

**MINUTES OF A REGULAR MEETING OF THE EDGEWATER MAYOR AND COUNCIL HELD IN THE NANCY MERSE COUNCIL CHAMBERS, LOCATED AT 55 RIVER ROAD, EDGEWATER, COUNTY OF BERGEN, STATE OF NEW JERSEY ON FEBRUARY 18, 2014**

**PRESIDING:** Mayor James F. Delaney

**PRESENT ON ROLL CALL:** Councilman Henwood, Councilman Doran, Councilman Monte, Councilman Vidal and Councilman Bartolomeo

**ALSO PRESENT:** Administrator Gregory S. Franz, and Attorney Philip Boggia

**ABSENT:** Councilman Jordan and Borough Clerk Barbara Rae

Mayor Delaney read the Open Public Meetings Act Statement into the Record.

**MOMENT OF SILENCE**

Mayor Delaney remembered Police Chief Skidmore's mother.

**SALUTE TO THE FLAG**

Councilman Monte led the Pledge of Allegiance.

**OPEN TO THE PUBLIC**

Mayor Delaney opened the meeting to the public and the following were heard:

Marvin Donadic, 233 Columbus Place, Cliffside Park:

- Referenced his appearance at the January meeting when he spoke about a handicapped parking issue at the Commons.
- Mayor Delaney said that he will speak to the Police Chief as soon as he returns.
- Frustrated at waiting for information.
- Believes Police should issue a ticket and let the Court decide.

Mary Hogan, 606 Undercliff Avenue:

- Referenced discussions regarding the review of the Master Plan.
- Had questions regarding the attorneys for the Governing Body and the Planning Board.
- Asked why the Borough's experts are being billed to iPark.
- Spoke about what she believes is an unhealthy atmosphere at the meetings and in the Borough.
- Referenced comments made by Councilman Henwood at the last meeting.
- Referenced and quoted from an email from Borough Planner dated December 5<sup>th</sup> to Administrator Franz regarding the Edgewater Re-exam.
- Believes there is a very poor negative atmosphere in the Borough.

At this time, Councilman Henwood clarified the comments he made at the last meeting.

Valory Bardinas, 16 Hudson Terrace:

- Complimented the DPW for the fantastic snow removal job.
- Thanked Administrator for messages noting that she appreciates the information.
- Questioned the number of signs around town.
- Also spoke about comments made and nearby residents' concerns about traffic and taxes.
- Spoke about lack of back and access roads.

Aries Hernandez, Fitness Factory:

- Spoke about hosting a basketball program at the Community Center.

No one else wished to be heard therefore the Mayor closed the meeting to the public.

**CONFERENCE**

**Budget Discussions:**

**1. Health Department**

Patti Dalton, Borough Nurse and Registrar Lynn Minetti reviewed the budget.

Nurse Dalton spoke about the cost for the County Health Services. Spoke about lack of funding for Community programs, equipment issues and mandated health screenings.

Administrator Franz asked what the Nurse’s Office needs for the Summer Camp Program. Discussion about electronic health records and the need for duplication. Discussion about part-time nurse.

**2. Building Department**

John Candelmo, Construction Official

Reviewed budget and spoke about need for vehicle. Discussion about vehicle. Mr. Candelmo responded to Administrator Franz’ suggestion about a possible hybrid vehicle. Further discussion.

Fire Prevention and First Aid Squad Personnel unable to attend tonight. Budget discussion had originally been scheduled for February 3<sup>rd</sup>. That meeting was cancelled due to the snow storm. Administrator Franz to meet with Fire Prevention and First Aid Squad personnel and will then pass the information on to the Governing Body.

**MOTION**

February 18, 2014

**INTRODUCED:** Councilman Doran

**SECOND:** Councilman Monte

Motion to carry the minutes of January 27, 2014.

