

MAYOR AND COUNCIL
REGULAR MEETING AGENDA
APRIL 8, 2021
6:30 PM

Public notice is hereby given that a regular meeting of the Mayor and Council of the Borough of Rockaway will be held Thursday, April 8, 2021 remotely via Zoom Webinar using either the link or telephonic information provided below. Formal action will be taken.

The meeting agenda and any document that would be made available to members of the public in hard copy at the time of the meeting will be available on the Borough's website, www.rockawayborough.org forty-eight (48) hours in advance of the meeting.

Public comments may be made at the time of the meeting or submitted in advance. In advance of the meeting, members of the public are welcomed to submit questions or comments by electronic mail or in written letter form. Comments submitted via email should be sent to comments@rockawayborough.org. Comments submitted in letter form should be sent to Kimberly Cuspilich, Acting Borough Clerk, 1 East Main Street, Rockaway, NJ 07866. All such questions or comments must include the name and address of the submitter and must be received by the Acting Borough Clerk no later than 4:30 pm on the day prior to the scheduled meeting.

Participation for this meeting will be offered via Zoom Webinar or by telephone as follows:

You are invited to a Zoom webinar.

When: Apr 8, 2021 06:30 PM Eastern Time (US and Canada)

Topic: Mayor and Council Meeting

Please click the link below to join the webinar:

<https://zoom.us/j/93658655671?pwd=NnVMZlkyTVdHVGRZVTRmNTljb21YQT09>

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 646 876 9923 or +1 301 715 8592 or +1 312 626 6799 or +1 346 248 7799 or
+1 408 638 0968 or +1 669 900 6833 or +1 253 215 8782

Webinar ID: 936 5865 5671

Passcode: 078071

1. CALL TO ORDER

Council Member	Present	Absent
Councilman Greuter		
Councilman Haynes		
Councilman Hurley		
Councilman McDonald		
Councilman Smith		
Council President Burnside		

2. PLEDGE OF ALLEGIANCE

3. CORRESPONDENCE

4. MUNICIPAL BUDGET

Resolution 64-21 Conduct a Self-Examination of the Annual Budget

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

Resolution 65-21 Read Municipal Budget by Title

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

Public Hearing

Resolution 66-21 Authorize the Adoption of the 2021 Budget

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

5. PRESENTATION – *Redevelopment*

6. COUNCIL REPORTS

7. REPORT OF ATTORNEY

8. REPORT OF MAYOR

9. REPORT OF ADMINISTRATOR

10. REPORT OF CLERK

11. CONSENT AGENDA

- 67-21 Approve Water Allocation Application (353 Route 46)
- 68-21 Appropriate Engineering Costs - Water System Mapbooks
- 69-21 Appropriate Planning Costs - Topology
- 70-21 Resolution to Support Senate (PERS Pension Board)
- 71-21 Extend Temporary Leave of Absence (Keyara Dominguez)
- 72-21 Rescind Water Department Duty Man Fee (80 Hemlock Road)
- 73-21 Authorizing Execution of Revised Affordable Housing Settlement Agreement

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

12. ORDINANCES, *Public Hearing & Adoption*

09-21 ORDINANCE OF THE BOROUGH OF ROCKAWAY MAYOR AND COUNCIL AMENDING CHAPTER 169 (LAND USE ADMINISTRATION AND PROCEDURES), CHAPTER 171 (LAND SUBDIVISION AND SITE PLAN REVIEW), AND CHAPTER 172 (ZONING) OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ROCKAWAY, AND ESTABLISHING STANDARDS FOR "SENIOR HOUSING (AHO-S)" DISTRICT IN THE BOROUGH

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

13. ORDINANCES, *Introduction*

10-21 ORDINANCE OF THE BOROUGH OF ROCKAWAY MAYOR AND COUNCIL AMENDING CHAPTER 213, SEWER, OF THE CODE OF THE BOROUGH OF ROCKAWAY

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

11-21 ORDINANCE OF THE BOROUGH OF ROCKAWAY MAYOR AND COUNCIL MUNICIPAL AND WATER UTILITY SALARIES

Moved:		Seconded:			
Council Member	Yes	No	Abstain	Recuse	Absent
Councilman Greuter					
Councilman Haynes					
Councilman Hurley					
Councilman McDonald					
Councilman Smith					
Council President Burnside					

