

**MAYOR & COUNCIL
REGULAR MEETING
NOVEMBER 8, 2012
7:30 p.m.**

The Regular Meeting of the Mayor and Council of the Borough of Rockaway, in the County of Morris, New Jersey, was held in the Community Center, 21-25 Union Street, Rockaway, N.J. with Mayor Russell Greuter presiding. Mayor Greuter called the meeting to order at 7:30 p.m.

Mayor Greuter read the following statement: In accordance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Laws, 1975, be advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and sending to the officially designated newspapers, a list of meeting dates annually, indicating that the meeting would take place at the Community Center at 7:30 p.m. on November 8, 2012. Mayor Greuter announced the location of the fire exits.

Councilmembers Present

Thomas Donofrio
Joyce Kanigel
Thomas Mulligan
Joseph Vicente
Melissa Burnside - Council President

Councilmembers Absent

John Willer

Borough Attorney Ed Wacks was also present.

Everyone present participated in the salute to the flag.

APPROVAL OF MINUTES

Upon motion by Councilman Vicente, seconded by Councilman Mulligan, and carried unanimously upon voice vote, the minutes of the October 25, 2012 Regular Meeting were accepted as submitted.

CORRESPONDENCE

Mayor Greuter read the November 8, 2012 letter from Armand Perez, Region Supervisor, of the N.J. Department of Environmental Protection, regarding the placement of a line of boulders at Park Lake. A representative of the Borough re-inspected the site and observed that the restoration work was completed as required. The matter was resolved and the enforcement was closed. Any future disturbance or altercation of this area may constitute a regulated and/or prohibited activity pursuant to the FWPA and/or the FHACA and require a permit from the Department prior to conducting such activity.

On motion by Councilman Vicente, seconded by Councilman Donofrio, and unanimously carried by voice vote to accept the correspondence.

Mayor Greuter read a statement regarding the impact of Hurricane Sandy on the Borough and the problems with communications from Jersey Central Power & Light Company. He thanked Police Chief Doug Scheer, Fire Marshal Tom Trapasso, and the members of the Borough's Fire Department for their efforts to maintain safety in the Borough.

COUNCIL REPORTS

Personnel Committee - Councilwoman Kanigel

Thanked the Police Department Fire Department, Fire Marshal, and Water Department for their efforts during the hurricane.

Upon motion by Councilman Vicente, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Personnel Committee report.

Public Works/Public Utilities Committee - Councilman Donofrio

All departments have done a wonderful job dealing with the disaster.

The salt shed in the Public Works yard is complete.

Upon motion by Councilman Vicente, seconded by Councilman Mulligan, and carried unanimously upon voice vote, to accept the Public Works/Public Utilities Committee report.

Ordinance Committee - Councilman Mulligan

Mimicked the other Council member's compliments to the Police Chief, Fire Marshal, Fire Department, Police Department, and Public Works for their efforts in cleaning up things after the hurricane.

Explained the ordinances that will be introduced this evening.

Councilman Mulligan suggested, and the Council members agreed, to add a resolution to the agenda to extend the date until the end of the month for the assessment of interest on fourth quarter tax payments due to Hurricane Sandy.

Upon motion by Councilman Donofrio, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Ordinance Committee report.

Finance and Licensing Committee - Councilman Vicente

Agreed that it was a great team effort by all during the hurricane and gas shortage.

Auditor Position

The Borough has used the same auditor for ten years; but the State recommends that municipalities change auditors every five years. Interviews were conducted and a decision will be announced at the next meeting.

Payment of Bills

Upon motion by Councilman Vicente, seconded by Council President Burnside, and carried unanimously upon voice vote, that the bills presented to the Borough of Rockaway for payment by the Borough, as evidenced by proper vouchers, be referred to the Committee or unit contracting for same, and, when endorsed by them and approved by appropriate action of Council, that they are to be paid.

Upon motion by Councilman Mulligan, seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Finance and Licensing Committee report.

Public Safety Committee - Council President Burnside

Thanked the Police Department for great work during hurricane; communication was improved from last year's hurricane.

Upon motion by Councilman Donofrio, seconded by Councilman Vicente, and carried unanimously upon voice vote, to accept the Public Safety Committee report.

MAYOR'S REPORT

Mayor Greuter accompanied Chief Scheer to deliver meals to those without power.

Upon motion by Councilman Donofrio, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Mayor's report.

