

REGULAR MEETING OF THE MAYOR AND COUNCIL
HELD AT THE
MUNICIPAL COURT /COUNCIL CHAMBERS
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY
WEDNESDAY FEBRUARY 27, 2013

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, 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 Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

Discussion ensued over Heritage Hills property, request to lease Borough property, and police personnel matters.

CLOSE EXECUTIVE SESSION:

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

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

MEETING CALLED TO ORDER: By Mayor Schwager at 7:35 pm.

ROLL CALL: Mayor Schwager called the meeting to order and the Clerk called the roll. Present: Mayor Schwager, Councilmembers Coira, Jensen, 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.

SALUTE TO THE FLAG:

MOMENT OF SILENCE:

MEETING ANNOUNCEMENT: Mayor Schwager 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 Schwager congratulated the Valley Middle School Future Cities team which took first place in the national competition. Anna Butler, Padraic Burns and Sophia Kotik will present their project at the March 13th Council meeting. Mayor Schwager advised that last night, a second meeting was held for plans for the new park at the Heritage Hills property. She advised that the parking lot at Potash Lake is closed because there is a drainage pipe that needs to be replaced. The parking lot is unsafe. Mayor Schwager advised she has office hours at Borough Hall at 5 pm on Council meeting days. She advised everyone to register for Reverse 911 calls. Mayor Schwager advised that FLOW Follies will take place next week. There are still openings on some Boards and Commissions.

OPENED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

Ryan Schwertzfeger, 186 Hiawatha Blvd, invited everyone to watch the presentation from last night about the new park.

Frank Monaco, 60 Thackeray, commented that the Council liaisons should report when something important happens. He commented that the issue of all-day kindergarten should have been brought to the residents by the Mayor and Council. He asked that residents vote the school budget down. Then the Mayor and Council can cut the budget. He commented on the article about laptops being given to high school students.

CLOSED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

APPOINTMENT OF FIRE FIGHTER

Mayor Schwager administered the Oath of Office to Michelle Kapturkiewicz who joined the Oakland Volunteer Fire Department.

APPOINTMENT TO FLOOD COMMISSION:

Mayor Schwager brought forth the nomination of Gina Steele for appointment to an unexpired term on the Flood Commission. The term will expire on December 31, 2013.

Motion to Consent:

On motion of Councilwoman Stagg, seconded by Councilman Jensen, the Council consented to the appointment of Gina Steel to an unexpired term on the Flood Commission.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

APPOINTMENT TO FARMERS MARKET:

Mayor Schwager brought forth the nomination of Gina Steele for appointment to the Farmers Market Committee. The term will end on December 31, 2013.

Motion to Consent:

On motion of Councilman Pignatelli, seconded by Councilwoman Stagg, the Council consented to the appointment of Gina Steele to the Farmers Market Committee.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

PROCLAMATION-READ ACROSS AMERICA

Mayor Schwager read the following proclamation into the record:

WHEREAS, the citizens of the Borough of Oakland stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and

WHEREAS, the Borough of Oakland has provided significant leadership in the area of community involvement in the education of our youth, grounded in the principle that educational investment is key to the community's well being and long-term quality of life; and

WHEREAS, NEA's Read Across America, a national celebration of reading, will be conducted on March 1, 2013, which would have been the 109th birthday of Theodor Seuss Geisel, better known as Dr. Seuss; and

WHEREAS, Read Across America-NJ is being conducted statewide by the New Jersey Education Association, in partnership with the New Jersey State League of Municipalities, the New Jersey Library Association, and their local affiliates across the state to promote reading and adult involvement in the education of our community's students;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council calls on the citizens of the Borough of Oakland to assure that every child is in a safe place reading together with a caring adult on March 1, 2013;

BE IT FURTHER RESOLVED that this body enthusiastically endorses NEA's Read Across America and Read Across America-NJ, and recommits our community to engage in programs and activities to make America's children the best readers in the world.

