

BOROUGH COUNCIL
MINUTES –APRIL 2, 2012

A Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Monday, April 2, 2012. The Meeting was called to order at 6:30 p.m. by Mayor Vahalla. The Invocation given by Councilwoman Rasmussen was followed by the Pledge of Allegiance.

The Mayor advised that adequate notice of this meeting was provided by an annual notice sent to the Home News Tribune and the Star Ledger and filing a copy with the Borough Clerk within seven days following the annual organization meeting of the body.

Present were Councilmembers Wallace, Rubin, Rasmussen, Muldoon, Grayzel, and Council President Cammarano.

Also present were Mayor Vahalla, Borough Administrator Boerth, Borough Attorney Murphy and Borough Clerk Harris.

RESOLUTION NO. R2012-94

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor Resolution No. R2012-94 was approved. The oath of office was given by Borough Attorney Murphy. The Chief of Police congratulated Mr. Cupido on his appointment and wished him all of the luck and success in his career with Metuchen.

RESOLUTION NO. 2012-94

RESOLUTION TO APPOINT PATROLMAN TO THE POLICE DEPARTMENT-CUPIDO

BE IT RESOLVED by the Borough Council of the Borough of Metuchen that Andrew Cupido, be and he is hereby appointed as a Police Officer of the Police Department of the Borough of Metuchen, Middlesex County, state of New Jersey in accordance with law at the starting rate of Patrolman with said appointment being effective April 2, 2012.

Dated: April 2, 2012

AGENDA SESSION

On a motion by Council President Cammarano, seconded by Councilwoman Rubin, with all in favor the agenda session was opened.

Council President Cammarano stated that item number 10 was a late edition to the agenda. This item honors and recognizes Mattie Quinn on her 105th birthday.

Mayor Vahalla stated that he will be hand delivering the proclamation at her birthday party on the 7th of April.

Councilwoman Rubin discussed some of her concerns with the handicapped accessibility at the entrances to the Greenway.

Mayor Vahalla stated that he would address the issue with the County.

Council President Cammarano stated that item number 11 be moved to the Communications Consent Agenda. This item is a letter from the Superintendent of the Middlesex County Mosquito Commission requesting permission to use Saint Joseph's field as a landing site for the annual mosquito spraying.

On a motion by Council President Cammarano, seconded by Councilwoman Rubin, with all in favor the agenda session was closed.

DISCUSSION-CAPITAL BUDGET

Borough Administrator Boerth stated that the initial request for the Capital Budget from the Borough departments was \$1,142,901.00. After review of departmental requests Borough Administrator Boerth is recommending \$810,000.00 as the Capital Budget request. Borough Administrator Boerth stated that the Borough has been notified of grant funds awarded for Liberty Street and that an additional \$150,000 would need to be allocated for engineer and soft costs associated with the project. Borough Administrator Boerth also recommended that the additional funds be used to resurface the Bridge Street bridge.

Mayor Vahalla asked if cost estimates had been received for repairs and or replacement of inoperable pedestrian crosswalks.

Borough Administrator Boerth stated that to repair the inground lighting systems at the Main Street and Linden Avenue intersections as well as Central Avenue and Liberty Street is approximately \$80,000.00.

The consent of Council was to review the Administrator's recommendations and discuss the Capital Budget at the next Council meeting.

Councilwoman Rubin asked if the bridge was in danger of collapse.

Borough Administrator Boerth stated that it was not.

Councilwoman Rubin asked if repaving would prolong repairs to the bridge and if it was feasible to spend Borough funds to do minor repairs to a bridge that needs more substantial repair than paving.

Borough Administrator Boerth stated that there has been no discussion via the other entities regarding substantial repair to the bridge.

Councilman Grayzel questioned the bonding process.

Borough Administrator Boerth discussed the bonding process through both Bond Anticipation Notes and more permanent financing options.

Councilman Muldoon questioned the computer upgrade purchases.