CONSENT AGENDA ITEMS

Upon motion by Councilman Donofrio, seconded by Councilman Vicente, and carried unanimously upon call of the roll, the following resolutions were adopted:

RESOLUTION 150-12: AWARD CONTRACT SOLID WASTE AND DESIGNATED RECYCLABLE MATERIALS COLLECTION AND DISPOSAL SERVICES

WHEREAS, on October 17, 2012, the Borough Clerk received two (2) bid proposals for Solid Waste and Designated Recyclable Materials Collection and Disposal Services as follows:

	Blue Diamond Disposal, Inc. PO Box 267 Succasunna, NJ 07876 973-598-9800	Waste Management of New Jersey, Inc. 107 Silvia Street Ewing, NJ 08628 609-434-5601
3-Year Contract		
Weekly Solid Waste with Metal 1 x per month	\$1,152,000	\$1,219,608
Yard Waste, 2 x per month	\$ 102,000	\$ 212,040
Residential Construction Debris 2 x per year	<u>\$ 6,000</u>	<u>\$ 3,900</u>
Total	\$1,260,000	\$1,435,548
Weekly Solid Waste with Metal 1 x per month	\$1,152,000	\$1,229,608
Yard Waste, 2 x per/mo, plus weekly June-Aug	\$ 120,000	\$ 248,040
Residential Construction Debris 2 x per year	<u>\$ 6,000</u>	<u>\$ 3,900</u>
Total	\$1,278,000	\$1,481,548
4-Year Contract		
Weekly Solid Waste with Metal 1 x per month	\$1,536,000	\$1,634,256
Yard Waste, 2 x per month.	\$ 136,000	\$ 284,112
Residential Construction Debris 2 x per year	<u>\$ 8,000</u>	<u>\$ 5,200</u>
Total	\$1,680,000	\$1,923,568
Weekly Solid Waste with Metal 1 x per month	\$1,536,000	\$1,634,256
Yard Waste, 2 x per/mo, plus weekly June-Aug	\$ 160,000	\$ 332,352
Residential Construction Debris 2 x per year	<u>\$ 8,000</u>	<u>\$ 5,200</u>
Total	\$1,704,000	\$1,971,808
5-Year Contract		
Weekly Solid Waste with Metal 1 x per month	\$1,920,000	\$2,057,160
Yard Waste, 2 x per month.	\$ 170,000	\$ 356,520
Residential Construction Debris 2 x per year	<u>\$ 10,000</u>	<u>\$ 6,500</u>
Total	\$2,100,000	\$2,420,180
Weekly Solid Waste with Metal 1 x per month	\$1,920,000	\$2,057,160
Yard Waste, 2 x per/mo, plus weekly June-Aug	\$ 200,000	\$ 417,060
Residential Construction Debris 2 x per year	<u>\$ 10,000</u>	<u>\$ 6,500</u>
Total	\$2,130,000	\$2,480,720

WHEREAS, the low bid submitted by Blue Diamond Disposal, in the amount of \$2,100,000 for the collection and disposal of Solid Waste and Designated Recyclable Materials for a 5-year period complied with the bid specifications, and the Borough Clerk and Superintendent of Public Works have recommended that a contract be awarded to the low bidder, Blue Diamond Disposal; and

WHEREAS, the contract is being awarded through a fair and open process, pursuant to N.J.S.A. 19:44A-20.4 et seq.; and

WHEREAS, a Certificate of Availability of Funds for a contract to collect and dispose of Solid Waste and Designated Recyclable Materials has been filed by the Borough of Rockaway Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, that proper Borough officials are authorized and directed to execute a contract with Blue Diamond Disposal, Inc. in the amount of \$2,100,000 for the collection and disposal of Solid Waste and Designated Recyclable Materials for a 5-year period on a form approved by the Borough Attorney.

DATE: November 8, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

CERTIFICATION FOR AVAILABILITY OF FUNDS

I, JOHN J. DOHERTY, Borough Treasurer, of the Borough of Rockaway, in the County of Morris, Jersey, do hereby certify that funds in the amount as stated in their contracts are currently available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Blue Diamond Disposal, Inc., PO Box 267, Succasunna, NJ 07876, (973-598-9800), in the amount of \$2,100,000.

The Funds are Chargeable to Budget Year: 2013 through 2017 both temporary and final adopted budgets at \$420,000 per year.