RESOLUTION 13-54 AUTHORIZE CHANGE ORDER-EARTHWORKS

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

WHEREAS, on October 1, 2012, the Borough awarded a contract to Earthworks, Inc. for The Ramapo River Bank Stabilization Project – Lakeshore Drive; and

WHEREAS, work was supposed to be completed by December 22, 2012, and

WHEREAS, all work could not be completed due to weather conditions; and

WHEREAS, a request was made for Change Order #2 to extend the contract completion date to April 30, 2013; and

WHEREAS, a request was made for Change Order #3 for re-mobilization costs in the amount of \$7,500.00 due to weather and time extension; and

WHEREAS, Boswell McClave Engineering has reviewed the request for Change Order #2 and #3 and recommend approval; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account #C-04-56-670-502;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council hereby approve Change Order #2 for the time extension and approve Change Order #3 in the amount of \$7,500.00 for Earthworks, Inc.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-63 AUTHORIZE RETIREMENT PAYMENT

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

WHEREAS, Sgt. Robert O'Keefe has retired from the Oakland Police Department effective February 1, 2013; and

WHEREAS, Sgt. O'Keefe has accumulated Vacation, Personal, Sick and Comp time during his career for which he has not been compensated; and

WHEREAS, in accordance with the PBA Collective Bargaining Agreement, Sgt. O'Keefe is entitled to full payment of his unused Vacation, Personal and Comp time, and 50% of his unused Sick time; and

WHEREAS, it has been determined that Sgt. O'Keefe is entitled to a payment of \$35,194.47 and this amount has been verified by the Chief Financial Officer; and

WHEREAS, said payment is to be charged to the Accumulated Absence Trust, established in 2010 for this purpose; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account # T-13-56-286-210.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland that the Chief Financial Officer is hereby directed to authorize payment in the amount of \$35,194.47 to Sgt. Robert O'Keefe.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-85 AUTHORIZE AGREEMENT-BOROUGH PLANNER

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

WHEREAS, it is necessary for the Borough of Oakland to engage the services of **Borough Planner** for 2013; and

WHEREAS, funds will be available by way of budget to compensate said Borough Planner; and

WHEREAS, N.J.S.A. 40A:11-1 et seq. exempts professional services from certain requirements of public bidding provided a notice of the appointment be printed in a newspaper of general circulation within the municipality; and

WHEREAS, the Borough did undertake a competitive process to select a Borough Planner and solicited Requests for Qualifications in November 2012; and

WHEREAS, the applicants have submitted paperwork certifying that they have not made any disqualifying pay to play contributions pursuant to the Borough's Pay-to-Play Ordinance No.12-Code-669 adopted July 11, 2012; and

WHEREAS, the Borough's Review Team has determined that Steve Lydon of the firm of Burgis Associates will be the most advantageous to the Borough, all relevant factors considered; and

WHEREAS, the Borough Council has nominated Steve Lydon and the firm of Burgis Associates to serve as Borough Planner for the year 2013; and

WHEREAS, the Borough has received or will receive a Business Registration certificate and Affirmative Action compliance statement from the firm prior to entering into a contract,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body the Borough of Oakland that said Borough Planner be and is hereby appointed for the year 2013 pursuant to a "fair and open" process; and

BE IT FURTHER RESOLVED, that compensation for said Borough Planner for the year 2013 shall be claimed, approved and paid in the manner set forth in N.J.S.A. 40A:5-18 and pursuant to agreement to be entered into between the parties; and

BE IT FURTHER RESOLVED that the not to exceed contract amount shall not exceed

\$ 8,000 without further authorization of the Governing Body and the Chief Financial Officer has certified that the funds are available in Account# 3-01-20-165-022 ; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to sign the agreement on behalf of the Borough; and

BE IT FURTHER RESOLVED, that the Borough Clerk shall cause a notice of the adoption of this resolution be printed in a qualified newspaper within ten (10) days after passage hereof.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-87 AUTHORIZE AGREEMENT-TAX MAPS

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

WHEREAS, the Borough must update its tax maps annually; and

WHEREAS, the Tax Assessor and Borough Administrator have recommended that Civil Solutions be retained to provide tax map updates, in accordance with their proposal; and

WHEREAS, the Mayor and Council of the Borough of Oakland wishes to award a contract to Civil Solutions to provide 2013 Tax Map Maintenance services for the Borough; and

WHEREAS, Civil Solutions will provide the services at a cost not to exceed \$ 5,000.00; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account # 3-01-20-150-104; and

WHEREAS, the aforesaid award of contract is an exemption to the public bidding laws and one for professional services, for which no public bidding is required;

