

REGULAR MEETING OF THE MAYOR AND COUNCIL  
HELD AT THE  
MUNICIPAL COURT /COUNCIL CHAMBERS  
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY  
WEDNESDAY OCTOBER 15, 2008

MOVE TO EXECUTIVE SESSION:

On motion of Councilman Burns, 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:  
Litigation, Personnel
3. The Mayor and Council shall release and disclose to the general public the discussion and actions taken on the subject matter of the above mentioned closed session once the Mayor and Council has arrived at a final decision on the specified subject matter.

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

Councilwoman Stagg entered at 7:39 pm. Discussion ensued on library litigation and various personnel matters. No action taken.

CLOSE EXECUTIVE SESSION:

On motion of Councilman Visconti, 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 8:08 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; Brian Chewcaskie, Borough Attorney; James Mangin, Chief Financial Officer; 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.

---

OPENED FOR PUBLIC DISCUSSION:

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

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

Frank DiMaria, Borough Auditor, was in attendance. Mayor Szabo commented there has been upset and concern about the increase in sewer charges and he asked Mr. DiMaria to explain the rationale. Mr. DiMaria explained that when checking to see if the rents were adequate to support the sewer utility, he found the rents from the previous year were insufficient to support the current year. The base charge minimum for the commercial component was omitted from the previous supporting. There was an inequity between the rents the residents were paying and the rents the commercial customers were paying. Mayor Szabo explained that in order to have the budget approved by the State's Dept. of Community Affairs, the Borough needed to have the utility self-liquidating. Mr. DiMaria confirmed that the budget is subject to final review by the DCA and the utility budget must be self-liquidating. Councilman Burns commented that the commercial charge was not omitted. It was a lower rate than residential. If the commercial customer had a high water usage, the fees would be based on water usage. Some commercial customers do not put the same load on the system as the residential customers. Mr. DiMaria explained that the amount should not be based upon use. He explained it was unfair to the residents. The Borough has costs that are incurred for the utility and the only fair way to levy the cost is on a per account basis. Councilman Burns responded that the ordinance had been written with a minimum amount for commercial users. It was based on water usage for high users. Whether it is fair or not is an opinion. Mr. DiMaria responded that we are not looking at a per location basis to determine usage. The minimum needs to be apportioned among all users. Councilwoman Stagg disagreed with Mr. DiMaria. The Water and Sewer Committee will discuss restructuring to make it more equitable. Mayor Szabo commented that this issue will have to be revisited for the 2009 budget. Councilman Di Pentima commented that we must look at all three plants on a total basis. The costs are not managed separately. He would not want to see residents overburdened any more than they already are.

Edward Seed, tenant in Copper Tree Mall, owns a staffing and recruiting firm. There is one bathroom used and he barely uses the minimum water charge. Up to this point, the sewer charge has been \$ 120. The third quarter sewer charge this year went up to \$ 350. Mr. Seed commented that this is exorbitant for minimal usage. Mayor Szabo explained the Council will be debating this in the near future because the budget process has already begun for next year.

Steve Wagoner, Recreation Commission Chairman, gave a presentation on the Recreation Commission and the tennis courts. He advised that Recreation is run by volunteers and the Borough does not have a paid Recreation Department. Mr. Wagoner advised that in 1973, resident Roger Marchese advised there were cracks in the courts only five to six weeks after the dedication. At the present time, four of the six courts are closed. Mr. Wagoner advised that the lighting at the courts is inefficient. The industry standard calls for 60 footcandles and Oakland averages 13 footcandles. Mr. Wagoner advised if the courts are repositioned, it can alleviate the parking problem at the Danny D'Elia building. The added benefit to repositioning the courts is that the sun won't be in the eyes of the players in the morning and evening. Mr. Wagoner advised there are approximately 750 to 1000 people who use the tennis courts. The total of the project would be \$ 980,685 and the Borough is going to receive grant money in the amount of \$ 269,000. Mr. Wagoner advised that the Borough currently collects \$ 18,070 in tennis fees per year. The Borough should collect \$ 361,400 over the next twenty years for fees. However, Mr. Wagoner advised that he is proposing raising the fees. Mr. Wagoner advised that the sub-base on the tennis courts is the key to making the courts last. He advised that this is the time to do the project because contractors need work and the price of petroleum is down so the price of asphalt will be down. Councilwoman Marcalus commented that the courts were refurbished in the 90's and that did not work. She asked what we did in the 90's that did not work so we can avoid making the same mistake.