Borough Administrator Boerth stated that the computer upgrades were severely needed.

On consent of the Borough Council the Capital Budget will be discussed further before a final decision will be made regarding the additional projects to be included in the budget.

DISCUSSION-HEALTH INSURANCE RENEWAL

Borough Administrator Boerth stated that the Borough is on a self insured plan which requires the Borough to receive quotes for excess insurance and third party administration fees. Borough Administrator Boerth stated that the Borough changed its excess carrier from Trustmark to Fidelity Security Life. This change will provide the Borough with lower fixed costs as well as a savings on the plan amounts. Boerth Administrator Boerth briefly discussed the different plans available to the Borough.

Borough Administrator Boerth introduced Mike Atkinson with UHY-Insurance Design Administrators.

Mr. Atkinson discussed the different thresholds offered to the Borough.

Councilwoman Rasmussen discussed the possibility of introducing health initiatives into the new plan.

Borough Administrator Boerth stated that as the plan out of pocket expenses increase the participation in health initiatives by covered individuals will also increase.

NEW BUSINESS AGENDA ITEMS

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor the New Business Agenda item numbered 6, Resolution 2012-83 was approved.

RESOLUTION NO. 2012-83

RESOLUTION FOR CONDUCTING ANNUAL BUDGET EXAMINATION

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 thru 7.5 the Borough of Metuchen 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 Borough meets the necessary conditions to participate in the program for the 2012 budget year, so now therefore

BE IT RESOLVED, by the Mayor and Council of the Borough of Metuchen that in accordance with N.J.A.C. 5:30-7.6a & b and based upon the Chief Financial Officers 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 40A:4-45.3 et seq. are fully met. (Complies with the "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, publicly advertised, and adopted 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 be forwarded to the Director of the Division of Local Government Services.

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor the New Business Agenda item numbered 7, Resolution 2012-95 was approved. Resolution 2012-95 has been appended to the minutes.

Roll Call Vote:

Ayes: Councilpersons Wallace, Rubin, Rasmussen, Muldoon, Grayzel and Council President Cammarano

Nays: None

Abstentions: None

Motion Carried.

REGULAR MEETING

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor except Councilman Grayzel who abstained, the Council minutes of October 17 and November 7, 2011 were approved.

OPEN TO PUBLIC

Mayor Vahalla opened the meeting to the public for comment.

Dan Lebar (536 Middlesex Avenue stated that maybe having the pedestrian crosswalks remarked as a Capital or Operating Budget item should be considered.

Hearing no one else wishing to comment Mayor Vahalla closed the public comment portion of the meeting.

PROCLAMATIONS/RESOLUTIONS HONORING

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor item No.9 and 10, Proclamations and Resolutions were approved.

WHEREAS, it has come to the attention of the Mayor and Council that Mrs. Mattie Quinn Gibson, will be celebrating her 105th birthday; and

WHEREAS, Mattie Quinn Gibson was born on April 9, 1907 in Chester, South Carolina; and

WHEREAS, Mattie Quinn Gibson married her husband, Percy Gibson in 1929 in Elizabeth, NJ; and

WHEREAS, Mattie Quinn Gibson raised her eight children while working as a seamstress at Manheim Shirt Factory; and

WHEREAS, Mattie Quinn Gibson's long life has allowed her to be blessed with, twenty-one grandchildren, twenty-three great-grandchildren and five great-great grandchildren; and

WHEREAS, Mattie Quinn Gibson was recently honored as the oldest living member of the Mount Teman AME Church in Elizabeth, NJ; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor, on behalf of the Borough Council and all the residents of Metuchen, does hereby extend his congratulations on the occasion of your 105th birthday and does offer his best wishes of good health and happiness.