NOW, THEREFORE, BE IT RESOLVED that the Borough of Oakland hereby awards and authorizes the Mayor and Borough Clerk to execute an agreement with Civil Solutions to provide Tax Map Maintenance Services for an amount not to exceed \$ 5,000.00.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-88 AUTHORIZE AGREEMENT-ADDED ASSESSMENTS

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

WHEREAS, it is necessary for the Borough to obtain the services of a Certified Tax Assessor or Appraiser in order to perform added assessment investigations; and

WHEREAS, the yearly added assessment investigations have been performed by outside professionals, and is not within the contractual arrangement between the Borough and its Assessor; and

WHEREAS, the Assessor has obtained three quotations for the added assessment work, which includes, but is not limited to, site inspections, recommended valuations and determinations of the added assessment amount and updating the Borough's computerized records; and

WHEREAS, the funding for the added assessment work is within the Assessor's budget; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account #3-01-20-150-029; and

WHEREAS, Brian Townsend, a Certified Tax Assessor, has submitted the lowest quotation for conducting the added assessment work;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that the Borough does hereby retain the services of Brian Townsend to conduct the Borough's added assessment work for the tax year 2013; and

BE IT FURTHER RESOLVED, that Mr. Townsend shall be paid the sum of \$ 50.00 per hour, the total fee not to exceed \$ 7,000;

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute an appropriate contract, to be prepared by the Borough Attorney; and

BE IT FURTHER RESOLVED that the Borough Clerk is directed to maintain copies of the three quotations and the contract with Mr. Townsend, for public inspection.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-89 AUTHORIZE AGREEMENT-TAX APPEAL ASSISTANCE

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

WHEREAS, the Borough wishes to appoint an expert for 2013 Tax Appeal Assistance; and

WHEREAS, the Tax Assessor and Borough Administrator have recommended that Value Research Group, LLC be retained to provide Tax Appeal Assistance, in accordance with their proposal; and

WHEREAS, the Mayor and Council of the Borough of Oakland wishes to award a contract to Value Research Group, LLC to provide 2013 Tax Appeal Assistance services for the Borough; and

WHEREAS, Value Research Group, LLC will provide the services at a cost not to exceed \$ 20,000; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account #3-01-55-904-001; and

WHEREAS, the aforesaid award of contract is an exemption to the public bidding laws and one for professional services, for which no public bidding is required;

NOW, THEREFORE, BE IT RESOLVED that the Borough of Oakland hereby awards and authorizes the Mayor and Borough Clerk to execute an agreement with Value Research Group, LLC to provide Tax Appeal Assistance services for an amount not to exceed \$ 20,000.00.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-90 AUTHORIZE BOSWELL-FEMA GRANT ADMINISTRATION

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

WHEREAS, there is a need for FEMA Grant Administration associated with raising the structure at 158 Lakeshore Drive; and

WHEREAS, Boswell McClave has submitted a proposal dated January 30, 2013, in the amount not to exceed \$2,000 for the services of grant administration; and

WHEREAS, the Chief Financial Officer has certified that funds are available in Account #G-02-13-001-001; and

WHEREAS, this contract is one for professional services for which no public bidding is required;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council hereby authorize Boswell McClave to perform the services for FEMA Grant Administration as outlined in their proposal in the amount not to exceed \$2,000; and

BE IT FURTHER RESOLVED, that the Mayor and Borough Clerk are hereby authorized to execute the agreement on behalf of the Borough.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-91 OPPOSE A1196

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

WHEREAS, public safety employees and volunteers should be adequately compensated for on-duty accidents and illnesses; and

WHEREAS, New Jersey's current Workers' Compensation law is already one of the broadest in the country; and

WHEREAS, A-1196 as currently written will make it almost impossible to contest claims from injuries and illnesses caused off-the-job; and

WHEREAS, this bill places the burden of proof on governmental employers to establish that an injury or illness, such as cancer, heart attack or hypertension did not occur on the job; and

WHEREAS, the actuary for the Municipal Excess Liability Joint Insurance Fund (MEL) has estimated that A-1196 could easily double municipal Workers' Compensation expense of \$400 million per year; and

WHEREAS, the MEL has offered to sit down with the supporters of this legislation to develop less expensive ways of improving the compensation to first responders;

NOW, THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Oakland that the legislature be urged to reject A-1196 and urges the supporters of this legislation to work with the MEL and representatives of other units of government to develop less expensive ways to improve compensation to first responders;