On roll call the vote was as follows;

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Abstain
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

**RECEIPT OF BIDS - none**

**ADOPTION/PUBLIC HEARING OF ORDINANCES – none**

**COMMUNICATIONS/PETITIONS - none**

**INTRODUCTION OF ORDINANCES**

**1.1503-2014** An Ordinance of the Borough of Edgewater, County of Bergen, State of New Jersey, Amending, Supplementing and Reaffirming the Development Project Redevelopment Plan for the iPark Property

The Clerk read Ordinance 1503-2014 by title only as follows:

**BOROUGH OF EDGEWATER  
ORDINANCE NO. 1503-2014**

**AN ORDINANCE OF THE BOROUGH OF EDGEWATER, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING, SUPPLEMENTING AND REAFFIRMING THE DEVELOPMENT PROJECT REDEVELOPMENT PLAN FOR THE i PARK PROPERTY**

**RESOLUTION**

February 18, 2014

**INTRODUCED:** Councilman Doran  
**SECONDED:** Councilman Bartolomeo

**WHEREAS AN ORDINANCE OF THE BOROUGH OF EDGEWATER, COUNTY OF BERGEN, NEW JERSEY AMENDING, SUPPLEMENTING AND REAFFIRMING THE DEVELOPMENT PROJECT REDEVELOPMENT PLAN FOR THE Ipark PROPERTY** was introduced on February 18, 2014 and passes its first reading and will be considered for final passage and public hearing on April 21, 2014 at 7:00 p.m. at the Edgewater Municipal Building, 55 River Road, Edgewater, New Jersey.

Discussion:

Councilman Henwood spoke about the changes and impact. Mayor Delaney also reviewed some of the changes.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

**1.1504-2014** An Ordinance Amending and Supplementing Chapter 282, "Parking Lots," and Chapter 293, "Parks and Recreation Areas," To Update Parking Restrictions for Municipal Recreation Areas and Historic Borough Hall

The Clerk read Ordinance 1504-2014 by title only as follows:

**ORDINANCE NO. 1504-2014**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 282, "PARKING LOTS," AND CHAPTER 293, "PARKS AND RECREATION AREAS," TO UPDATE PARKING RESTRICTIONS FOR MUNICIPAL RECREATION AREAS AND HISTORIC BOROUGH HALL**

**RESOLUTION**

February 18, 2014

**INTRODUCED:** Councilman Monte

**SECONDED:** Councilman Vidal

**WHEREAS AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 282, ‘PARKING LOTS,’ AND CHAPTER 293, ‘PARKS AND RECREATION AREAS,’ TO UPDATE PARKING RESTRICTIONS FOR MUNICIPAL RECREATION AREAS AND HISTORIC BOROUGH HALL** introduced on February 18, 2014, and passes its first reading and will be considered for final passage and public hearing on March 18, 2014 at 7:00 pm at the Edgewater Municipal Building, 55 River Road, Edgewater, New Jersey.

Discussion:

Mayor Delaney reviewed change.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

**COMMITTEE/COUNCIL LIAISON REPORTS**

**Councilman Henwood** - Thanked the DPW for its continuing hard work during a difficult winter.

**Councilman Doran** – No report.

**Councilman Monte** – No report.

**Councilman Vidal** – Spoke about Munidex and updating software. Will be scheduling meetings to review sub accounts. Councilman Henwood spoke about sub account spending. Discussion. included easy to read reports.

**Mayor Delaney** –All commended the DPW for all its hard work with the snow removal.

**RESOLUTIONS**

A motion to approve Resolutions 2014-051 to 2014-062 was made by Councilman Vidal and seconded by Councilman Bartolomeo.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

**RESOLUTION  
2014-051**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

**WHEREAS**, the Borough of Edgewater has received a request from Sergeant Steven Tibus to be paid for ninety (90) hours of compensation time that he has accumulated in his comp time bank; and

**WHEREAS**, the hourly rate to be paid to Sergeant Tibus shall be \$68.91 for a total amount of

\$6,201.90; and

**WHEREAS, I, Joseph Iannaconi, Jr.**, the Chief Financial Officer, hereby certify that funds shall be made available for this purpose; under line item for Salaries & Wages:

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JOSEPH IANNACONI, Jr.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council that Sergeant Tibus' request to be paid for ninety (90) hours of his banked compensatory time is hereby granted at the total amount not to exceed \$6,201.90 reducing his comp bank to 8.25 hours as per the Police Chief's memo dated January 24, 2014.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-052**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

**WHEREAS** municipalities are required to annually reappoint all school crossing guard employees in

Accordance with N.J.S.A.40A:9-154.1 and under Borough Ordinance No. 71-54 ; and

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council that the following individuals are reappointed to serve in the position of School Crossing Guards in the Borough of Edgewater during the school year:

