

ROCKAWAY TOWNSHIP COUNCIL – SEPTEMBER 20, 2018

The Special Meeting of the Township Council of the Township of Rockaway was held on Thursday, September 20, 2018 in the Municipal Building, 65 Mt. Hope Road, Township of Rockaway, State of New Jersey commencing at 5:30p.m.

Council President Jedynak led those present in the Salute to the American Flag.

Council President Jedynak called for a Moment of Silence to remember the Service and Sacrifices of the Armed Service Members who Protect our Nation and the First Responders who Protect our Neighborhoods.

Present: Council Member Friedlander, Council Member Puzio, Council Member Palumbo, Council Member Smith, Council Member Kelley, Council Vice-President Abrahamsen and Council President Jedynak.

Present from Administration: Interim Mayor Minenna, Attorney Inglesino, Attorney Marchetta, Ms. Seger and Ms. Palmieri.

Acting Clerk Christina Clipperton stated that “this Special Meeting was called pursuant to the provisions of the Open Public Meetings Law. Notices of this meeting were sent to the Official Newspapers, the Daily Record and the Star Ledger on September 18, 2018. In addition, copies of notices were posted on the Official Bulletin Board in the Municipal Building and filed in the office of the Municipal Clerk on aforementioned date.”

Lieutenant Paul Reilly was designated as Sergeant of Arms.

Acting Council President Abrahamsen read the Township Code 2-5.15.

Township Code 2-5.15 Decorum:

While the Council is in session, the members shall preserve order and decorum. The Council President, at his/her discretion shall direct the Chief of Police or such other person in the Police Department as he may designate to be the Sergeant of Arms at the Council meeting. The Sergeant at Arms shall employ reasonable means to maintain the proper order and decorum consistent with accepted standards.

CLOSED SESSION:

(R-18-167) CLOSED SESSION RESOLUTION

Anticipated Litigation

RESOLUTION

R-18-167

WHEREAS, the New Jersey Open Public Meetings Act generally requires that meetings be open to the public; and

WHEREAS, said Act permits a public body to exclude the public only from that portion of a meeting at which the public body discusses one of the following:

1. Any matter which by express provision of Federal Law, State Statute or Rule of Court shall be rendered confidential or excluded from the requirement that public meetings be open to the public.

2. Any matter in which the release of information would impair a right to receive funds from the government of the United States.

3. Any material disclosure of which constitutes an unwarranted invasion of individual privacy unless the individual concerned shall request in writing that the same be discussed publicly.

4. Any collective bargaining agreement or proposals therefore.

5. Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates for investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.

6. Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

7. Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party.

8. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining

of any current or prospective public officer or employee unless all the individuals affected request in writing that the matter be discussed at a public meeting.

9. Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party as a result of an act of omission for which the responding party bears responsibility.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Rockaway as follows:

1. The meeting of September 20, 2018, is closed to the public for the discussion of subject matter which is generally described as follows:

Anticipated Litigation

2. This portion of the meeting may be properly closed under the New Jersey Open Public Meetings Act in that the body will discuss: (included one of the exceptions given above)

3. The matters to be discussed will be disclosed to the public at the following time and under the following circumstances: when matters are concluded.

IT IS HEREBY CERTIFIED that this is a true copy of a Resolution adopted by the Township Council of the Township of Rockaway on September 20, 2018.

Christina Clipperton
Acting Township Clerk

A motion was made by Council President Jedynak, seconded by Council President Abrahamsen to adopt Resolution R-18-167 and go into Closed Session at 5:38p.m.

Roll Call Was Taken.

Yah Votes – 5 (Council Members Palumbo, Smith, Kelley, Vice-President Abrahamsen, President Jedynak)

Nah Votes – 2 (Council Members Friedlander, Puzio)

Motion is carried.