BE IT FURTHER RESOLVED, that the Municipal Clerk shall send copies of this resolution to the Senate President, Assembly Speaker, members of the legislative delegation representing the municipality, and the Governor.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-92 AUTHORIZE REFUND RECREATION FEE

On motion of Councilman Visconti, seconded by Councilman Jensen, 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 Recreation Fees; 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 hereby authorize the following refunds:

Baseball Refund

Barry Schermerhorn, 23 Butternut Court, Oakland, NJ 07436, refund due \$156.00

Dan Gallagher, 192 Manito Avenue, Oakland, NJ 07436, refund due \$68.00

Basketball Refund

Cindy Lanteri, 486 Ramapo Valley Road, Oakland, NJ 07436, refund due \$43.00

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-93 AUTHORIZE RECYCLING TONNAGE GRANT APPLICATION

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

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the 2012 Recycling Tonnage Grant will memorialize the commitment of this municipality to recycling and to indicate the assent of the Mayor and Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Oakland that Oakland hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Eugene MacMahon to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-94 CERTIFICATION OF EXPENDITURE FOR RECYCLING TAX

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

WHEREAS, the Recycling Enhancement Act, P.L. 2007, chapter 311, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, there is levied upon the owner or operator of every solid waste facility (with certain exceptions) a recycling tax of \$ 3.00 per ton on all solid waste accepted for disposal or transfer at the solid waste facility.

WHEREAS, whenever a municipality operates a municipal service system for solid waste collection, or provides for regular solid waste collection service under a contract awarded pursuant to the "Local Public Contracts Law", the amount of grant monies received by the municipality shall not be less than the annual amount of recycling tax paid by the municipality

except that all grant moneys received by the municipality shall be expended only for its recycling program.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Oakland that the Borough of Oakland hereby certifies a submission of expenditure for taxes paid pursuant to P.L. 2007, chapter 311, in 2012 in the amount of \$ 14,269.02. Documentation supporting this submission is available at 1 Municipal Plaza and shall be maintained for no less than five years from this date.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-95 REFUND TAXES DUE TO OVERPAYMENT BLOCK 2801, L59
On motion of Councilman Visconti, seconded by Councilman Jensen, 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 2013 overpayment due to a duplicate payment of the first quarter 2013; 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, upon the advice of the Chief Financial Officer and the Tax Collector, do hereby authorize a refund as follows:

<u>BLOCK/LOT</u>	<u>OWNER</u>	<u>AMOUNT</u>
2801/59	Douglas B. & Lynne M. Tanner	\$3,440.51

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-96 AMEND TEMPORARY BUDGET
On motion of Councilman Visconti, seconded by Councilman Jensen, the following resolution be introduced, adopted and duly passed by roll call vote:

WHEREAS, NJSA40A:4-20 of the Local Budget Law provides that in addition to temporary appropriations necessary for the period prior to the adoption of the budget, the governing body may, by resolution adopted by 2/3 vote of the full membership thereof, make emergency temporary appropriations for any purposes for which appropriations may lawfully be made for the period between the beginning of the current fiscal year and the adoption of the budget.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Oakland that, based on the recommendation of the Chief Financial Officer, that the following emergency temporary appropriations be made and that a certified copy of this resolution be filed with the Director of the Division of Local Government Services:

<u>Current Fund</u>		<u>Temporary</u>	
<u>Account #</u>	<u>Description</u>	<u>Budget</u>	<u>Amendment</u>
3-01-26-306-010	Snow Removal – Salaries & Wages	\$25,000	\$60,000

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-97 REFUND TAXES BLOCK 2702, LOT 1

On motion of Councilman Visconti, seconded by Councilman Jensen, 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 2012 tax overpayment due to a property subdivision; 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, upon the advice of the Chief Financial Officer and the Tax Collector, do hereby authorize a refund as follows:

<u>BLOCK/LOT</u>	<u>OWNER</u>	<u>AMOUNT</u>
2702/1	A & E Ventures of Oakland LLC	\$15,247.48

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

RESOLUTION 13-86 AUTHORIZE AGREEMENT-BOROUGH AUDITOR

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

WHEREAS, it is necessary for the Borough of Oakland to engage the services of Borough Auditor for 2013; and

WHEREAS, funds will be available by way of budget to compensate said Borough Auditor; and