Maryann Gurney, 10 Lakeshore Drive, was the tennis commissioner at the time the courts were refurbished in the 90's. At the time, the proposal to reposition the courts was \$ 300,000. The Borough could not find the money so we spent \$ 170,000 and this is what has happened to the courts. She advised the Council to spend the money to do the complete project.

Borough Engineer Tichacek advised that there is substantial new sub-base proposed to be put on top of the existing base. Mr. Wagoner advised that there shouldn't be cracks if there is a substantial base. Mr. Tichacek responded that he cannot guarantee the cracks will never happen. However, the more that you do to the sub-base can substantially increase the life of the court. Councilwoman Marcalus commented she wants to make sure this doesn't happen again. Mr. Wagoner advised that the Engineer will take core samples and make recommendations.

Councilwoman Stagg commented that the \$ 922,000 price includes the special surface for the courts. Mr. Tichacek advised that the last surface that was discussed was the acrylic surface. If the acrylic surface was used, \$ 100-125,000 could be taken off of the \$ 922,000. The surface does not affect the sub-base. Councilwoman Stagg spoke about the courts at William Paterson which are made of that special surface. She is concerned with spending the extra \$ 100,000 but she would like the five-year guaranty that comes with the special surface. She asked if Mr. Tichacek were comfortable with the design without using that special surface. Mr. Tichacek responded there are ways to design the courts to guarantee that they won't crack but that depends on how much money there is to spend. The more money that is spent on the courts, the greater the chance for long-term longevity. The original bid has substantial sub-base and section work. Steve Wagoner commented that Recreation is looking to reposition the courts and put substantial sub-base.

Councilwoman Marcalus commented that a figure was given out last meeting that there would be a cost of \$ 100 per year per homeowner. She questioned what the bond market could handle today. Councilman Di Pentima responded that the \$ 100 cost per homeowner is for all the capital projects not just the tennis court project. The Borough has substantial projects to do. We are committed already to over \$ 5 million. There is a proposed \$ 4.8 million in projects to consider. He advised that the Borough will not be able to sell bonds in this market. The Borough will have to finance short-term notes. The question is what cost as a community are we willing to handle. In context of all the work that the Borough has to do, the Council has to prioritize without making a significant increase in the tax bills. Councilman Di Pentima commented that the fees collected don't support about 1000 people using the courts. His concern is balancing the entire project load of the Borough while maintaining the tax rate. Mr. Wagoner responded that there is no other area in the Borough that has the actions that the Recreation areas do.

Mr. Kunze provided a spreadsheet based on three scenarios based on permanent financing on the net amount. The spreadsheet does not take into account short-term financing. Mayor Szabo advised that he has asked the Borough Administrator and Engineer to come up with another alternative that could be a compromise to everyone. Mayor Szabo explained that Councilman Di Pentima is just reminding the Council that the capital planning has not been good over the years and the Borough is playing catch up on too many things. The tennis courts are important. The question is how does the project fit into other pieces and how can the Borough afford all the projects. One option is to not reposition the courts but give them lighting. Give the courts a strong sub-base but not the special surface. The project cost would then come down to \$661,000. Mayor Szabo commented there is a lot of merit in the argument not to the entire job but today's economy must dictate what the Borough can afford to do. He would like to see the project move forward in some form. Oakland has been very successful in getting money from the County and it would be a waste not to use this grant money.

Councilman Pignatelli commented that he looked at the alternate proposal. He does not know how this project went from the original allocation of \$ 250,000 to \$ 960,000. The Mayor's alternate proposal brings the cost down to \$ 661,000. That is still a long way from \$ 250,000. This is an expensive project at almost \$ 1 million. The Borough has capital project requests worth millions of dollars and that would cost the homeowners 100's of dollars. That would put some seniors out of town. Councilman Pignatelli commends all the volunteers for Recreation. However, the Borough cannot afford all the capital improvements that are proposed. The Council has to be fiscally prudent. We have to come up with a reasonable compromise. He questioned if the Borough needs a monolithic surface on the tennis courts because it costs almost \$ 200,000 more than the other surfaces.