Dated: April 2, 2012

WHEREAS, alcohol is a primary factor in the four leading causes of death among persons ages 10- 21; and

WHEREAS, almost 100,000 persons die each year from alcohol related causes: drinking and driving crashes, other accidents, falls, fires, alcohol related homicides and suicide; and

WHEREAS, approximately 15 million current drinkers in the United States are dependent on alcohol; and

WHEREAS, adolescents use more alcohol than tobacco or illicit drugs; and

WHEREAS, young people begin drinking, on average, 13.1 years of age; and

WHEREAS, young people who begin drinking before age 15 are four times more likely to develop alcohol dependence than those who begin drinking at age 21; and

WHEREAS, alcohol is involved in fifty percent of criminal assault, traffic, theft, fraud, vandalism and sex crime cases in the juvenile justice system. Older friends and siblings are the primary source by which underage youth obtain alcohol. Providing alcohol to minors is against the law, and that together we should work to keep it out of their hands; and

WHEREAS, it is imperative that we join with others in advancing efforts to strengthen the enforcement of our underage drinking laws, and build partnerships among local agencies, elected officials, law enforcement, businesses, schools, and communities to prevent underage drinking and alcoholism;

NOW, THEREFORE, We the Borough Council of the Borough of Metuchen join the National Council on Alcoholism and Drug Dependence, Inc., (NCADD) and the New Jersey Division of Alcohol and Beverage Control and do hereby proclaim that April 2012 is Alcohol Awareness Month in the Borough of Metuchen.

Dated: April 2, 2012

COMMUNICATIONS CONSENT AGENDA

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor the communications consent agenda items numbered 11 and 12 were approved.

11. Receive and Approve Request For Helicopter Landing Site at Saint Joseph's High School by the Middlesex County Mosquito Commission.

12. Receipt and Acceptance of Traffic and Transportation Minutes dated February 8, 2012.

REPORTS OF COUNCIL

Council President Cammarano congratulated the newly hired Patrolman Cupido. Council President Cammarano also stated that the Police Department has been stepping up pedestrian safety enforcement and education throughout the Borough.

Council President Cammarano stated that the CYO is having their roof repaired which required the building to be fenced for safety concerns. The fence negatively affected the police access to both the sally port and parking spaces. Alternate arrangements have been made to accommodate access to essential facilities.

Council President Cammarano stated that the agreement between JFK for daytime emergency medical services and the Borough has been successful to date. Metuchen EMS is not currently accepting any new cadets because its roster is full.

RECREATION

Councilman Wallace stated that the Easter Egg Hunt was cancelled due to inclement weather.

AUXILIARY POLICE

Councilman Wallace stated that the Auxiliary Police have been assisting with the Civilian Academy.

Councilman Wallace also stated that the Route 27 repair issues have been remediated.

Councilman Wallace also stated that there were some issues that needed to be addressed on Adams Street before the paving of that street begins.

Councilwoman Rasmussen stated that the Townwide Garage Sale is set for April 21st with a rain date of April 22nd.

Councilwoman Rubin also stated that the plans for the next Farmer's Market are underway.

ENVIRONMENTAL

Councilwoman Rasmussen stated that Environmental Commission is looking into applying for grant funds for Sustainable NJ. The commission will be looking into the environmental initiatives the Borough has in place.

Councilwoman Rasmussen also stated that the Environmental Commission would like to discuss having the algae removed from Tommy’s Pond by way of a raft equipped with plants that reduce algae counts within its host.

POOL

Councilman Muldoon stated that the early registration deadline for Metuchen residents is April 15th.

PARKING AUTHORITY

Councilman Muldoon stated that the Parking Authority will be doing a presentation to the Chamber of Commerce on the Pearl Street Redevelopment project on April 17th at 12pm. Also on the 17th of April the Parking Authority will be holding a public forum on the Parking Authority redevelopment Project at the Senior Citizens Center at 7pm.

ARTS COUNCIL

Councilman Grayzel stated that the Arts Council met and discussed the June Bug events. Councilman Grayzel also stated that the Arts Council lost its funding for the 4th of July celebratory events.

TV AND TECHNOLOGY

Councilman Grayzel stated that the survey taken of Metuchen consumers is now available on the Borough website.