WHEREAS, N.J.S.A. 40A:11-1 et seq. exempts professional services from certain requirements of public bidding provided a notice of the appointment be printed in a newspaper of general circulation within the municipality; and

WHEREAS, the Borough did undertake a competitive process to select a Borough Auditor and solicited Requests for Qualifications in November 2012; and

WHEREAS, the applicants have submitted paperwork certifying that they have not made any disqualifying pay to play contributions pursuant to the Borough's Pay-to-Play Ordinance No.12-Code-669 adopted July 11, 2012; and

WHEREAS, the Borough's Review Team has determined that Frank DiMaria of the firm of DiMaria and DiMaria will be the most advantageous to the Borough, all relevant factors considered; and

WHEREAS, the Council has nominated Frank DiMaria and the firm of DiMaria and DiMaria to serve as Borough Auditor for the year 2013; and

WHEREAS, the Borough has received or will receive a Business Registration certificate and Affirmative Action compliance statement from the firm prior to entering into a contract,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body the Borough of Oakland that said Borough Auditor be and is hereby appointed for the year 2013 pursuant to a “fair and open” process; and

BE IT FURTHER RESOLVED, that compensation for said Borough Auditor for the year 2013 shall be claimed, approved and paid in the manner set forth in N.J.S.A. 40A:5-18 and pursuant to agreement to be entered into between the parties; and

BE IT FURTHER RESOLVED that the not to exceed contract amount, excluding work charged to the Borough’s various Capital accounts set forth in their contract, shall not exceed \$37,000 without further authorization of the Governing Body and the Chief Financial Officer has certified that funds are available in Account # 3-01-20-135-028; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to sign the agreement on behalf of the Borough; and

BE IT FURTHER RESOLVED, that the Borough Clerk shall cause a notice of the adoption of this resolution be printed in a qualified newspaper within ten (10) days after passage hereof.

ROLL CALL: Yeas, Councilmembers Jensen, Marcalus, Stagg, Visconti.
Abstain, Councilmembers Coira, Pignatelli.

INTRODUCTION: ORDINANCE NO. 13-CODE-682 AMEND RECREATION FEES-
CARRIED

This ordinance will be carried to the March 13, 2013 meeting.

WORK SESSION:

SOLAR PANEL ORDINANCE:

This discussion will be carried to the March 13, 2013 meeting.

LEHIGH AND WEST OAKLAND AVE. WATER MAIN REPLACEMENTS:

Mr. Kunze advised that the Lehigh Avenue water main replacement is a high priority. The Borough took bids yesterday. We received ten bids with good pricing. The bids are currently under review. He hopes to award the bid at the next Council meeting but there have been challenges by a couple of the low bidders.

DPW CHANGE ORDERS:

Mr. Kunze advised he sent a memo to recap where we are with the project and the budget. There are some issues that need to be discussed because we need to ask for additional funding. Architect Keith Lesser was in attendance to answer any questions the Council may have.

Councilwoman Marcalus asked what is a common percentage to go over budget on a project this size. Mr. Lesser explained that the original low bidder was rejected for non-compliance of the bid. That bid was \$150,000 lower than the second low bid. When the Borough had to award to the second low bidder, that reduced the contingency figure to \$ 6,000. Councilman Visconti explained that when we started the project, we hired an estimator to help prepare a budget. The estimate came in at \$2.5 million and that included a 15% contingency. The original low bidder

was below the threshold and the second low bidder was over the contingency. There were problems that were discovered during demolition that needed to be addressed. Mr. Lesser advised that Change Orders 1, 2, 3 and 4 were for items that were either underground and were not known or they were in the wrong location as listed in the survey. Mr. Lesser advised that he, as well as the owner's representative, are trying to keep the contractor under financial control.