RESOLUTIONS:

(R-18-168) RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF ROCKAWAY, MORRIS COUNTY, NEW JERSEY RETAINING SPECIAL COUNSEL

**TOWNSHIP OF ROCKAWAY
MORRIS COUNTY, NEW JERSEY**

R-18-168

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF ROCKAWAY,
MORRIS COUNTY, NEW JERSEY RETAINING SPECIAL COUNSEL**

WHEREAS, the Township of Rockaway (the “Township”) is chartered under the Mayor-Council form of government pursuant to the Optional Municipal Charter Law, N.J.S.A. 40:69A-31, et seq. (the “Faulkner Act”); and

WHEREAS, on August 15, 2018, Mayor Michael Dachisen suddenly and unexpectedly passed away; and

WHEREAS, pursuant to the Municipal Vacancy Law, N.J.S.A. 40A:16-1, et seq., the County Committee submitted the names of three candidates to the Township Council, one of which was to be selected as Interim Mayor; and

WHEREAS, pursuant to N.J.S.A. 40A:16-11, the Township Council had 30 days from the date of vacancy, or no later than September 14, 2018, to select an Interim Mayor; and

WHEREAS, the holdover Township Attorney confirmed that the Township Council could select an Interim Mayor on or before September 14, 2018; and

WHEREAS, the Township Council’s next regularly scheduled meeting following the receipt of the list of candidates from the County Committee was Thursday, September 13, 2018; and

WHEREAS, given the growing disruptions to Township Council meetings and the threat that a large number of disrupters would exceed the capacity of the Council chambers, the Township Council sought a larger venue for its September 13, 2018 meeting in order to accommodate the public; and

WHEREAS, the Township Council secured Christ Church, 140 Green Pond Road, Rockaway, New Jersey 07866 as an alternate meeting location, and was working with the Acting Mayor and others to finalize preparations for the meeting; and

WHEREAS, at approximately 8:30 PM on September 12, 2018, despite its previous agreement and the finalization of preparations, Christ Church informed the Acting Mayor that it no longer wished to host the Township Council’s September 13, 2018 regularly scheduled meeting; and

WHEREAS, without a venue prepared to accommodate the expected large number of attendees, the Acting Council President had no choice but to cancel the Council's September 13, 2018 regularly scheduled meeting and notice a special meeting to be held on September 14, 2018 at 10:30 PM, which was 48 hours after said special meeting was noticed pursuant to the requirements of the Open Public Meetings Act, N.J.S.A. 10:4-1, et seq.; and

WHEREAS, the Township Council convened the special meeting on September 14, 2018 and voted to, among other things, select Paul Minenna to fill the vacancy in the office of Mayor left by the late Michael Dachisen; and

WHEREAS, the Township Council had received credible information that one or more of the unsuccessful candidates advanced by the County Committee, and possibly others, intended to file litigation against the Council to challenge its actions at the September 14, 2018 special meeting; and

WHEREAS, on September 20, 2018, Lisa Salberg filed an action against the Township of Rockaway, Christina Clipperton, Jeremy Jedyak, Patricia Abrahamsen, Tucker Kelly, Victor Palumbo, Phyllis Smith and Paul Minenna (the "Salberg Litigation"); and

WHEREAS, the Township Council finds and declares that it is prudent to engage special legal counsel to represent the Township and defend against the Salberg Litigation; and

WHEREAS, the Mayor and Township Council have identified Vijayant Pawar, Esq. of the firm Pawar, Gilgallon & Rudy, LLC as possessing the requisite qualifications and experience in matters pertaining to municipal law and litigation; and

WHEREAS, on September 20, 2018, the Mayor appointed Mr. Pawar to represent and defend the Township in the Salberg Litigation; and

WHEREAS, the Township Council desires to confirm the appointment of Mr. Pawar, pursuant to the rates, expenses and conditions applicable to all other Township counsel to advise, represent and defend the Township in the Salberg Litigation; and

WHEREAS, the individual Councilmembers, Mayor and Acting Municipal Clerk who are named as defendants in the Salberg Litigation shall be entitled to retain an attorney of their choice pursuant to Township Code § 2-7; and

WHEREAS, the total amount for all attorneys retained pursuant to this Resolution shall not exceed Eighty Thousand Dollars (\$80,000.00); and

WHEREAS, the Chief Financial Officer has certified in writing as to the availability of funds for the retention of Mr. Pawar and, if any of the aforementioned individual defendants retain attorneys pursuant to the provisions set forth herein, shall certify as to the availability of funds at the time of retention; and

WHEREAS, the Township shall require Mr. Pawar and all other attorney retained pursuant to this Resolution to submit all requisite business entity and pay-to-play disclosures to the Township Clerk at least 10 days prior to the award of any contract.