REPORT OF BOROUGH ATTORNEY

Borough Attorney Murphy had no report.

REPORT OF BOROUGH ADMINISTRATOR

Borough Administrator Boerth had no report.

MAYOR’S REPORT

Mayor Vahalla stated that Metuchen has been discussing the possibility of shared services with Highland Park for dispatcher services.

Mayor Vahalla stated that the Renaissance project is being delayed because the owners recently purchased the Cryan site and wants to amend its plans to the Planning Board.

Mayor Vahalla reported that the Fire Department in the month of February responded to 31 alarms, 318 hours of fire alarms and emergencies, 228 hours of drills and training and the cadets provide 50 volunteer hours.

NEW BUSINESS CONSENT AGENDA

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor the New Business Consent Agenda items numbered 13-22, encompassing resolutions R2012-84 through R2012-93 were approved.

RESOLUTION NO. 2012-84
RESOLUTION AMENING TEMPORARY BUDGET

WHEREAS, N.J.S.A. 40A:4-19 of the Local Budget Act provides that temporary appropriations shall be made for the purposes and amounts required in the manner and time therein provided;

NOW, THEREFORE BE IT RESOLVED that the following additional temporary emergency appropriations shall be made for the year 2012, effective April 2, 2012:

Administrative & Executive	OE	10,000.00
Municipal Clerk	OE	700.00
Collection of Taxes	OE	5,500.00
Assessment of Taxes	OE	500.00

Legal	OE	15,000.00
METV	OE	6,000.00
Planning	OE	2,000.00
Zoning	OE	1,000.00
Insurance		200,000.00
Police	OE	10,000.00
Emergency Management	OE	500.00
Fire	OE	10,000.00
Fire Hydrant Service		25,000.00
Public Works Administration	OE	500.00
Streets & Roads	OE	20,000.00
Solid Waste Collection	OE	20,000.00
Buildings & Grounds	OE	5,000.00
Shade Tree		1,000.00
Library Consortium		6,000.00
Joint Insurance Fund		90,000.00
Street Lighting		25,000.00
Utilities		40,000.00
Telephone		10,000.00
Gasoline & Diesel		50,000.00
Solid Waste Disposal		12,000.00
Social Security		30,000.00
PERS		326,729.99
PFRS		618,431.00
Capital Improvement Fund		40,530.00
Court		3,000.00
	TOTAL	1,593,390.99
Pool	OE	60,000.00

Dated: April 2, 2012

RESOLUTION NO. 2012-85
RESOLUTION RESCINDING STATE CONTRACT PURCHASE VENDOR FOR UNLEADED FUEL

WHEREAS, there exists a need to change State Contract vendors for unleaded fuel for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and,

WHEREAS, any outstanding bills to the previous state contract vendor, **Petroleum Traders Corp. 7110 Pointe Inverness Way, Ft. Wayne, IN 46804**, must be satisfied in an amount not to exceed \$0.00 and funds will be available in the 2012 budget as evidenced by the Chief Financial Officer's Certification of which \$0.00 is certified from the 2012 temporary budget, subject to adjustment to the amount of award at time of budget adoption; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

1. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a final Purchase Order in an amount not to exceed 0.00 to **Petroleum Traders Corp. 7110 Pointe Inverness Way, Ft. Wayne, IN 46804**.