Councilwoman Marcalus questioned Change Order 1 for the test pits. Mr. Lesser responded that the civil engineer is the Borough Engineer who is under the realm of the Mayor and Council. They had done test pits but additional testing was required. Councilwoman Marcalus questioned Change Order 2 for the removal of the tree and she asked why it was not shown on the plans. Mr. Lesser responded that the original survey which was done by the Borough Engineer was not accurate. Councilwoman Marcalus questioned the removal of the brick façade in Change Order 4. Mr. Lesser advised there was rust and it needed to be removed so there was no problem in the future. Councilwoman Marcalus questioned Change Order 5 for operable windows. Mr. Lesser advised that the original design did not have operable windows but DPW Superintendent Marcucilli wants operable windows. He advised that the Mayor and Council do not have to accept that Change Order. Mayor Schwager asked Mr. Lesser why he thought we did not need operable windows. Mr. Lesser responded that the windows are near the fuel pumps so he thought they would not want the windows to open. Councilwoman Marcalus asked why this was not put in the original bid. Mr. Lesser responded it was not brought up. Mr. Kunze advised that it was an assumption that the windows would be operable. Mr. Lesser commented that when you have an energy efficient building and windows are opened, it messes up the air conditioning efficiency.

Councilman Visconti commented that Changes Orders 1 through 5 total approximately \$30,000. The largest Change order is for the windows at approximately \$15,000. Mr. Lesser advised these Change orders are 1.5% of the project cost. Mr. Kunze advised that Change orders 1 through 4 have been done already. Councilman Pignatelli questioned the price to decommission the seepage pit. Mr. Lesser responded that the DPW may be able to do the work. Councilman Pignatelli responded he would prefer to have the DPW do the work than hire an outside contractor. Councilwoman Stagg advised that she specifically brought up from the beginning that the septic system should have been included in the original bid. We went through that with the Library. Councilman Visconti responded that the septic was included. Mr. Lesser responded that the septic was there but this work was above and beyond what was in the specification and was found during construction. Councilwoman Stagg advised that it does not cost much to fill a septic.

Mr. Lesser spoke about projected change orders. Once the old garage wall was demolished, we learned the wall separating the garage from the original building was not load bearing and that is a requirement to support the steel. Mr. Lesser advised that he negotiated the price. Mr. Lesser advised that the compressor piping is an owner requested change. The compressor in the maintenance garage is very old. We are putting a new compressor in the main garage. We will run pipe so the maintenance garage can use the new compressor. Mr. Kunze explained that this will save money in the long run because we won't have to buy a new compressor for the vehicle maintenance garage.

Mr. Lesser advised that they budgeted \$10,000 for finish items but those items will probably only cost \$5,000. He explained they want to make the finishes more durable. Mr. Kunze advised that we have decided to distribute the new network servers for reliability. We decided to locate one server at the new DPW facility instead of locating both at Borough Hall so there is a possible cost for wiring. Mr. Lesser explained that should not cost that much to abandon the seepage pit. He explained that he is in dispute with the contractor over the exterior wall system revisions. He

says this is in the specifications so he is not going to allow the contractor to make this a change order. Mr. Lesser explained that we want to ensure there is proper drainage in the garage so they are considering revisions to pitch the garage floor.

Mr. Lesser explained that there are owner-supplied items that will require contractor installation. The office furniture costs would have been handled by the contingency that we don't have anymore. Mr. Lesser explained that Rockland Electric may require a ground mounted transformer if the electrical load is over a certain amount. We have not heard from Rockland yet. Mr. Lesser advised that the Valley View lot clearing is not financially part of the project. Councilman Pignatelli commented that by clearing the lot, the Borough can sell it and put the money towards the project. Mr. Lesser commented that the re-skin of the vehicle mechanics garage was not part of the original specs. The figure is a guesstimate. He explained that there will be an additional cost for the temporary trailers until the project is complete. Mr. Kunze explained that the project is behind due to the hurricane and winter weather so we will need the trailers a little longer. Mr. Lesser advised we lost four weeks due to weather. He advised that additional time will be needed for his contract as well as Epic's contract. Mr. Kunze advised that the general contractor is estimating the project will be done in late June.

Mr. Lesser advised that the total request for funding including contingency is \$350,000. Mr. Kunze advised that there is an old ordinance that can be applied toward this and then we can do an additional bond ordinance for further funding. Councilman Visconti commented that there were some delays. We didn't plan a large enough contingency. These estimates for the change orders are conservative to make sure everything will be covered. There might be something else that was not covered so we are requesting additional contingency. There is \$160,000 in an old bond ordinance that we can use. That means an additional \$250,000 in funding to the \$2.5 million appropriated already. We don't anticipate a tax increase for the additional work. We are guessing we can sell the lots at Valley View for \$300,000 which would keep the total cost at \$2.5 million. Councilman Visconti commented that the site conditions are difficult to estimate. While he is not happy about change orders, he is comfortable with the figures. If any work can be done by the DPW, that could be additional savings. Mr. Lesser advised that DPW has done some items already. He advised that he is fighting the contractors on the costs.