NOW THEREFORE, BE IT RESOLVED by the Township Council of the Township of Rockaway, Morris County, New Jersey as follows:

1. That the aforesaid recitals be and hereby are incorporated as if set forth at length herein.
2. That the Township Council hereby authorizes the retention of Vijayant Pawar, Esq. of Pawar, Gilgallon & Rudy, LLC, pursuant to the rates, expenses and conditions applicable to all other Township counsel and subject to the submission of requisite business entity disclosures, to advise, represent and defend the Township Council in the Salberg Litigation.
3. That the individual Councilmembers, Mayor and Acting Municipal Clerk who are named as defendants in the Salberg Litigation shall be entitled to retain an attorney of their choice pursuant to Township Code § 2-7.
4. That all attorneys retained under to this Resolution shall provide legal services pursuant to the rates, expenses and conditions applicable to all other Township counsel and subject to the submission of requisite business entity and pay-to-play disclosures at least 10 days prior to the award of any contract.
5. That the total expenditure for all attorneys retained pursuant to this Resolution shall not exceed Eighty Thousand Dollars (\$80,000.00)
6. That Mr. Pawar and any attorney retained by an individual defendant pursuant to the provisions of this Resolution shall comply with the Township's reimbursement guidelines applicable to all other Township legal counsel as specified above, and shall bill at the rate of \$265.00 per hour.
7. That Mr. Pawar and any attorney retained by an individual defendant pursuant to the provisions of this Resolution shall submit vouchers for payment to the Township of Rockaway and payment by the Township of Rockaway shall be made to same.
8. That all legal work performed by Mr. Pawar prior to the adoption of this Resolution in connection with the Salberg Litigation be and hereby is authorized for payment and reimbursement.

I HEREBY CERTIFY the above to be a true copy of a Resolution Adopted by the Township Council of the Township of Rockaway at a duly convened Meeting held on September 20, 2018.

Christina Clipperton
Acting Municipal Clerk

Motion was made by Council President Jedynak, seconded by Council Vice-President Abrahamsen to adopt Resolution R-18-168.

Roll Call Was Taken.

Yah Votes: 5 (Council Members Palumbo, Smith, Kelley, Vice-President Abrahamsen, President Jedynak)

Nah Votes: 2 (Council Members Friedlander, Puzio)

Motion is carried.

OPEN TO THE PUBLIC:

Pat Degnan, 88 Valley View Drive – Ms. Degnan read a statement expressing her concerns about conduct of meetings and the actions of the Council.

David Press, 71 Oakland Avenue – Mr. Press spoke about the current Recall campaign, the scheduling of meetings and the actions of the Council.

Lisa Miller, 455 Mount Hope Road – Ms. Miller raised concerns about the actions recently taken by the Council.

Rebecca Wickins, 3 Darlington Drive – Ms. Wickins raised concerns about the actions recently taken by the Council and the scheduling of the September 14, 2018 meeting.

Stacey Gregg, 40 Sunrise Road – Ms. Gregg started to read a statement written by Mayor Michael Dachisen, Ms. Gregg was unable to finish reading the statement.

Katey Platts, 2 Valhalla Way – Ms. Platts raised concerns about legal fees and the differences between Attorney Inglesino's contract from other professional contracts.

Carol Lucas, 37 Stoneybrook Road – Ms. Lucas raised concerns about the tension within the Township and asked the Council and residents to come together to avoid any further unnecessary spending.

James Warters, 48 Seneca Avenue – Mr. Warters questioned a Resolution that was adopted earlier this year in regard to public notices being posted in the library and questioned if that procedure is being followed.

Allison Weiner, 21 Ellen Drive – Ms. Weiner raised concerns about a Special Meeting being scheduled on Yom Kippur and read a statement about Transparency.

Emily Kullman, 18 Lakeshore Drive – Ms. Kullman raised concerns about no longer feeling safe without Mayor Dachisen, the police presence and Rockaway Township's negative attention in the media.

J.P. Schmidt, Gloucester Township – Mr. Schmidt expressed his concerns about potential OPMA violations and asked the Council to reconduct the business acted on at the September 14, 2018 meeting.

With no further business to attend to this evening, a motion was made by Council President Jedynek, seconded by Council Vice-President Abrahamsen to adjourn the meeting at 7:15p.m.

Roll Call Was Taken.

Yah Votes – 7 (Council Members Friedlander, Puzio, Smith, Kelley, Vice-President Abrahamsen, President Jedynek)

Nah Votes – 0

Motion is carried.

The next Regular Meeting of the Council of the Township of Rockaway is scheduled for September 25, 2018.

Respectfully Submitted,

Christina Clipperton
Acting Municipal Clerk