Roger Marchese, 44 Manito Avenue, provided pictures of the tennis courts. He commented that people are ashamed to play on these courts. There is currently an acrylic surface on courts 1, 2 and 3 and that is the way to proceed. It is less expensive than the monolithic courts. He believes that contractors would do the project for \$ 750,000. There have been problems with the courts for too long. They are the worst in the County.

Kathy Fahey, 114 Truman Blvd and President of Sports Association, commented that there is a major issue at hand. The cost of the entire project in the 90's was \$ 300,000. The Borough spent half that amount for the courts to fail. The project is now \$ 900,000. If the Borough spends \$ 500,000, are we going to fail again? The base is very important. The Borough has to be responsible and do the courts right this time. It would also be nice to reposition the courts to get

additional parking at the Danny D'Elia building. She advised the Council not to be afraid to spend a little extra money.

Frank Monaco, 60 Thackeray, thanked the Recreation Commission and stated that volunteers have always been this town's biggest asset. In this economic time, people cannot make mortgage and car payments and it is not fair to burden them. If this Council wants to do this project, put it on a ballot so all citizens can decide. The project cost more than is budgeted for. Mayor Szabo advised that a 10% contingency is built in. The Borough can only spend what it has bonded for the project. Mr. Monaco commented that he is not saying don't spend the money but even \$750,000 is too much. If people really want the project to get done, then raise money.

Barry Sandler, 8 Hannah Road and past president of team tennis, advised that Roger Marchese has been a big help by filling the cracks in the courts. Mr. Sandler commented that when the water pipe was moved, it solved the problem. He believes that courts 1, 2 and 3 should be resurfaced and court 6 should be fixed. He did not believe there is a problem with courts 4 and 5. Councilwoman Marcalus responded that there are divots beneath the surface.

Howard Wegman, 75 Pawnee Avenue, commented that he does support the Recreation Commission and he believes the tennis courts are an important part of the Recreation facility. The courts should be maintained so that they are safe and usable. The Mayor and Council should continue to look at funds that are available and do what is best for all residents.

Michael Rose, 753 Ramapo Valley Road, would not spend \$ 700,000 to \$ 1 million to bring in \$11,000 of revenue from badge sales. He suggested that maybe the amount of courts should be reduced or the project should be scaled down.

Monica Van Vliet, 10 Kingsley Evans Circle and current President of team tennis, commented that team tennis is a very successful program. They have had to turn people away because the courts are bad. The courts need to be totally redone. The courts are an embarrassment.

Mayor Szabo commented that this has been an unprecedented hearing. The Council has received a lot of good information. The Council is struggling with budgetary matters at this time.

**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.

**APPROVAL OF MINUTES: AUGUST 27, 2008**

On motion of Councilwoman Stagg, seconded by Councilwoman Marcalus, the minutes from the Mayor and Council meeting of August 27, 2008 be approved.

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

**RESOLUTION 08-170 TAX REFUND 12 CREE COURT**

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

WHEREAS, Resolution 08-160 authorized a refund for a tax overpayment in the amount of \$ 2,377.70; and

WHEREAS, the amount authorized in Resolution 08-160 was incorrect.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Oakland hereby rescind Resolution 08-160; and

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Oakland, upon the advice of the Chief Financial Officer and Tax Collector, does hereby authorize a refund of \$ 150.15 for a tax overpayment to George J. and Marilyn Rita Vallone of 12 Cree Court.

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

**RESOLUTION 08-171 ESTABLISH SENIOR CITIZENS PETTY CASH FUND**

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

WHEREAS, N.J.S.A. 40A5:21 authorizes the establishment of a Petty Cash Fund in any county or municipality by application and resolution; and

WHEREAS, it is the recommendation of the Chief Financial Officer and a desire of the Borough of Oakland, County of Bergen to establish such a fund for the Senior Citizen Center in the amount of \$200; and

WHEREAS, the custodian for this fund is Rose M. Burik, who is bonded for the amount of \$1000; such custodian shall maintain records for this fund in a manner conducive to proper accounting and auditing procedures;

NOW, THEREFORE, BE IT RESOLVED that the Borough of Oakland hereby authorizes such action and that two copies of this resolution be filed with the Division of Local Government Services, New Jersey Department of Community Affairs for approval.