Budget Line Item#: Solid Waste

DATE: November 8, 2012

BY: John J. Doherty, Treasurer

RESOLUTION 151-12: RESOLUTION IN SUPPORT OF A-3393, LEGISLATION TO PROTECT RESIDENTIAL PROPERTY TAXPAYERS FROM THE LOSS OF TELECOMMUNICATIONS TAX SUPPORT

WHEREAS, in 1997, at the request of incumbent utilities, the laws regarding State taxation of telecommunications corporations were amended in response to technological and market innovations, in order to increase competition; and

WHEREAS, the amendments sought to preserve revenues to local governments by providing that local exchange telephone companies subject to the New Jersey Franchise and Gross Receipts Tax on April 1, 1997 would continue to be subject, annually, to the Business Personal Property Tax ("BPPT"); and

WHEREAS, the statute defines local exchange companies as those telecommunications carriers "providing dial tone and access to 51% of a local telephone exchange"; and

WHEREAS, Verizon's self-serving interpretation of the statutory definition has led it to claim exemption from the BPPT in any municipality where the corporation unilaterally determines, in any given year, that it no longer supplies dial tone and access to at least 51% of the local telephone exchanges; and

WHEREAS, Hopewell Borough's challenge to that claim was upheld by the Mercer County Board of Taxation in 2009; and

WHEREAS, Verizon's appeal of that determination to the Tax Court resulted in a June, 2012 trial court decision accepting the corporation's self-serving interpretation of the law; and

WHEREAS, as things now stand, over 100 municipalities know that they enter 2013 without BPPT revenues that will cost property taxpayers well in excess of \$8 million and, unless matters change, more municipalities will lose more millions in the future; and

WHEREAS, remedial legislation (A-3393) has been introduced by Assemblyman Ralph Caputo, which will clarify the perceived ambiguity of the statutory definition to further implement the original legislative intent to preserve revenues to local governments; and

WHEREAS, we anticipate the introduction of companion legislation by Senator Bob Smith, as soon as the Senate next convenes.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rockaway commends Assemblyman Caputo and Senator Smith and strongly supports A-3393, which would clearly identify the telecommunications carriers subject to taxation on their business personal property and remove the budget uncertainty caused by Verizon's obfuscation; and

BE IT FURTHER RESOLVED, that we urge our State Senator and our representatives in the General Assembly to join as co-sponsors of A-3393 and its companion bill; and

BE IT FINALLY RESOLVED, that copies of this Resolution be forwarded to the Honorable Governor Chris Christie, the Honorable Speaker of the General Assembly Sheila Oliver, the Honorable President of the State Senate Stephen M. Sweeney, the Honorable Assembly Republican Leader Jon Bramnick, the Honorable Senate Republican Leader Thomas H. Kean, Jr., and our own State Senator and Representatives in the General Assembly, and to the New Jersey State League of Municipalities.

DATE: November 8, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

RESOLUTION 152-12: REFUND TAX SALE CERTIFICATE (BLOCK 57, LOT 7)

BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, County of Morris, by New Jersey State Statute 54:5-58 to refund tax sale certificate dated October 21, 2009 for 79 Hill Street, Block 57, Lot 7, in the amount of \$46,330.93 and premium in the amount \$6,700.00 to U.S. Bank Cust/Sass Muni V dtr, 2 Liberty Place, 50 South 16th Street, Suite 1950, Philadelphia, PA 19102.

DATE: November 8, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

RESOLUTION 153-12: AUTHORIZE CHANGE ORDER NO. 1 (REHABILITATION OF THE HILLSIDE AVENUE STEEL WATER TANK)

WHEREAS, on August 9, 2012, a contract for the Rehabilitation of the Hillside Avenue Steel Water Tank Project was awarded to Allied Painting, Inc., 4 Larwin Road, Cherry Hill, NJ 08034 (856-429-3400) in the amount of \$130,500.00; and

WHEREAS, additional work to repair holes in the steel plate floor and side wall of the tank, the result of severe corrosion inside the tank, is required which were not anticipated at the time bids were being solicited; and

WHEREAS, the Borough Engineer has recommended that the Borough authorize a change order (not more than 20% of the original contract) in an amount not to exceed \$4,500.00 to be awarded to Allied Painting, Inc. to perform said work; and

WHEREAS, the procedures for this change order are in compliance with N.J.A.C. 5:34-48 of the regulations governing Local Public Contracts; and

WHEREAS, a Certificate of Availability of Funds has been filed by the Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, hereby authorize and approve the execution of Change Order No. 1 in an amount not to exceed \$4,500.00 to the contract awarded to Allied Painting, Inc., 4 Larwin Road, Cherry Hill, NJ 08034 (856-429-3400), increasing the cost of this contract to \$135,000.00.