14. MEETING OPEN TO THE PUBLIC (please limit comments to 3 minutes or less)

15. CLOSED SESSION (if necessary)

16. ADJOURNMENT

Moved	Seconded	Voice Vote		Time
		In favor:	Against:	

RESOLUTION 64-21: CONDUCT A SELF-EXAMINATION OF THE ANNUAL BUDGET

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Borough of Rockaway has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2019 budget year.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Rockaway that in accordance with N.J.A.C. 5:30-7.6a and 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated;
 - b. Items of appropriation are properly set forth;
 - c. In itemization, form, arrangement, and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 65-21: READ MUNICIPAL BUDGET BY TITLE

WHEREAS, Chapter 259 of the Public Laws of 1995 amends the "Local Budget Law," N.J.S.A. 40A:4 et seq., to provide that the local budget may be read by its title only on the date of the public hearing, under the following conditions:

1. At least one week prior to the date of the hearing and at the hearing, a complete copy of the approved budget:
 - a. shall be made available for public inspection; and
 - b. shall be made available to each person upon request; and
2. The governing body shall, by resolution passed by not less than a majority of the full membership, determine that the conditions set forth in subsection 1.a. and 1.b. of this section have been met; and

WHEREAS, the certification by the Borough Clerk attesting to compliance with item 1.a. above is attached hereto and made a part hereof, and the Budget Summary as allowed by law was published in *The Citizen* issue of March 17, 2021.

NOW, THEREFORE, BE IT RESOLVED by Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, (not less than a majority of the full membership thereof affirmatively concurring) that the said 2021 Local Municipal Budget of the Borough of Rockaway shall be read by title only, all of the aforementioned conditions of P.L. 1995, c. 259 having been met.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 66-21: AUTHORIZE THE ADOPTION OF 2021 ANNUAL BUDGET

SEE PAGES 41 AND 42 OF BUDGET

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 67-21: APPROVE WATER ALLOCATION APPLICATION FOR 353 ROUTE 46

WHEREAS, on January 19, 2021, Lidl U.S. Operations, LLC, 20 Goldsborough Drive, Bayonne, New Jersey 07002, submitted a water allocation application and nonrefundable fee related to 353 Route 46 (Block 83, Lot 7); and

WHEREAS, the Borough of Rockaway Water Allocation Review Committee has reviewed the application and determined that the Borough of Rockaway has sufficient available "firm capacity" to meet this projected need for non-municipal use of 3,516 gallons per day; and

WHEREAS, the Borough of Rockaway Water Allocation Review Committee has recommended that the Borough of Rockaway allocate water usage of 3,516 gallons per day, subject to regulations now or hereafter to be adopted concerning the supply and use of water service in the Borough.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, that water usage of 3,516 gallons per day related to 353 Route 46 (Block 83, Lot 7) is hereby approved; and

BE IT FURTHER RESOLVED that 20 percent of the \$17,580.00 nonrefundable reservation fee (\$5 per gallon per day of usage times 3,516 gallons per day) shall be due within 30 days of the date of this resolution and an additional 20 percent of the nonrefundable reservation fee shall be due each year thereafter on the anniversary date of the approval until it is paid in full; provided, however, that if the applicant applies for a construction permit for the proposed project, the entire reservation fee shall be paid in full before such permit shall be issued; and

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Borough of Rockaway Construction and Water Departments.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 68-21: APPROPRIATE ENGINEERING (MOTT MACDONALD) COSTS – WATER SYSTEM MAPBOOK

WHEREAS, the Borough Engineer submitted a proposal dated March 25, 2021 to develop a large scale MapBook at a cost of \$2,000.00; and

WHEREAS, the amount to be charged is for the purpose of developing a large scale MapBook on 11 x 17 pages utilizing the existing water utility dataset developed by others, landbase datasets developed by Morris County and ariel imagery from the State of New Jersey and the Borough Engineer will deliver two hard copies of the MapBook and a pdf version of the MapBook; and

WHEREAS, a Certification for Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, that the amount appropriated for the Borough Engineer to develop a MapBook, shall not exceed \$2,000.00, and the Chief Financial Officer is authorized to disburse such funds.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 69-21: APPROPRIATE PLANNING COSTS – PRELIMINARY REDEVELOPMENT INVESTIGATION

WHEREAS, the Borough Planner submitted a proposal dated March 23, 2021 to facilitate a preliminary investigation at a cost of \$25,200.00; and