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

**RESOLUTION 08-172 CHANGE CUSTODIAN-BOROUGH CLERK PETTY CASH**

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

WHEREAS, J. Hickey was custodian of the Borough Clerk Petty Cash Fund: and

WHEREAS, in accordance with N.J.S.A. 40A:5-21, the Borough of Oakland, County of Bergen wishes to change custodians to Lisa M. Duncan; and

WHEREAS, Lisa M. Duncan is bonded in the amount of \$1000 by virtue of a surety bond; and

NOW, THEREFORE, BE IT RESOLVED that the Borough of Oakland, County of Bergen, based upon recommendation of the Chief Financial Officer does hereby authorize such

action and that two copies of this resolution will be filed with the Division of Local Government Services, Department of Community Affairs for approval.

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

**RESOLUTION 08-173 CHANGE CUSTODIAN-POLICE PETTY CASH FUND**

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

WHEREAS, J. O'Connor was custodian of the Oakland Police Department Petty Cash Fund: and

WHEREAS, in accordance with N.J.S.A. 40A:5-21, the Borough of Oakland, County of Bergen wishes to change custodians to Edward J. Kasper; and

WHEREAS, Edward J. Kasper is bonded in the amount of \$1000 by virtue of a surety bond; and

NOW, THEREFORE, BE IT RESOLVED that the Borough of Oakland, County of Bergen, based upon recommendation of the Chief Financial Officer does hereby authorize such action and that two copies of this resolution will be filed with the Division of Local Government Services, Department of Community Affairs for approval.

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

**RESOLUTION 08-174 CHANGE CUSTODIAN-DPW PETTY CASH FUND**

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

WHEREAS, N. Fagerlund was custodian of the Oakland Public Works Department Petty Cash Fund: and

WHEREAS, in accordance with N.J.S.A. 40A:5-21, the Borough of Oakland, County of Bergen wishes to change custodians to Anthony Marcucilli; and

WHEREAS, Anthony Marcucilli is bonded in the amount of \$1000 by virtue of a surety bond; and

NOW, THEREFORE, BE IT RESOLVED that the Borough of Oakland, County of Bergen, based upon recommendation of the Chief Financial Officer does hereby authorize such action and that two copies of this resolution will be filed with the Division of Local Government Services, Department of Community Affairs for approval.

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

**RESOLUTION 08-176 AUTHORIZE TAX REFUND BLOCK 3502, LOT 3**

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

WHEREAS, the Borough of Oakland has received a request for a refund of a tax overpayment; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Oakland does hereby authorize a refund of \$ 2,815.40 to Chase Home Finance, LLC due to payment on 94 Dogwood Drive, Block 3502, lot 3, an incorrect Block and Lot, for the 1<sup>st</sup> quarter 2008.

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

**RESOLUTION 08-177 AUTHORIZE TAX REFUND BLOCK 4905, LOT 2**

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

WHEREAS, the Borough of Oakland has received a request for a refund of a tax overpayment; and

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

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Oakland does hereby authorize a refund of \$ 1,575.36 to Michele Giovatto of 8 Fordham Road, Block 4905, Lot 2.

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

**RESOLUTION 08-178 AUTHORIZE APPLICATION CDBG GRANT**

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

WHEREAS, a Bergen County Community Development grant of \$ 164,000 has been proposed by the Borough of Oakland for Road Resurfacing-Phase III in the municipality of the Borough of Oakland, and

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Governing Body, and

WHEREAS, the aforesaid project is in the best interest of the people of the Borough of Oakland, and

WHEREAS, this resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Oakland hereby confirms endorsement of the aforesaid project, and

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

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

FINAL PUBLIC HEARING: ORDINANCE NO. 08-CODE-579

The Clerk was directed to take from the table Ordinance No. 08-Code-579 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE AMENDING AND SUPPLEMENTING THE BOROUGH OF OAKLAND CODE, BY CREATING A SMOKE-FREE SCHOOL ZONE IN PUBLIC RIGHTS OF WAY IN THE VICINITY OF ELEMENTARY AND SECONDARY SCHOOLS WITHIN THE BOROUGH OF OAKLAND AND PROHIBITING UNDERAGE SMOKING IN SUCH AREAS"

OPENED FOR PUBLIC DISCUSSION:

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

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

CLOSED FOR PUBLIC DISCUSSION:

On motion of Councilwoman Stagg, seconded by Councilman Visconti, 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 Councilman Visconti, 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 Amending And Supplementing The Borough Of Oakland Code, By Creating A Smoke-Free School Zone In Public Rights Of Way In The Vicinity Of Elementary And Secondary Schools Within The Borough Of Oakland And Prohibiting Underage Smoking In Such Areas", be adopted;

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

Councilman Pignatelli read the following statement:

I have given this smoking regulation a lot of thought. I have spoken to numerous people –both in favor of it and some against it. The overwhelming thought, however, has been that they all agree that smoking is not good for your health. I have also sought information from such sources as the Center for Disease Control and the State Department of Health. Some of the information has been quite shocking such as “collectively, high school seniors smoke an average of nearly 4 million cigarettes a month”.

Each year, more than one million young people become regular smokers. That is 3,000 per day. If this trend continues, an estimated 5 million of today's youth will die prematurely from tobacco use in the United States. Approximately 135,000 of these deaths will occur in New Jersey.

In 2000, the State Department of Health went directly to New Jersey teens to gain insight into tobacco use. The research concluded that the youth are profoundly affected by their community's social norms and that they respond to the idea of a youth community based movement that views tobacco use as socially unacceptable. No magic bullet exists to break the deadly habit that every year takes 13,000 lives in New Jersey. On average, smoking robs its victims of 13.4 years of their lives. One of the most shocking statistics is that New Jersey citizens pay approximately \$ 1.7 billion in annual health care costs for smoking related illnesses.

Tobacco use causes more deaths each year than alcohol use, car crashes, suicide, aids, homicide, and illegal drug use combined. Tobacco use is the leading preventable cause of disease and premature death in the United States resulting in an estimated 438,000 premature deaths annually or nearly one in every five deaths each year.

I think we can all agree that our youth is our most treasured asset for the future. In light of these statistics, I want to do as much as I can to ensure that they lead a healthy lifestyle so that they can live to life's fullest potential. The thought that I keep going over and over is that no one can tell me one positive thing about smoking. It is for these reasons that I am voiting in favor of this regulation to prohibit smoking within 1000 feet of a school zone.

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

**FINAL PUBLIC HEARING: ORDINANCE NO.08-CODE-580**

The Clerk was directed to take from the table Ordinance No..08-Code-580 and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER IX OF THE BOROUGH OF OAKLAND CODE, ENTITLED "RECREATIONAL FACILITIES AND RECREATION AREAS", SO AS TO PROHIBIT SMOKING IN OR ON ANY BOROUGH PUBLIC PARK OR RECREATIONAL AREA"

**OPENED FOR PUBLIC DISCUSSION:**

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

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

Mike Guadagnino, 34 Hopper and Vice-Chairman of Recreation Commission, stated that the Recreation Commission would like to ban smoking at the Recreation fields to make it a healthy zone. The Recreation Commission is asking the Mayor and Council for their support on this issue.

Steve Wagoner, Chairman of Recreation Commission, commented that he knows Councilman Burns is against this ordinance because of the enforcement issue. The Commission is not going to arrest anyone but would put signs up. Smoking invades everyone's space at the complex.

**CLOSED FOR PUBLIC DISCUSSION:**

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

**BE IT RESOLVED** that an Ordinance entitled, An Ordinance Amending And Supplementing Chapter IX Of The Borough Of Oakland Code, Entitled "Recreational Facilities And Recreation Areas", So As To Prohibit Smoking In Or On Any Borough Public Park Or Recreational Area", be adopted;

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

Councilman Burns wanted to clarify that he is not opposed to the ordinance at the Recreation complex and Recreation areas. This ordinance was expanded to include parks and the boat launch. He certainly supports this ordinance at the Recreation fields but cannot vote for the ordinance with all other areas, too. Councilman Di Pentima is going to support this ordinance because we need to do something at the Recreation fields. He doesn't think anyone could show any benefit to smoking. He thinks it is a good policy.

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

**FINAL PUBLIC HEARING: ORDINANCE NO. 08-CODE-581**

The Clerk was directed to take from the table Ordinance No.08-Code-581 -and read by title for its final hearing.

The Clerk then read by title an Ordinance entitled "AN ORDINANCE TO VACATE A PORTION OF THE 20-FOOT WIDE WALKWAY EASEMENT ALONG THE SOUTHERN SIDE LINE OF BLOCK 5503, LOT 3 WITHIN THE BOROUGH OF OAKLAND"

**OPENED FOR PUBLIC DISCUSSION:**

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

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

No comments.