Susan Laughlin

Barbara Wenger

Amy Sandnes

Theresa Borrello

Tania Quinton

Carridad Chacon

Phyllis Reilly

Celeste Wroldsen

Odette Sader

Yusef Klein

Dawn Doherty

Lisa Desantis

Patty Faten Masri

Angela DeFries

Cathy Ring

Virginia Pastorino

Loretta Wenger

Ken DePaul

Preksha Patel

June Palladino

Loretta Tampori

Kristina Prifti

Nora Fedorow

Nancy Vereen

Clare Frank

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-053**

February 18, 2014

**INTRODUCED:** Councilman Vidal

**SECOND:** Councilman Bartolomeo

**WHEREAS**, the Borough of Edgewater had created the position of Special Law Enforcement Officer as authorized by Borough Ordinance No. 1317-2005; and

**WHEREAS**, Linda Flores, Kevin Milligan, Ivan Cecilio, Justin Bursztyn and Cheryl Armstrong have been serving in the position of Special Law Enforcement Officers; and

**WHEREAS**, under N.J.S.A.14-146.14, Special Law Enforcement Officers may be appointed for terms not to exceed one year; and

**NOW, THEREFORE BE IT RESOLVED** by the Governing Body that Linda Flores, Kevin Milligan, Ivan Cicillo and Justin Bursztyn, are hereby re-appointed to serve in the positions of Special Law Enforcement Officer for a period of one year; and

**BE IT FURTHER RESOLVED** said appointments are part-time positions, which shall not exceed 19 hours per week, at an hourly rate as set forth in the current salary ordinance.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-054**

February 18, 2014

**INTRODUCED:** Councilman Vidal

**SECOND:** Councilman Bartolomeo

**WHEREAS** Sunshine State Certificates IV had purchased tax sale certificate # 120992 2011 on November 28, 2012 for property known as 1255 River Road, Block Lot Qualifier 0002500001; and

**WHEREAS**, the tax sale certificate to be redeemed for \$28,214.06 is effective through February 4, 2014; and

**WHEREAS**, the premium amount paid is \$10,100.00; and

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council that the Tax Collector/

Treasurer is authorized to issue a refund check drawn to the current account at T.D.

Bank in the amount of Thirty Eight Thousand Three Hundred Fourteen Dollars and six cents (\$38,314.06) payable to:

SUNSHINE STATE CERTIFICATES IV

7900 Miami Lakes Drive West

Miami Lakes, Fl 33016

All council members present voted aye. None opposed. None abstained.

**RESOLUTION**

**2014-055**

February 18, 2014

**INTRODUCED:** Councilman Vidal

**SECOND:** Councilman Bartolomeo

**RESOLUTION SUPPORTING THE GOVERNOR’S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FISCAL GRANT CYCLE JULY 2014-JUNE 2019**

**WHEREAS** the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community , parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey

**WHEREAS** the Borough Council of the Borough of Edgewater, County of Bergen, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

**WHEREAS** the Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

**WHEREAS** the Borough Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Bergen; and

**NOW, THEREFORE BE IT RESOLVED** by the Borough of Edgewater, County of Bergen, and State of New Jersey hereby recognizes the following:

1. The Borough Council does hereby authorize submission of a strategic plan for the Edgewater Municipal Alliance grant for Fiscal Year 2014 in the amount of :

DEDR	\$9,876.00
CASH MATCH	\$2,469.00

IN-KIND

\$7,407.00

2. The Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

**APPROVED:** \_\_\_\_\_  
**JAMES F. DELANEY**, Mayor

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-056**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

Resolution 2014-056, Salaries & Wages, is attached to the end of these minutes.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-057**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

Resolution 2014-057, Salaries & Wages, is attached to the end of these minutes.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-058**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

Resolution 2014-058, Services & Supplies, is attached to the end of these minutes.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-059**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

**WHEREAS** the Mayor and Council have received a request from Sharon Carroll, requesting use of the Senior Citizen Bus and driver for transportation to the Paterson Museum and Great Falls and returning to Edgewater at 2:30p.m.; and