Dated: April 2, 2012

RESOLUTION NO. 2012-86
RESOLUTION RESCINDING STATE CONTRACT PURCHASE VENDOR FOR DIESEL FUEL

WHEREAS, there exists a need to change State Contract vendors for diesel fuel for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and,

WHEREAS, any outstanding bills to the previous state contract vendor, **Taylor Oil Co., Inc., 77 Second Street, Somerville, NJ 08876** must be satisfied in an amount not to exceed \$6,124.21 and funds will be available in the 2012 budget as evidenced by the Chief Financial Officer's Certification of which \$6,124.21 is certified from the 2012 temporary budget, subject to adjustment to the amount of award at time of budget adoption; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

1. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a final Purchase Order in an amount not to exceed \$6,124.21 to **Taylor Oil Co., Inc., 77 Second Street, Somerville, NJ 08876.**

Dated: April 2, 2012

RESOLUTION NO. 2012-87
**RESOLUTION AUTHORIZING STATE CONTRACT PURCHASE FOR
REGULAR UNLEADED GAS-**

WHEREAS, there exists a need to purchase **regular unleaded gasoline** for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

WHEREAS, this can be purchased through State Contract #80913; and

WHEREAS, the maximum amount of the purchase of regular unleaded gasoline for the Borough of Metuchen is \$20,000 for a total not to exceed \$20,000 and funds will be available in the 2012 budget as evidenced by the Chief Financial Officer's Certification of which \$20,000 is certified from the 2012 temporary budget, subject to adjustment to the amount of award at time of budget adoption; and

WHEREAS, public bids are not required when the purchase is under a state contract in accordance with 40A:11-12 of the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

2. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to **Rachles Michele Oil Company, 116 Kuller Road, Clifton, NJ 07011.**

Dated: April 2, 2012

RESOLUTION NO. 2012-88
**RESOLUTION AUTHORIZING STATE CONTRACT PURCHASE FOR DIESEL
FUEL-**

WHEREAS, there exists a need to purchase **diesel fuel** for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

WHEREAS, this can be purchased through State Contract #67102 valid through June 30, 2012; and

WHEREAS, the maximum amount of the purchase of regular unleaded gasoline for the Borough of Metuchen is \$25,000 for a total not to exceed \$25,000 and funds will be available in the 2012 budget as evidenced by the Chief Financial Officer's Certification of which \$25,000 is certified from the 2012 temporary budget, subject to adjustment to the amount of award at time of budget adoption for purchase through June 30, 2012; and

WHEREAS, public bids are not required when the purchase is under a state contract in accordance with 40A:11-12 of the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, in the County of Middlesex as follows:

3. The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to **Rachles Michele Oil Company, 116 Kuller Road, Clifton, NJ 07011.**

Dated: April 2, 2012

RESOLUTION NO. 2012-89
RESOLUTION APPROVING SUBMISSION OF THE 2011 TONNAGE REPORT

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

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

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

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

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and to indicate the assent of the Borough Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Metuchen that the Borough of Metuchen endorses the submission of the recycling tonnage grant application for the year **2011** to the New Jersey Department of Environmental Protection and Energy and designates Fred Hall to ensure that the application is properly filed; and

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

RESOLUTION NO. 2012-90

RESOLUTION AWARDING BID FOR 2012 MUNICIPAL POOL MAINTENANCE

WHEREAS, bids were received by the Borough Administrator on March 20, 2012 for the 2012 Municipal Pool Maintenance for the Borough of Metuchen; and

WHEREAS, the Finance Officer has determined that sufficient funds will be available in the amount of \$23, 548.40 as evidenced by the Finance Officer's certification,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, County of Middlesex, State of New Jersey that the contract for the 2012 Municipal Pool Maintenance be and the same is hereby awarded to most responsive bidder, **Aquatic Service, Inc., 170 Burlington Avenue, Spotswood, NJ 08884.**

BE IT FURTHER RESOLVED, that the Mayor and the Borough Clerk are hereby authorized and directed to execute the contract for the same.

Dated: April 2, 2012

RESOLUTION NO. 2012-91

RESOLUTION APPROVING HEALTH INSURANCE THIRD PARTY ADMINISTRATOR AND NETWORK

WHEREAS, the Borough Council of Metuchen adopted a self-insurance program for the Borough's Group Medical and Dental Coverage which shall renew effective on **May 1, 2012**; and

WHEREAS, this self-insurance program shall require a renewal of Insurance Design Administrators as the Third Party Administrator and the renewal of Qualcare as the Insurance Network for in-state members and Fidelity Security Life Insurance Co. as Reinsurer; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Metuchen do hereby authorize the appointment of the above stated for all currently existing medical and dental programs offered for Borough employees and retirees.