**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, Stagg, Visconti.

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

BE IT RESOLVED that an Ordinance entitled, "An Ordinance To Vacate A Portion Of The 20-Foot Wide Walkway Easement Along The Southern Side Line Of Block 5503, Lot 3 Within The Borough Of Oakland", be adopted;

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

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

#### WORK SESSION:

##### NO TURN ON RED:

Mayor Szabo commented that the Police have recommended the Mayor and Council pass a resolution requesting the State to rescind the no turn on red by West Oakland Avenue. This will be placed on the October 29<sup>th</sup> agenda.

##### BIDS:

Mr. Kunze commented that the Council is going to do a resolution to reject the bid for Skyview sand filters because there was an error with the lowest bid and the second bid was over budget. The bid for Lawlor Drive will be awarded with the alternate because the Borough received a favorable price. The janitorial bid came in at less than the Borough is currently paying. There were several alternates in the bid including cleaning of the Danny D'Elia bathrooms on weekends during tournaments. That would be approximately 10 days. Alternate B was for window cleaning and that came in at \$ 650. Alternate C was for the Library to compare to what the Library is currently paying for their contract. Mr. Kunze would like to award the bid with Alternates A, B and C if the Library Director concurs. Councilman Pignatelli questioned if the cleaning at the Danny D'Elia building was going to occur every weekend. Mr. Kunze responded it would be during tournaments and would be an estimate of 10 days. Councilman Pignatelli commented we had discussed locking the bathrooms. Mr. Kunze advised we are looking into that. Councilman Di Pentima advised that the carpets at the Danny D'Elia building need to be addressed. Recreation Chairman Wagoner advised that the carpet needs to be replaced. Mayor Szabo advised that a resolution will be placed on the next agenda to award bids.

##### ROCK SALT CONTRACT:

Mr. Kunze advised that the contract is through the Bergen County Cooperative and must be awarded to International Salt. A resolution will be placed on the next agenda.

##### ZONING ORDINANCES:

Mayor Szabo explained that this is a series of ordinances that implement the recommendations of the downtown plan as well as the COAH element. These are consistent with the downtown plan. Councilman Di Pentima questioned if the Mayor could give a summary of each ordinance. Mayor Szabo explained it is creating an entirely new zone. Councilwoman Marcalus commented that she compared the draft ordinances to the Planning Board recommendations and there are

some items missing. Mayor Szabo commented he would like to move on these ordinances this year. Councilwoman Marcalus commented that she thinks page 15 is missing on the CDB Zone 1 ordinance. She believes the section on signage is missing as well as the section on roofing. The Mayor will check with Steve Lydon from Burgis to see if the Planning Board recommendations are included in the CD1 zone. Mayor Szabo asked that these ordinances be listed on work session for the October 29<sup>th</sup> meeting.

#### CAPITAL:

Mayor Szabo commented that the Council needs to do an ordinance for 2008 and they need to decide which way to proceed. Councilman Pignatelli suggested that the Council have a special meeting to discuss capital. The consensus of the Council was to hold the special meeting on Tuesday October 21<sup>st</sup> at 7 pm at the Council Chambers.

Councilman Burns made the following statement:

Originally, we were going to re-do only three courts. However, as we investigated this matter, we determined that a lot more work is needed on the courts, including replacing the lights and repositioning the courts. We found that the existing courts are very dangerous, antiquated, and poorly situated with respect to the sun and the lights from the ball fields. Thus, we determined that all six courts needed serious repairs and that it was more cost effective to redo all the courts, including repositioning the courts and installing new lighting.

There are also many more people involved with tennis than people might think. The tennis courts are used by Team Tennis, Summer Camp and other Recreation programs, school programs, and other individual residents. Although I don't play tennis, I recognize the fact that tennis is a great sport for all. It's a sport that can bring children and parents together when played on well constructed courts that are safe. Tennis unlike other sports really doesn't have an age limit. It can be a life long sport. So, the tennis program is just as important as any other sports programs.

If we were to suggest that we weren't going to maintain the various fields at the Recreation Complex or even stop the football, baseball, and/or soccer programs or other such activities in which the children of Oakland participate, the reaction very well might be quite different. Although baseball and soccer have very high participation, that isn't the case for football, roller hockey, wrestling, and other sports which probably have a lot less participants than tennis. However, if we were to suggest that we stop maintaining the facilities used for football or roller hockey, I wonder what kind of outcry we'd hear from many residents.

These are difficult times and it may not be the best time for this project. However, this would be a capital project that would be paid for over 10 to 15 years. We also have one grant from the county and we expect another grant at the end of the year with the two grants totaling about \$269K. We would most likely lose these grants if we do not proceed with this project. So, with the loss of these funds and the increasing costs of everything, this project would be even more costly if delayed for any substantial period of time, even 2 or 3 years, when the financial situation might be better. Thus, it would wind up costing the residents a lot more.

In the meantime, we would continue to spend money to keep repairing the courts and still have poor quality and dangerous courts as we've done and had for years. The tennis courts have been a nightmare for years and we have continued to spend good money after bad year after year on bandage repairs to the courts. It's time to replace them before someone gets seriously hurt playing on them and it costs the Borough even more in potential litigation.

The Borough has many items on its agenda and they are all important to the Borough. We have

let the DPW degrade to a point that is not only ridiculous, but also a potential safety hazard. The Borough needs to maintain all its infrastructure. The Borough spends money to do many things like repairing sidewalks, paving roads, pruning and cutting down trees, providing local TV, and many other services that the Borough provides. Yes, we could stop plowing the streets, we could stop fixing the sidewalks and roads, and we could cut out ALL recreation activities including forgetting about the tennis courts. However, these are all services that the Borough provides for the residents for their tax dollars. Again, the Borough must maintain its infrastructure and that includes the tennis courts as well as the rest of our recreational facilities.

I agree that we should be doing everything we can to cut costs and spend our tax dollars wisely. I happen to think that tennis courts as well as the rest of our Recreation Complex is worth the expense because they add value to the town and to our individual properties. I constantly complain about the lights being left on with no one on the fields or tennis courts. That is indeed burning up and wasting our tax dollars and a goodly many of them.

My wife and I have to stretch every dollar we have, like many residents probably have to do, and we don't know how much longer we will be able to do so and stay in Oakland. I hope it's for a long time yet, especially since now is not the time to try to sell your home. Still, I believe this project is in the best interests of the Borough and all the taxpayers. Otherwise, I wouldn't support the project. I don't play tennis myself so there isn't anything directly in this project for me. However, I hope this project will help to maintain the value of my home and every other home in the Borough. Our Recreation Complex, including the tennis courts, is one of the jewels of the Borough and is one of the reasons that we have a town that attracts people and where people want to live. I will do my best to see that this continues to be the case.

I hope the Governing Body will take to heart the input of all those who have sent emails about this project (48 emails with 43 in favor of the project) and I hope the decision is to fund this project as proposed.

Councilman Visconti commented that a compromise on the tennis courts can be reached. It is not all or nothing. The Council is not opposed to doing the project. The Council has not discussed the possibility of phasing the project. The Council received a debt schedule and as the debt service reduces, the Borough will have more money to work with. Councilman Visconti advised that he has no doubt the Council is in favor of doing the project but we have to be careful how we do the project. Councilman Di Pentima commented that he is not against doing something for the courts. However, it has to be feasible with what else has to be done with capital. The Council cannot lose sight of the fact that we have to watch the tax rate and how three school budgets were defeated in the past few years. He is confident the Mayor and Council will do what is best for the community.

#### NEW BUSINESS:

Councilman Di Pentima would like to put a freeze on the budget. Anything contractual can be paid. Any non-contractual items must be reviewed on a case-by-case basis. Councilman Pignatelli agreed that a freeze should be put in effect because it is important to watch expenditures at the end of the year. Mayor Szabo commented that we have done this before with great results. Mr. Kunze advised he has been giving a level of scrutiny to purchases that departments are not used to. Councilman Di Pentima asked that we pare down attendance at the League of Municipalities conference.

Mr. Kunze advised he was approached by an employee to exchange a holiday for the day after Christmas which normally has a low level of activity. Mr. Kunze feels it would be better to have employees take off the day after Christmas than to take off Election Day. The Council agreed.

Councilman Burns advised that the Eden properties resolved their problems with the Shade Tree Commission.

**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 Councilwoman Stagg, seconded by Councilman Visconti, the meeting be adjourned at 11:02 pm.

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

---

Lisa M. Duncan, Borough Clerk  
October 29, 2008

---

Mayor John P. Szabo, Jr.

---

Date Approved