DATE: November 8, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

CERTIFICATION FOR AVAILABILITY OF FUNDS

I, JOHN J. DOHERTY, Borough Treasurer, of the Borough of Rockaway, in the County of Morris, Jersey, do hereby certify that funds in the amount as stated in their contracts are currently available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Allied Painting, Inc., 4 Larwin Road, Cherry Hill, NJ 08034 (856-429-3400), not to exceed \$4,500.00.
Ordinance#: 13-01-12

DATE: November 8, 2012

BY: John J. Doherty, Treasurer

RESOLUTION 154-12: AUTHORIZE CHANGE ORDER NO. 1 (SALT STORAGE AND RECYCLING AREA IMPROVEMENTS PROJECT)

WHEREAS, on August 23, 2012, a contract for the Salt Storage and Recycling Area Improvements Project was awarded to Zenith Construction Services, 365 Thomas Avenue, Orange, NJ 07050 (973-674-2500) in the amount of \$249,075.00; and

WHEREAS, additional work to bring the piping above grade and add additional guide rail supports to ensure that the wall will be protected from damage during placement and removal of the dumpsters is required which was not anticipated at the time bids were being solicited; and

WHEREAS, the Borough Engineer has recommended that the Borough authorize a change order (not more than 20% of the original contract) in an amount not to exceed \$1,225.00 to be awarded to Zenith Construction Services. to perform said work; and

WHEREAS, the procedures for this change order are in compliance with N.J.A.C. 5:34-48 of the regulations governing Local Public Contracts; and

WHEREAS, a Certificate of Availability of Funds has been filed by the Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, hereby authorize and approve the execution of Change Order No. 1 in an amount not to exceed \$1,225.00 to the contract awarded to Zenith Construction Services, 365 Thomas Avenue, Orange, NJ 07050 (973-674-2500), increasing the cost of this contract to \$250,300.00.

DATE: November 8, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

CERTIFICATION FOR AVAILABILITY OF FUNDS

I, JOHN J. DOHERTY, Borough Treasurer, of the Borough of Rockaway, in the County of Morris, Jersey, do hereby certify that funds in the amount as stated in their contracts are currently available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Zenith Construction Services, 365 Thomas Avenue, Orange, NJ 07050 (973-674-2500), not to exceed \$2,225.00.

The Funds are Chargeable to Budget Year: Recycling Trust.

Budget Line Item#: Solid Waste

DATE: November 8, 2012

BY: John J. Doherty, Treasurer

RESOLUTION 155-12: EXTEND DATE FOR ASSESSMENT OF INTEREST ON FOURTH QUARTER TAX PAYMENTS DUE TO HURRICANE SANDY

WHEREAS, in Resolution 04-12, the Mayor and Council of the Borough of Rockaway specified with respect to real property taxes that no interest will be charged if payment of any installment is made within ten (10) days after the date upon which the same became payable, but that interest at the rate of eight percent (8%) per centum per annum shall be assessed on the first \$1,500.00 of the delinquency, and eighteen percent (18%) per centum per annum on any amount in excess of \$1,500.00; and

WHEREAS, the Mayor and Council recognize that due to Hurricane Sandy and the damage and loss of power that it has caused in the Borough of Rockaway and other communities, it was difficult, if not impossible, for property owners to make the fourth quarterly payment due on November 1, 2012 within that ten (10) day period, despite a good faith effort to do so; and

WHEREAS, the extraordinary circumstances presented by Hurricane Sandy present good cause to extend the ten (10) day period set forth in Resolution 04-12 to 30 days, so that interest pursuant to that Resolution shall not be assessed if payment of fourth quarter taxes is made on or before November 30, 2012, and if the taxpayer at issue is otherwise current on all payments due and owing to the Borough of Rockaway.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, County of Morris, New Jersey, that Resolution 04-12 is hereby amended to provide, with respect to the payment of taxes for the fourth quarter of 2012, that the interest on delinquent taxes specified therein shall not be assessed if payment of fourth quarter taxes is made on or before November 30, 2012.

BE IT FURTHER RESOLVED, that in the event that payment is not made on or before November 30, 2012, then interest shall be assessed from November 1, 2012 to the date of payment.