Dated: April 2, 2012

RESOLUTION NO. 2012-92

RESOLUTION APPOINTING FIRE FIGHTER – TSANG

WHEREAS, the Mayor and Borough Council have been notified by Rob Donnan, Chief of the Metuchen Fire Department, that **Stephen Tsang** has been elected to be a permanent member of the Metuchen Fire Department; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Metuchen that in accordance with Chapter 8 of the Code of the Borough of Metuchen, **Stephen Tsang** be and he is hereby elected, approved, and confirmed as a permanent member of the Fire Department of the Borough of Metuchen.

Dated: April 2, 2012

RESOLUTION NO.2012-93

RESOLUTION AUTHORIZING EXECUTION OF RIGHTS-OF-WAY AGREEMENT BETWEEN THE BOROUGH OF METUCHEN AND SUNESYS, LLC TO PERMIT THE INSTALLATION, USE AND MAINTENANCE OF TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY FOR PURPOSES OF PROVIDING TELECOMMUNICATIONS SERVICES

WHEREAS, Sunesys, LLC (“Sunesys”), a limited liability company, with offices located at 202 Titus Avenue, Warrington, Pennsylvania 18976, is authorized to provide local exchange and interexchange telecommunications services throughout the State of New Jersey pursuant to an Order issued by the New Jersey Board of Public Utilities (“NJBPU”) in Docket No. TE00040261 dated May 8, 2001; and

WHEREAS, Sunesys has requested the consent of the Borough of Metuchen (hereinafter the “Borough”) for permission to occupy public rights-of-way within the Borough for a period of twenty (20) years for the purpose of constructing, installing, operating, repairing, maintaining and replacing a telecommunications system; and

WHEREAS, it is deemed to be in the best interest of the Borough and its citizenry, particularly including the commercial and industrial citizens, for the Borough to grant municipal consent to Sunesys to occupy the public rights-of-way within the Borough for this purpose; and

WHEREAS, the granting of such consent is and shall be conditioned upon Sunesys’ compliance with all existing and future ordinances of the Borough and its entering into a written agreement with the Borough, *inter alia*, to indemnify and hold the Borough harmless as to all claims and liability resulting from any injury or damage which may arise from the construction, installation, operation, repair, maintenance, disconnection, replacement and removal of its telecommunications system within certain public rights-of-way and Sunesys’ provision of liability insurance coverage for personal injury and property damage.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF METUCHEN:

1. That non-exclusive consent is hereby granted to Sunesys to occupy the public rights-of-way within the Borough for the purpose of construction, installation, operation, repair, maintenance and replacement of a telecommunications system for a period of twenty (20) years.
2. The within granted permission is conditioned upon Sunesys entering into the appropriate Rights-of-Use Agreement with the Borough and providing liability and property damage insurance coverage.
3. The Mayor and Municipal Clerk are hereby authorized to execute the attached Agreement or one similar as to the form of the Agreement as reviewed and approved by legal counsel.
4. A copy of this Resolution and the executed Rights-of-Use Agreement shall be filed in the Office of the Municipal Clerk.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

Dated: April 2, 2012

BILL LIST

On a motion by Council President Cammarano, seconded by Councilwoman Rasmussen, with all in favor the bill resolution in the amount of **\$3,390,263.22** was approved.

PUBLIC COMMENT

Mayor Vahalla opened the meeting to public comment on any items on the agenda.

Hearing no one wishing to speak Mayor Vahalla closed the public comment portion of the meeting.

ADJOURNMENT

On a motion by Council President Cammarano, seconded by Councilwoman Rubin, with all in favor the meeting was adjourned at 8:37p.m..

Respectfully Submitted:

Kathryn Harris
Municipal Clerk