WHEREAS, the amount to be charged is for the purpose of facilitating a preliminary investigation consistent with the statutory requirements enumerated in New Jersey's Local Redevelopment and Housing Law (LRHL); and

WHEREAS, the primary objective will be to prepare a preliminary investigation that will determine whether certain properties meet the statutory requirements to be declared "an area in need of redevelopment" per N.J.S.A. 40A:12A-5 and/or "an area of rehabilitation" per N.J.S.A. 40A:12A-14; and

WHEREAS, a Certification for Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, that the amount appropriated for the Borough Planner to facilitate a preliminary investigation consistent with the statutory requirements enumerated in New Jersey's Local Redevelopment and Housing Law (LRHL), shall not exceed \$25,200.00, and the Chief Financial Officer is authorized to disburse such funds.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 70-21: SUPPORT SENATE, NO. 3522 (PERS PENSION BOARD)

A RESOLUTION supporting S-3522, which would establish a new board of trustees for the Local Part of the Public Employees' Retirement System (PERS) to preserve the structure and integrity of the more solvent Local Part.

WHEREAS, county, municipal, and other local governments have met their pension obligations as employers for more than a decade while the State of New Jersey has continued to underfund the pension systems in varying degrees since 1996 and thus creating one of the worst publicly funded retirement systems in the entire nation; and,

WHEREAS, despite fulfilling their fiduciary duties in meeting their pension obligations, local governments across the State will experience double digit percentage increases in total employer pension contributions in 2021 as determined in figures recently published by the Division of Pension and Benefits in the State Department of Treasury; and,

WHEREAS, even more alarming for local government employers is the fact that the unfunded accrued liability once again increased in 2021 to a staggering \$26.6 billion for PERS alone, causing in part, a decrease in the funded ratio for the Local Part of PERS to 65.4%, the State Part to 31.2%, and the combined rate to a disconcerting 52.2% far below the target funded ratio of 75.0%; and,

WHEREAS, this legislation would protect local governing bodies from the State of New Jersey further directing property taxpayer dollars to subsidize its long mismanagement and underfunding of the pension systems as it would provide the new balanced board of trustees of PERS with the ability to determine or modify member benefits, direct policies and investments to achieve full funding, and serve as the fiduciary of system; and,

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rockaway does in fact hereby support S-3522, which would establish a new board of trustees for the Local Part of the Public Employees' Retirement System (PERS) to preserve the structure and integrity of the more solvent Local Part.

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be forwarded to Governor Phil Murphy, Senate President Stephen M. Sweeney, Speaker of the General Assembly Craig Coughlin, and the clerks of the boards of county commissioners in all twenty-one counties.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 71-21: EXTEND TEMPORARY LEAVE OF ABSENCE REQUEST (KEYARA DOMINGUEZ)

WHEREAS, Keyara Dominguez, Police Clerk/Typist, was granted a temporary unpaid leave of absence for 12 weeks beginning on or about January 4, 2021; and

WHEREAS, Keyara Dominguez, has requested to extend her unpaid leave of absence for 4 weeks beginning on or about April 1, 2021; and

WHEREAS, Section 61-80, Temporary leaves of absence, of the Code of the Borough of Rockaway provides that Employees may be granted a personal leave of absence for up to six months by resolution of the Mayor and Council; such leave to include the use of any accrued vacation and sick leave time; and

WHEREAS, the Chief of Police has advised that said leave will not cause undue operational disruption and recommended that the leave be approved.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, that Keyara Dominguez has shown good cause and her request to extend her leave of absence for 4 weeks beginning on or about April 1, 2021, has been granted pursuant to Section 61-80, temporary leaves of absence, of the Code of the Borough of Rockaway.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 72-21: RESCIND WATER DEPARTMENT DUTY MAN FEE (80 HEMLOCK ROAD)

WHEREAS, on February 25, 2021, the Water Department Duty Man responded to 80 Hemlock Road for a water leak emergency at the meter;

WHEREAS, the homeowner was subsequently invoiced in the amount of \$180.00 for the same; and

WHEREAS, at the March 25, 2021 regular meeting of the Mayor and Council, the homeowner requested that the charges be rescinded;

WHEREAS, after further investigation, the Mayor and Council agree that due to exceptional circumstances, the fees should be rescinded;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Rockaway, County of Morris, to rescind charges in the amount of \$180.00 on the water bill for 80 Hemlock Road, Rockaway, NJ 07866.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

RESOLUTION 73-21: RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AN AMENDED SETTLEMENT AGREEMENT FIXING THE BOROUGH’S AFFORDABLE HOUSING FAIR SHARE OBLIGATION.