DATE: November 8, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

ORDINANCE NO. 23-12, Introduction & First Reading

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
AMENDING CHAPTER A263, FEES,
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

Councilman Mulligan moved that this ordinance be taken up and passed on first reading and that the Borough Clerk be authorized to have the ordinance published in accordance with the law in *The Citizen* and the *Daily Record* for hearing and final passage on December 13, 2012.

Said motion was seconded by Councilman Donofrio and passed as follows upon call of the roll:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Burnside
Nays: None

ORDINANCE NO. 24-12, Introduction & First Reading

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL ABOLISHING RECREATION COMMISSION, ESTABLISHING
PARKS AND RECREATION ADVISORY COMMITTEE AND REVISING
CHAPTER 71 OF THE CODE OF THE BOROUGH OF ROCKAWAY**

Councilman Mulligan moved that this ordinance be taken up and passed on first reading and that the Borough Clerk be authorized to have the ordinance published in accordance with the law in *The Citizen* and the *Daily Record* for hearing and final passage on December 13, 2012.

Said motion was seconded by Council President Burnside and passed as follows upon call of the roll:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Burnside
Nays: None

ORDINANCE NO. 25-12, Introduction & First Reading

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
WAIVING UNIFORM CONSTRUCTION CODES FEES
FROM NOVEMBER 1, 2012 THROUGH DECEMBER 31, 2012
FOR HURRICANE SANDY VICTIMS**

Councilman Mulligan moved that this ordinance be taken up and passed on first reading and that the Borough Clerk be authorized to have the ordinance published in accordance with the law in *The Citizen* and the *Daily Record* for hearing and final passage on December 13, 2012.

Said motion was seconded by Councilman Vicente and passed as follows upon call of the roll:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Burnside
Nays: None

ORDINANCE NO. 26-12, Introduction & First Reading

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
AMENDING CHAPTER 169,
LAND USE ADMINISTRATION AND PROCEDURES,
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

Councilman Mulligan moved that this ordinance be taken up and passed on first reading and that the Borough Clerk be authorized to have the ordinance published in accordance with the law in *The Citizen* and the *Daily Record* for hearing and final passage on December 13, 2012.

Said motion was seconded by Councilman Vicente and passed as follows upon call of the roll:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Burnside
Nays: None

ORDINANCE NO. 22-12, Public Hearing & Adoption

Councilman Vicente offered the following ordinance as read by title on second reading:

**ORDINANCE NO. 22-12
ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL RESCINDING ORDINANCE NO. 14-07**

WHEREAS, on September 13, 2007, in Ordinance No. 14-07, the Mayor and Council of the Borough of Rockaway agreed to vacate a certain portion of Broad Street, as described in that Ordinance, a copy of which is attached hereto as Exhibit A; and

WHEREAS, in consideration of that vacation, Annex Builders, LLC agreed to pay to the Borough of Rockaway the sum of \$100,000; and

WHEREAS, Annex Builders, LLC has not paid the consideration for the street vacation, the street vacation itself has not been consummated, and as such it is appropriate at this time to rescind Ordinance No. 14-07.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that Ordinance No. 14-07 be and the same is hereby rescinded, and shall be considered void and of no effect.

BE IT FURTHER ORDAINED as follows:

1. All Ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
2. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
3. This Ordinance shall take effect as provided by law.

DATE: November 8, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

EXHIBIT A

ORDINANCE NO. 14-07

**ORDINANCE OF THE
BOROUGH OF ROCKAWAY, COUNTY OF MORRIS,
VACATING A PORTION OF BROAD STREET**

WHEREAS, in connection with a certain application made by Annex Builders, LLC to the Planning Board of the Borough of Rockaway, the vacation of a certain portion of a paper street known as Broad Street located in the Borough of Rockaway was considered by the Planning Board. The approval granted by the Planning Board for a subdivision of property owned by Annex Builders, LLC was conditioned upon the Borough of Rockaway vacating a portion of Broad Street; and

WHEREAS, Annex Builders, LLC has requested that the Mayor and Council vacate such portion of Broad Street as described by Dykstra Walker Design Group; and

WHEREAS, Annex Builders, LLC has agreed with the Borough of Rockaway that if that portion of Broad Street is vacated, Annex Builders, LLC will pay the Borough of Rockaway the sum of \$100,000 in consideration for the vacation of a portion of Broad Street enabling Annex Builders, LLC to obtain conforming, buildable lots thereon by adding to the property owned by Annex Builders, LLC that portion of the vacated street; and

WHEREAS, the Borough Engineer is satisfied with the description of the proposed vacation of said portion of Broad Street; and