**WHEREAS** said trip will be held on Wednesday, April 16, 2014; and

**WHEREAS** participants will depart from the Edgewater Community Center at 9:00 a.m. for direct drop off at the Paterson Museum and Great Falls and return trip pick up for transportation to the the Edgewater Community Center.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council that permission is hereby granted to Sharon Carroll's request for use of the Senior Citizen Bus and driver upon availability on the above listed date; and

**BE IT FURTHER RESOLVED** by the Mayor and Council that if for some reason the trip needs to be rescheduled, permission is hereby granted for the use of the bus based on availability.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-060**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

HE **WHEREAS** the Edgewater Recreation Department is in need of additional help; and

**WHEREAS** Jaber Jaber has made application to the Borough Recreation Department for a part time position and was interviewed by the Borough Administrator and the Recreation Leader; and

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council that Jaber Jaber is hereby appointed to the Edgewater Recreation Department as a part-time employee at a salary in accordance with the current salary ordinance; and

**BE IT FURTHER RESOLVED** that said position does not include any medical benefits.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-061**

February 18, 2014

**INTRODUCED:** Councilman Vidal  
**SECOND:** Councilman Bartolomeo

**WHEREAS** there are outstanding checks in the Public Assistance Trust Fund II Account in the amount of \$1,866.00; and

**NOW THEREFORE BE IT RESOLVED** by the Governing Body that these outstanding checks are hereby cancelled.

All council members present voted aye. None opposed. None abstained.

**RESOLUTION  
2014-062**

February 18, 2014

**INTRODUCED:** Councilman Vidal

**SECOND:** Councilman Bartolomeo

**WHEREAS** on Sunday, February 8, 2014, Neglia Engineering Associates was called to a sink hole on Orchard Street adjacent to the George Washington School bus zone; and

**WHEREAS** upon consultation with both the Department of Public Works and Neglia Engineering Associates it was determined the sink hole posed a threat to the health and safety of residents; and

**WHEREAS** Neglia Engineering Associates declared an emergency in compliance with New Jersey State Statute N.J.A.C. 5:34-1 et seq. and N.J.S.A. 40A:11-1; and

**WHEREAS** Gotthold Paving of Edgewater, New Jersey 07020 was consulted and hired to excavate to determine the cause of the sink hold and make the necessary repair as per N.J.S.A. 40A: 11-1, et seq; and

**NOW THEREFORE BE IT RESOLVED** by the Edgewater Mayor and Council that Gotthold Paving of Edgewater New Jersey 07020 has been authorized to perform said emergent repair at the provided cost estimate of \$5,000 to \$7,000; and

**BE IT FURTHER RESOLVED** that I, Joseph Iannaconi, Jr., Chief Financial Officer, have certified that funds are available in the operating budget under Account No. 26-2902-275 – Sewer Maintenance:

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**JOSEPH IANNACONI, JR., C.F.O.**

At this time, Councilman Henwood spoke about the request to transfer 3 units of affordable housing from the - to 38 COAH. Spoke about the pending sale and deed restriction. Borough Attorney Boggia also spoke about the request and the affordable housing obligation. He also spoke about additional steps that have to be taken. .

After further discussion, the following motion was adopted:

**MOTION**

February 18, 2014

**INTRODUCED:** Councilman Henwood

**SECOND:** Councilman Bartolomeo

A motion from Councilman Henwood for the transfer of 3 units of affordable housing from the St. Moritz to 38 COAH and the motion is in support by the Governing Body of lifting the deed restriction at the St. Moritz for 3 units of affordable housing to transfer those 3 units to 38 COAH.

Discussion:

Borough Attorney Boggia replied to Ms. Bardinas' comments about the item not being listed on the Agenda.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Abstain
Councilman Monte	Abstain
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

**OLD BUSINESS**

None.

**NEW BUSINESS**

None.

**ATTORNEY REPORT**

Will be discussing the Veterans Field Project and Riverside Construction and whether action should be taken. Need to go into Closed. Recommendation may be made to take formal action.

**ADMINISTRATOR**

Some items had been discussed at the Work Session.

**School Board Request re: Generator**

School Board requesting a contribution toward a generator for the George Washington School.

**River Road Sewer**

Spoke about 4 houses on River Road built several years ago. Driveway from River Road leading up to the homes is considered a drive way, not a road way. Have had several sewer problems in the area and owners have been advised to correct the problems. Obviously there is a break. Several notifications, including Board of Health notices, have been sent to the property owners. If there is no response the Borough will execute the repairs and lien the property. Discussion. Council consensus is to give owners a final notice and, if necessary, immediately proceed with the repairs.

**Elected Officials' Training Seminars**

Next year will be available on line.

PSE&G will be installing underground power lines from Dempsey Avenue to north of Route 5. Will be starting within the next week or two. Explained temporary traffic changes.

**MAYOR/COUNCIL REQUESTS**

Mayor Delaney announced that he had appointed Adrian Rodriquez to the Library Board . Ms. Rodriquez fills the unexpired 5 years term of T. Watson. Term expires December 31, 2018. Noted that Mayoral designee appointment will be filled at a later date.

Borough Clerk

New Process placing documents on line. Meeting with vendor was postponed because of whether.

## CLOSED SESSION DISCUSSION

1. Contract discussion re: Waterside Construction
2. Police Personnel
3. Terms Environmental and Neglia Engineering

## RESOLUTION AUTHORIZING EXECUTIVE SESSION

February 18, 2014

INTRODUCED: Councilman Vidal

**SECOND:** Councilman Bartolomeo

**WHEREAS**, the Borough of Edgewater desires to meet in private and/or Executive Session to discuss matters that are permitted by the exceptions to the Open Public Meetings Act as indicated herein:

- L Any matter which, by express provision of Federal law or State statute or court rule shall be rendered confidential or excluded from discussion in public;
2. Any matter in which the release of information would impair a right to receive funds from the federal government;
- 3 Any material the disclosure of which constitutes an unwarranted invasion of individual privacy;
- XX   4. Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body.
5. Any matter involving the purchase, lease, or acquisition of real estate with public funds, the setting of a banking rates or 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;
- XX   7. Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer;
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 specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.
9. Any deliberation of a public body occurring after a public hearing that may result in

the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or commission for which the responding party bears responsibility.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council shall recess into private and/or Executive and Closed Session to discuss the aforementioned subject matter and the minutes of same may be disclosed at such time in the future as the GOVERNING BODY in its discretion may determine according to law.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Abstain
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

The governing body returned from Closed Session.

**PRESENT ON ROLL CALL:** Councilman Henwood, Councilman Doran, Councilman Monte, Councilman Vidal and Councilman Bartolomeo

**ALSO PRESENT:** Mayor Delaney, Administrator Gregory S. Franz and Borough Attorney Philip Boggia.

**ABSENT:** Councilman Jordan and Borough Clerk Barbara Rae

### **MOTION**

February 18, 2014

**INTRODUCED:** Councilman Henwood

**SECOND:** Councilman Vidal

Motion to return to Open Session.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Abstain
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

Mayor Delaney noted that two resolutions will be voted on regarding the Ball field and the contract with Waterside Construction.

Borough Attorney Boggia spoke on the issue.

Administrator Franz then read Resolution 2014-064 in its entirety:

**RESOLUTION  
2014-064**

February 18, 2014

**INTRODUCED:** Councilman Henwood

**SECOND:** Councilman Vidal

**WHEREAS** TERMS Environmental Services, Inc., prepared a Summary Report dated February 5, 2014, setting forth the results of their investigation concerning the contaminated materials that was imported onto Veteran's Field by Waterside Construction, LLC; and

**WHEREAS** the Summary Report confirms that the soil samples taken at Veteran's Field have been validated by an independent testing lab selected by the contractor, Waterside Construction, LLC, and said test results have been provided to the contractor. These test results have not been disputed by the contractor or the contractor's Licensed Site Remediation Professional; and

**WHEREAS** the Governing Body has authorized TERMS to prepare a Remedial Action Work Plan (RAW) which will be submitted to the New Jersey Department of Environmental Protection for approval in order to remediate the contaminated soil that was imported to Veteran's Field and said Work Plan is dated February 6, 2014; and

**WHEREAS** the remediation plan requires the excavation and removal of all previously identified improper soil as set forth in the Plan; and

**NOW, THEREFORE BE IT RESOLVED** that the Governing body hereby approves, endorses and authorizes the Remedial Action Work Plan prepared by TERMS Environmental dated February 6, 2014 which plan was summarized by TERMS in their letter dated February 5, 2014; and

**BE IT FURTHER RESOLVED** that the Governing Body shall implement the Remedial Action Work Plan upon approval from the New Jersey Department of Environmental Protection and Environmental Protection Agency, if applicable.

Discussion:

Councilman Henwood and Councilman Vidal spoke about the resolution.

Councilman Doran asked for and received a legal opinion prior to voting. Borough Attorney Boggia saw no problem with Councilman Doran voting on this resolution.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

Administrator Franz then read Resolution 2014-063 in its entirety:

**RESOLUTION  
2014-063**

February 18, 2014

**INTRODUCED:** Councilman Vidal

**SECOND:** Councilman Bartolomeo

**WHEREAS** the Borough of Edgewater, in accordance with the Local Public Contract Law, awarded a contract to Waterside Construction, LLC on June 18, 2012 by Resolution No. 2012-192, which project included remediation and renovations to Veteran's Field in accordance with the bid specifications; and

**WHEREAS** the site remediation included the removal and disposal of contaminated materials from the site in accordance with State and Federal regulations and the terms and conditions set forth in the Contract; and

**WHEREAS** pursuant to the terms of the Contract, the Contractor was obligated to import only certified clean fill or stone to the site from a quarry and/or crushed virgin rock; In addition, the contractor could use only certified clean top soil and sod from a clean approved source; and

**WHEREAS** the Borough retained the services of TERMS Environmental Services to act as their Licensed Site Remediation Professional (LSRP) to oversee the entire remediation project and to ensure that the Contractor complied with the terms and conditions of the Contract. Any fill brought to site was subject to the approval of the LSRP; and

**WHEREAS** by letter dated October 3, 2013, TERMS Environmental Services issued a letter to the Borough, advising that the Contractor had imported improper fill that contained high levels of PCB's onto Veteran's Field. As a result thereof, TERMS immediately closed the field until such time as they could complete an assessment of the field and develop a work plan to remove the fill. TERMS issued a follow-up letter dated October 30, 2013, confirming that improper fill was brought to Veteran's Field by the Contractor; and

**WHEREAS** meetings were held between the Borough representatives, TERMS and Waterside Construction to discuss the level of contamination and the steps that must be taken in order to remediate the site and remove the improper fill brought on to the site by the Contractor; and

**WHEREAS** meetings were held between the Borough representatives, TERMS and Waterside Construction to discuss the level of contamination and the steps that must be taken in order to remediate the site and remove the improper fill brought on to the site by the Contractor; and

**WHEREAS** by letter dated February 5, 2014, TERMS advised the Borough that all soil samples taken at the site had been validated by an independent testing lab selected by the Contractor, and further advised that approximately 25,000 cubic yards of improper fill must be removed from the site; and

**WHEREAS** after thorough deliberation and consideration, the Borough has determined that Waterside Construction had imported contaminated fill onto the site and such action constitutes a material breach of contract, and that Waterside Construction, LLC does not have the means nor qualifications under New Jersey law to remediate the site; and

**NOW, THEREFORE BE IT RESOLVED** that the Borough of Edgewater hereby declares Waterside Construction in DEFAULT of the Contract for violations of the terms and conditions of the Contract, and the Borough shall pursue all remedies available to them to hold the Contractor responsible for such breach and the Borough shall pursue the prompt completion of this project. Furthermore, the Borough will retain the Services of 0.....0 and Neglia Engineering during the period the Remedial Action Work Plan is implemented to remediate the soil contamination. At the conclusion of the Remedial Action Work Plan, the Borough will evaluate both the LSRP and the Engineer to determine whether they or other consultants will be retained to complete the renovations to Veteran's Field.

A copy of this Resolution shall be sent to Waterside Construction, LLC and Liberty Mutual Insurance Company, which company issued the Performance and Payout

Discussion:

Borough Attorney Boggia spoke on the issue. Councilman Henwood also spoke about the issue.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Abstain
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

**MOTION**

February 18, 2014

**INTRODUCED:** Councilman Henwood

**SECOND:** Councilman Vidal

Motion to adjourn.

On roll call the vote was as follows:

Councilman Henwood	Yes
Councilman Doran	Yes
Councilman Monte	Yes
Councilman Vidal	Yes
Councilman Jordan	Absent
Councilman Bartolomeo	Yes

Gregory S. Franz for  
Barbara Rae, RMC, CMC

**APPROVED:** March 18, 2014