Mr. Kunze explained that we need a decision on Change order #5 for the windows and we need a decision on whether to move ahead with a bond ordinance. The estimates are conservative. We will get credit at the end of the project for anything not spent. We wanted a complete approach so we didn't have to come back to the Council to nickel and dime. Councilman Jensen asked how many windows would need to be made operable. Mr. Lesser responded there are 12. The number can be reduced. It was done for aesthetic symmetry and not function. That can be reduced to 8 windows.

NEW BUSINESS:

Councilman Visconti asked if the Council can start looking at finishing the Library. He did calculations and we have \$571,000 cash on hand. The Library Growth Foundation raised \$70,000 for furniture. The Library applied for and received a substantial grant. The Library has their priorities in order because the function of the Library has changed since 1999. We need to get an architect again. He wants to bring this up now but it will take time to mobilize.

COUNCIL REPORTS:

Councilwoman Marcalus: She congratulated the Valley Middle School Future Cities team. They have won 2nd and 3rd place before but this is the first time they have won the Championship. She

is looking forward to having their presentation in March. The Library will be holding nutrition programs for adults and children.

Councilman Visconti: The Finance Committee is trying to plan a budget meeting for the Council for next week to give an overview of the budget. The consensus of the Council was to meet on Thursday March 7th at 5:00 pm at Borough Hall.

Councilwoman Stagg: She congratulated Judi Vihonski, Bob Akovity, Anna, Padraic and Sophia on their Future Cities win. They did an outstanding job.

Councilman Pignatelli: The Fire Department Ladies Auxiliary is holding a Pancake Breakfast on March 10th beginning at 8:00 am. There is another CERT class that started tonight and will be held on twelve consecutive Wednesdays. There will be a refresher class on April 17th.

Councilman Jensen: The Public Events Easter Egg Hunt will be held March 23rd. The next Public Events meeting is March 11th. They still need more members. The Committee has started to interview for the games of chance for the carnival and are getting the criteria ironed out.

Councilwoman Coira: The Shade Tree Commission needs volunteers. Their next meeting will be March 4th at 7 pm. The Recreation Commission met Monday. The next Rutgers safety course will be held March 1st. This course is one of three requirements to be a coach. The summer camp signups will begin April 2nd. Tennis and golf sign-ups are posted on the Recreation website. There will be a lacrosse clinic March 5th.

OPENED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

Frank Monaco, 60 Thackeray, asked what is the cost for the overrun of the DPW building. Councilman Visconti responded that there are five change orders to date. Although none have been signed, four of them are necessary items and cost \$15,000. The other \$15,000 is to make the windows operable. There is a request for additional funding that Mr. Kunze and Mr. Mangin feel is necessary to finish the project. Mr. Monaco expressed concern that windows would be open where the vehicles and mechanics shop are located. He spoke about how people died from running generators during Hurricane Sandy and having the windows open. Mr. Kunze advised that the generator is located on the opposite side of the building. Councilman Pignatelli responded that only 4 windows face the fuel pumps so we don't have to do those windows. Mr. Monaco questioned the trailers. Mr. Kunze responded that we rented trailers for the DPW personnel for 7 months. We will need to rent the trailer for additional time until the project is complete. Mr. Monaco commented he is disturbed we have to pay extra money for trailers.

CLOSED FOR PUBLIC DISCUSSION:

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

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

BILLS TO BE PAID:

On motion of Councilman Visconti, 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 Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

MOVE TO EXECUTIVE SESSION:

On motion of Councilman Pignatelli, seconded by Councilman Jensen, 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:
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 Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

Discussion ensued over promotion for a DPW employee.

CLOSE EXECUTIVE SESSION:

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

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

MEETING ADJOURNED:

On motion of Councilman Pignatelli, seconded by Councilwoman Stagg, the meeting be adjourned at 9:05 pm.

ROLL CALL: All yeas, Councilmembers Coira, Jensen, Marcalus, Pignatelli, Stagg, Visconti.

Lisa M. Duncan, Borough Clerk
March 13, 2013

Mayor Linda H. Schwager

Date Approved