WHEREAS, N.J.S.A. 40:67-1 authorizes a governing body to vacate any public street or part thereof; and

WHEREAS, the Borough of Rockaway has determined that it is in the best interest of the public to vacate that portion of Broad Street described herein.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Rockaway, County of Morris and State of New Jersey that the following described portion of a certain street known as Broad Street is hereby vacated:

Commencing at a point in the southerly right-of-way line of Broad Street (variable width right-of-way), said point being the northwesterly corner of Lot 3, Block 22, running, thence;

1. N 11 degrees 13 minutes 35 seconds E, 50.00 feet along Lot 2, Block 22, thence;
2. S 78 degrees 46 minutes 25 seconds E, 336.47 feet through said Broad Street right-of-way to a point of curvature; thence
3. Southeasterly through the same, a curve to the right having a radius of 25.00 feet, an arc length of 29.80 feet, and a central angle of 68 degrees 17 minutes 34 seconds (chord – S 44 degrees 37 minutes 38 seconds E, 28.07 feet) to a point of reverse curvature, thence;
4. Southeasterly through the same, a curve to the left having a radius of 48.00 feet, an arc length of 60.50 feet, and a central angle of 72 degrees 12 minutes 49 seconds (chord – S 46 degrees 35 minutes 15 seconds E, 56.57 feet) thence;
5. S 7 degrees 18 minutes 20 seconds W, 4.12 feet through the same to a point in the existing southerly right-of-way line of Broad Street, thence;
6. N 78 degrees 46 minutes 25 seconds W, 407.86 feet along said right-of-way line and the northerly property line of Lot 3, Block 22 to the point or place of beginning.

Containing 18,448 square feet or 0.424 acres of land, more or less.

The above description is based on map entitled "Right-of-Way Vacation Plan, Block 22, Lot 3, Broad Street, Borough of Rockaway, Morris County, New Jersey", dated May 10, 2005, last revised May 3, 2006, prepared by Dykstra Walker Design Group.

Any and all rights and privileges now possessed by the Borough or which may be required to be placed within the right-of-way vacated by this ordinance and public utilities as defined in N.J.S.A. 48:2-13 and by the Cable Television Act N.J.S.A. 48:5A-1 et seq. are hereby preserved and maintained and the Borough does hereby further reserve the right to maintain, repair, replace existing facilities or install, locate and maintain any future utilities within, adjacent to, over and under that portion of Board Street hereby vacated and that all such rights be and the same are hereby expressly reserved and excepted from said vacation.

This Street Vacation shall not become effective unless and until the Borough of Rockaway shall have received from Annex Builders, LLC the sum of \$100,000 in good and sufficient funds in consideration of the action of the Borough vacating such portion of Broad Street.

Provided the Borough has received the funds set forth in the immediately preceding paragraph, the Borough Clerk shall, within 60 days after this Ordinance becomes effective (as provided herein), file a certified copy hereof, under the seal of the Borough of Rockaway, together with a copy of the Proof of Publication thereof, in the office of the Clerk of Morris County.

This Ordinance shall take effect according to law and as specifically provide herein.

DATE: September 13, 2007

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Mary Lockwood, Mayor

Mayor Greuter opened the meeting to the public. There being no comments, Mayor Greuter closed the public hearing.

On motion by Councilman Vicente and seconded by Councilwoman Kanigel, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Burnside
Nays: None

PUBLIC PORTION

Mayor Greuter opened the meeting to the public.

Assistant Fire Chief Sam Passarella reported that the new fire truck is in service and the department has been busy responding to calls since the hurricane.

Mr. Pat MacDonald, Crestwood Rd., said JCP&L's communications to residents has been awful.

Mrs. Bonnie Hook, representing the Business Owners Association, asked for and received permission to hang wooden candy canes on the light posts in December.

There being no further comments, Mayor Greuter closed the meeting to the public.

ATTORNEY'S REPORT

Mr. Wacks reported that he sent out a letter to the EPA advising them that the action taken regarding Thiokol was unacceptable and also sent a letter to the woman who hit the gate at Park Lake requiring a check for the total damage.

Upon motion by Councilman Donofrio, seconded by Council President Burnside, and carried unanimously upon voice vote, to accept the Borough Attorney's report.

ADJOURNMENT

The meeting adjourned at 8:08 p.m.

Approved: As Submitted

Sheila Seifert, Borough Clerk

Date: November 19, 2012