WHEREAS, on March 10, 2015, the New Jersey Supreme Court handed down its decision in In re Adoption of N.J.A.C. 5:96 and 5:97 ex rel. New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), which terminated COAH’s jurisdiction to administer and approve municipalities’ affordable housing plans, determined that the Court would reassert primary jurisdiction over the same and directed interested municipalities to petition the Court for immunity while constitutionally compliant housing plans were prepared; and

WHEREAS, on July 8, 2015, the Borough filed a declaratory judgment action in the case entitled In the Matter of the Borough of Rockaway, a municipal corporation of the State of New Jersey, bearing Docket No. MRS-L-1671-15 (the “DJ Action”) seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (“Mount Laurel IV”), and also petitioned the Court for temporary immunity from builder’s remedy lawsuits; and

WHEREAS, Mount Laurel IV designated Fair Share Housing Center (“FSHC”) as an interested party in all declaratory judgment actions seeking to fix municipal affordable housing fair share obligations, and FSHC has participated in the Borough’s DJ Action as an interested party; and

WHEREAS, RPM Development Group has appeared as an interested party in the Borough’s DJ Action, and seeks to develop real property located at Block 73, Lot 65 (the “Property”); and

WHEREAS, the Superior Court appointed James T. Kyle, PP, AICP as the Special Master, as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, with the assistance of the said Special Master, the Borough, FSHC and RPM Development Group engaged in good faith negotiations, which resulted in an agreement on the various substantive issues, terms and conditions set forth in the Settlement Agreement; and

WHEREAS, on September 30, 2020, by Resolution No 137-20, the Mayor and Council authorized the approval of the Settlement Agreement, and

WHEREAS, pursuant to the Settlement Agreement, RPM applied to the Rockaway Borough Land Use Board for preliminary and final site plan and subdivision approval to permit an age-restricted apartment building at the Property, which application was denied by the Land Use Board on September 21, 2020; and

WHEREAS, on October 22, 2020, RPM filed a Complaint in Lieu of Prerogative Writs against the Borough of Rockaway, Borough Council of Rockaway, and Rockaway Land Use Board, alleging, *inter alia*, that the denial of the application was wrongful and seeking various forms of relief, including but not limited to revoking the Borough's immunity from "Mount Laurel" suits, and RPM's suit was consolidated with the DJ Action, after which FSHC also moved to revoke the Borough's immunity; and

WHEREAS, the parties have since engaged in extensive good faith negotiations, resulting in a revision to the Settlement Agreement (the "Amended Settlement Agreement"), a copy of which is attached hereto at Exhibit A; and

WHEREAS, there is a well-established policy favoring the settlement of litigation, and the settlement of Mount Laurel litigation in particular is advisable, because it avoids the expenditure of limited public resources and avoids the risks associated with such litigation; and

WHEREAS, pursuant to the settlement negotiations between the parties, FSHC will support the Borough's Housing Plan and its approach to meeting the Borough's Prior Round and Third Round obligations, and will join in the Borough's request that the trial court find that it is fair to the interests of lower-income households in New Jersey and entitles the Borough to protection from Mount Laurel litigation through July 1, 2025; and

WHEREAS, the Mayor and Council are of the opinion that the settlement of the Borough's DJ Action and the Complaint in Lieu of Prerogative Writs filed by RPM is in the best interest of the residents of the Borough because it eliminates the uncertainty and expense of litigation, and will result in approval of the Borough's Housing Plan, which, in turn, will maintain the Borough's immunity from all Mount Laurel lawsuits through July 2, 2025.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, as follows:

1. The Mayor and Clerk are hereby authorized to execute the Amended Settlement Agreement attached hereto as Exhibit A, and to undertake all reasonable and necessary steps to effectuate the foregoing.
2. The Mayor and Council direct the Borough's Affordable Housing Counsel to file the fully-executed Amended Settlement Agreement with the Superior Court for review and approval at a duly-noticed Fairness Hearing; (b) take all actions reasonable and necessary to secure an Order approving the Settlement Agreement, and (c) base3d on same, proceed toward securing judicial approval of the Borough's Housing Plan, after it is drafted, adopted by the Borough's Land Use Board and endorsed by the Mayor and Council.
3. This Resolution shall take effect according to law.

DATE: April 8, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor