No 09-Code-609 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE AMENDING AND SUPPLEMENTING THE SCHEDULES OF THE CODE OF THE BOROUGH OF OAKLAND RELATING TO ONE WAY STREETS, NO STOPPING OR STANDING, PARKING PROHIBITED CERTAIN HOURS, NO PARKING, ENTRANCE AND EXITS, NO LEFT TURN"

OPENED FOR PUBLIC DISCUSSION:

On motion of Councilman Pignatelli, 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.

No comments made.

CLOSED FOR PUBLIC DISCUSSION:

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

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

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

BE IT RESOLVED that an Ordinance entitled, An Ordinance Amending And Supplementing The Schedules Of The Code Of The Borough Of Oakland Relating To One Way Streets, No Stopping Or Standing, Parking Prohibited Certain Hours, No Parking, Entrance And Exits, No Left Turn”, 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.

WORK SESSION:

REZONING REQUEST-McCOY ROAD

Greg Meese, attorney for the estate of Salvatore Fanale, asked the Mayor and Council to consider rezoning the 40 acres behind Indian Hills High School. It is currently zoned CO-commercial- and the only access is off of McCoy Road which is a residential street. Mr. Meese advised that he has filed an application to the Board of Adjustment. The Board supports the plan but could not grant a variance because of the CO zone. The Board said that Mr. Meese must file a request for rezoning with the Mayor and Council. The Master Plan identified the property as having an inappropriate zone.

Mr. Meese explained the concept plan is for a single family residential subdivision consistent with the surrounding RA2 zone. There would be 21 single family lots. There are two lots that could hold three to four affordable housing units each. There will be one open space lot for stormwater. There will be 27 units on 40 acres of property. That would not create as much disturbance as office space would. He asked the Mayor and Council to consider the zoning for the site. Oakland has an unmet need for COAH and they would be willing to accommodate COAH units onsite. Mr. Meese also advised the property would be convenient when the Borough sells water to United Water.

Mayor Szabo commented that this is a very timely proposal. He explained to Mr. Meese that the Mayor and Council amended the ordinance a while back to require the rezoning requests to go before the Planning Board first. This is one of the few substantial tracts left in Oakland. It would be appropriate to go before the Planning Board and then the Planning Board would recommend it as part of the Housing Element to rezone the property or not. Mayor Szabo advised that a project is coming forward soon for special needs housing so the Borough will be ok in regards to affordable housing. Mr. Meese advised that before the Mayor and Council opt in with the Highlands conformance, they should get answers from Highlands and COAH. He is not sure that it is easy to get out once you opt in.

Councilman Burns asked where Mr. Meese got his information about selling water to United Water because the Borough only does that in an emergency. Mr. Meese thought Steve Lydon had indicated that information. Councilman Burns commented that Mr. Lydon had indicated in his presentation that the Highlands says the Borough has room for 16 septic. This proposal has 21 septic. Councilman Burns asked what decision was made that the property is not good for office use. Mr. Meese responded that there are environmental impacts with steep slope. There is a

lack of infrastructure to support an office building. Mr. Meese commented that if the office building had been done a year ago, it would have been a huge COAH obligation for the Borough.

Councilwoman Marcalus commented that this property came before the Planning Board with the concept from Avalon. The Planning Board said the property was not zoned correctly. She does not understand whose decision it is to rezone. Mayor Szabo responded it is ultimately up to the Mayor and Council but the rezoning must be consistent with the Master Plan and Highlands. Councilwoman Marcalus asked if the Planning Board can rezone a property. Mayor Szabo responded that the Planning Board can recommend rezoning as part of the Master Plan.

SEWER RATES:

Mayor Szabo advised that the Council discussed the sewer rates at the last meeting and the need to balance usage with fixed costs. Councilman Di Pentima advised that Mr. Mangin and Mr. Kunze worked with the Water and Sewer Committee and came up with a solid proposal. Mayor Szabo explained that this is a prospectus for 2010 and the Borough is not going to offer reductions for the 2009 sewer budget. Councilman Burns explained that the intent was to make the rates effective for the 2010 budget. He explained that with the usage fee, some people's sewer fee would go up and some would go down. It would be a nightmare to try to collect additional funds for some people for 2009 and to issue refunds to others.

Mr. Mangin explained that there was a deficit in the sewer utility in 2008. That deficit had to be raised in the 2009 budget. Mr. Mangin explained that they knew the 2008 sewer rates were not adequate and the rates had to be raised for 2009. The 2009 increase was a flat rate increase. The idea was to review the rates later in 2009 with a flat plus usage rate and to put the new rate in effect for 2010. Councilman Burns explained there would be a \$ 1000 base rate plus usage fees. Mr. Mangin explained that the Borough needs to raise enough money to run the utility. The problem was how to come up with a consumption based rate and still generate enough money to run the utility. He explained that the model for the 2010 sewer budget to be raised is \$ 400,000. There will be a base charge of \$ 1,000. There are 233 sewer accounts so the base charge will raise \$ 233,000 towards the budget. The balance of \$ 167,000 would be raised based upon consumption. The 2010 rates would be based upon usage from October 1, 2008 to March 30, 2009. The winter months were used because summer month usage for lawn sprinklers and pools do not impact the sewer system. Mr. Mangin explained that they took the winter consumption and doubled it. Then they came up with a per gallon price of \$ 10.75 per 1000 gallons after the base charge. This formula eliminates the distinction between residential and commercial. The advantage is that the sewer rate is based on the entity's own consumption. Those that use more water will pay more money. This is a consumption based system but it will raise enough money to run the sewer system. Mr. Mangin advised that the rates should be checked each year to see if consumption falls. With this new rate structure, half of sewer users will see an increase and half will see a decrease in the rate. This rate structure does satisfy all objectives. It does not penalize commercial users who do not use a lot of water. It does not reward residential customers who use a lot of water. Those that use a lot of water would see their rates go up so that the rates of those who use less water can go down. Mr. Mangin explained that this becomes a policy decision.

Councilman Di Pentima explained by using October 1, 2008 to March 30, 2009, there is a fantastic certainty for the budget for 2010. The Finance and Water & Sewer Committees would know how the 2010 revenues would shape up. Next year, the numbers could be compared to the 4th quarter of 2009 and 1st quarter of 2010. The base charge could then remain stagnant and the Council would only have to increase the per gallon charge. Councilman Di Pentima is comfortable with the \$ 1,000 base charge. It is more equitable to someone like U-Frame It who

doesn't pay much more than the base charge while Zeytinia pays more. Councilman Burns commented that we already know what the 2010 billing would be and it would be broken down to four equal payments.

Mayor Szabo explained he would open to the public just for the sewer rate discussion.

OPENED TO THE PUBLIC:

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

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

Gene Delvecchio, 101 East Oak Street and Board of Directors for Oak Crest Condo, commented that it sounds like the proposed rate change makes sense. He asked what the next step would be. Mayor Szabo explained that it is being discussed tonight in work session. The Council will need to hear from Councilmembers Stagg and Visconti on this matter. Then an ordinance needs to be done to be put in effect for 2010. Mayor Szabo warned the Council that some people will take a huge hit and the amount of decrease will depend on consumption. There will be a decrease to some people but it will not be thousands of dollars. The Borough had to have a component of predictability. This rate structure is a hybrid because there is some aspect of fixed cost and some aspect of consumption. There was a tremendous amount of work to analyze all the data.

Mr. Mangin explained that he did an analysis of the condos. The condos generate about ¼ of the revenue for the sewer utility. Of the 61 condo units, 51 would see a decrease and 10 would see an increase. After the rate change, Oak Crest will be generating less than ¼ of the revenue. Of the commercial accounts-five will see a significant increase and eight will see a significant decrease. Mr. Mangin advised that a number of residential accounts will see a significant increase in their bill. Mr. Delvicchio commented that it proves that a single person living in the condos was paying the same amount as a family of five or six people.

Councilman Burns asked that everyone review the proposal and provide feedback. He would like to introduce the ordinance by the next meeting. Mr. Mangin agreed that the ordinance should ideally be introduced at the next meeting so there would be time to make changes if needed. Councilman Burns asked if the rate is changed from \$10.75 to \$10.90, would it be substantial and need to be republished. Mr. Chewcaskie responded that it would have to be republished. He will draft an ordinance for the next meeting. Councilman Di Pentima asked Councilman Burns what is his recommendation. Councilman Burns responded he is comfortable with the information provided but that Councilwoman Stagg needs to provide input. Mayor Szabo responded he will get input from Councilwoman Stagg. Councilman Di Pentima advised that the ordinance needs to be introduced at the next meeting. He likes the model but it is a policy decision since 16 residents will receive over a 50% increase. Councilman Pignatelli commented that those residents have substantial water usage. Mayor Szabo responded that those residents can change their consumption to get rates to decrease.

Mr. Delvecchio asked when the new rates would take effect. Mr. Mangin advised this will take effect with the bills issued in February. Councilman Burns commented that there was a tremendous amount of work done on this. Mr. Kunze advised that they have been working on this since the spring by looking at historical data. They have analyzed the data that Councilman Burns provided and discussed different base rates and how to account for summer usage.

Vern Keel, 101 East Oak Street, asked for an explanation about the businesses. She questioned if the base rate was the same. Mayor Szabo responded the base rate is the same but they will pay a consumptive rate. Ms. Keel thanked the Mayor and Council for their work on this.

Mr. Mangin advised that every commercial account will pay less than they did in 2008 with this new system.

CLOSED TO THE PUBLIC:

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

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

VACATION OF EASEMENT: BLOCK 3101, LOT 8

Mayor Szabo explained that the Borough is extinguishing an easement that we don't need because the Borough owns the property. Mr. Kunze responded this is required to be done by Green Acres.

DOG AND CAT FEES:

Councilman Burns commented that he understands the recommendation to raise fees. He looked at the survey of surrounding towns provided by Mr. Kunze and Oakland would have some of the highest fees if the rates are raised. He does not think that licensing should be a money maker. The fee increase would make Oakland's fees higher than Mahwah, Wyckoff, Ho-Ho-Kus, Franklin Lakes, Allendale and Midland Park. Councilman Burns is not in favor of the size of the increase.

Mr. Kunze responded that the Borough's dog and cat license fees have not been updated in twenty years. Part of the reason was that the State controlled rates for dog licensing until 2007 when they increased the maximum rate from \$ 7 to \$ 20. He explained that Glen Rock has the highest fees because they increased their fees this year. The other towns who updated their fees did so in 2007 when the State increased the maximum. This increase would allow the Borough to cover costs for rabies clinics and licensing. The fee increase would allow the Borough to pay half of the animal control costs from the trust account. Councilman Burns commented that most of the animal control costs are not related to licensing.

Councilman Pignatelli commented that there needs to be sufficient funds in the trust account in case there is a rabies outbreak and the Borough needs to revaccinate animals. Councilwoman Marcalus commented that it is the right and duty of municipalities to update their fee ordinances. The dog and cat license fees should be updated after twenty years. Mayor Szabo explained that this is consistent with updating of fees in the building department. Councilwoman Marcalus advised she is happy to update the fees. Councilman Di Pentima advised he is going to support the increase because the fees are nominal. The Borough must effectuate the most accurate rates possible to maintain revenue. He gave kudos to Mr. Kunze and Mr. Mangin.

Councilman Burns commented that he did not say he was against an increase to the fees. He wasn't sure he saw the need to raise fees to become the second highest of the surrounding towns. The fees should not pay for animal control. Councilman Burns felt the percentage increase is relatively high and he is not in favor of raising the fees so high. Councilman Pignatelli commented that he is not sure which towns contract out for animal control and which have in-house animal control. The money collected is supposed to pay for rabies and animal control. The

maximum allowable rate was not changed by the State for twenty years. Mayor Szabo commented that it makes sense that the Council can move forward and can vote it up or down.

LABOR COUNSEL CONTRACT AMENDMENT:

Mayor Szabo commented that Mr. Kunze is alerting the Council that the contract needs to be amended and additional funds authorized. However, specifics should be discussed in Executive Session. Mr. Kunze advised that the not to exceed amount of the contract needs to be amended. In order to increase the amount, it will require a transfer to the legal budget.

CORRECTIVE ACTION PLAN:

Councilman Di Pentima advised that this is standard procedure that must be done each year in response to the audit. The plan details the 17 audit comments and the action to be taken. Some have already been addressed and most will be addressed by December 31, 2009. Mr. Mangin advised that this plan is for the 2008 audit. Although we received the audit late, most items will be addressed by the end of 2009.

NEW BUSINESS:

Councilman Di Pentima would like to freeze the budget. This is usually done October 1st but we did not need to do that this year because of the reports provided by the CFO. Councilman Di Pentima is asking to freeze the budget tonight. Councilman Burns commented that the Borough Administrator has the discretion to approve legitimate expenditures. Mr. Kunze advised he has the memo to the departments ready to go out. If the purchase is not contractual or in process already, it will not be approved. The purchase requisitions will be looked at with more judgmental eyes. Councilman Pignatelli commented that Department Heads should remind vendors that bills are due in before the end of the year. The consensus of the Council was to freeze the budget tonight.

COUNCIL REPORTS:

Councilman Pignatelli: He attended the Board of Health meeting. The Board is concerned about the Highlands septic management ordinance. Councilman Pignatelli will check whether the ordinance needs to be implemented. The Board of Health is doing a special needs assessment on the website. It is imperative that the Borough knows if someone needs special assistance in an emergency.

Councilman Di Pentima: The Communications Commission is looking for one member. Interested parties should email their resume to Councilman Di Pentima or the OCC. The Public Events Committee held the Halloween Parade and 125 kids attended. The kids had a great time. Planning is underway for the Holiday lighting ceremony to be held on December 6th at 6 pm. Councilman Di Pentima advised that the tax sale will be held on Thursday and 20 properties are on the list. He gave kudos to the Water and Finance Department on getting 145 out of 147 delinquent water bills paid.

Councilman Burns: The Shade Tree Commission got bids to take down trees and that bid was approved at their last meeting. Councilman Burns read the names of the winners of the punt, pass and kick contest.

Councilwoman Marcalus: The Planning Board will meet on November 12th. The Burgis presentation on Highlands conformance and an amended site plan are on the agenda.

BILLS TO BE PAID:

On motion of Councilman Di Pentima, 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, Di Pentima, Marcalus, Pignatelli.

Councilman Pignatelli thanked the residents for re-electing him to the Council. It is an honor to be re-elected.

MEETING ADJOURNED:

On motion of Councilman Pignatelli, seconded by Councilman Di Pentima, the meeting be adjourned at 10:23 pm.

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

Lisa M. Duncan, Borough Clerk
December 9, 2009

Mayor John P. Szabo, Jr.

Date Approved