

**MEETING MINUTES
BOROUGH OF METUCHEN
COUNCIL MINUTES
August 18, 2014
7:30 PM**

A Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Monday, August 18, 2014.

The Meeting was called to order at 7:34 p.m. by Mayor Vahalla and he read the Open Public Meetings Act statement which stated, "Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. 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 is posted in the Borough Clerk's office.

The Invocation was given by Councilwoman Inserro and was followed by the Pledge of Allegiance.

Present were Councilmembers Wallace, Rasmussen, Inserro, Grayzel, Cammarano and Council President Muldoon. Also present is Mayor Vahalla, William E. Boerth, Borough Administrator, Denis Murphy, Borough Attorney and Borough Clerk Katie Cirulli.

Agenda Session

Council President Muldoon moved to open the Agenda Session, seconded by Councilwoman Rasmussen, with all in favor, the agenda session was opened.

Council President Muldoon stated that a book has been placed for each Councilmember and Mayor called "Walkable City". He said that there are some great ideas and viable solutions about how we think about our roads, pedestrian safety and building a stronger, healthier community. The Bike/Walk Metuchen Group has provided a copy for each member of the Council.

Each member has been provided a copy of the final report for the "Refranchise Ascertainment Payment Process and Negotiations" from the Cable and TV Technology Committee. A Revised Exhibit E has been provided. Council President Muldoon asked if each member would read the report as a presentation will be given to the Council.

Council President asked if there are any objections of moving the Proclamation right after the agenda session and he is requesting that items N and O be removed from the Consent Agenda for discussion. All are in favor.

Councilwoman Rasmussen would like to update the Green Team Resolution at the next meeting. They have to apply for Sustainable Jersey and one of the items is to update the Borough's commitment by updating the Resolution. She would like to include the Shade Tree Commission, a member from the Bike/Walk Commission, someone from the Farmer's Market and the Chamber of Commerce in the update.

She also stated that the trees have been delivered and she will be getting donated pots to plant them in. She would like to finalize the plans for the trees.

Councilman Cammarano would like to have the Appropriate Authority Ordinance presented in September and he would like to work with the Borough Attorney to get the Ordinance prepared.

Councilman Grayzel asked that Resolution 2014-142, the Comminutor for the Pump Station, be explained as to what it is for. Bill Boerth explained that this was an item that was inserted into the budget. It is similar to a grinder to be used at the Jersey Ave. Pump Station. This replaces the existing Comminutor which is no longer functioning.

Denis Murphy, Esq. stated that in Ordinance 2014-12 there is a typo in Section 110-134.3, Subsection 4. It should read ...*exceed four (4) stories and fifty (50) feet in height*, not (60). He has advised the Council to make a motion on the Ordinance to reflect the revision after the Public Hearing session and then have a final vote on the adoption of the Ordinance. This doesn't change the Ordinance in anyway and doesn't require that another notice be given.

Council President Muldoon moved to close the Agenda Session, seconded by Councilwoman Rasmussen, with all in favor, the agenda session was closed.

Proclamation

National Alcohol and Drug Addiction Recovery Month – September 2014

Councilwoman Inserro read the Proclamation and presented it to the Youth Service Board and Chairperson Esposito of the Municipal Alliance Committee.

National Alcohol and Drug Addiction Recovery Month – September 2014 –Proclamation

WHEREAS, according to the 2012 National Survey on Drug Use and Health, in 2012, 23.1 million people aged 12 or older in the United States needed treatment for an illicit drug or alcohol use problem; and

WHEREAS, between 2009-2013, 462 Metuchen residents were admitted for alcohol and substance abuse (*2013 Substance Abuse Overview Middlesex County*); and

WHEREAS, treatment reduces reported job problems, including incomplete work and absenteeism, by an average of 75 percent; and

WHEREAS, by seeking help, people who experience mental and/or substance use disorders can embark on a new path toward improved health and overall wellness; and

WHEREAS, to help achieve this goal, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the White House Office of National Drug Control Policy, and **NCADD of Middlesex County, Inc.** invite all residents of **Metuchen** to participate in *National Alcohol and Drug Addiction Recovery Month*; and

WHEREAS, the **First Step Counseling Services** is being recognized by the National Council on Alcoholism and Drug Dependence (NCADD) of Middlesex County, Inc. as the 13th Tree of Hope Recipient for their impact on the community they serve every day and giving people not only hope, but a real opportunity for recovery; and

NOW, THEREFORE, I, THOMAS VAHALLA, MAYOR of the Borough Council of Metuchen, NJ do hereby proclaim the month of September 2014 as

Alcohol and Drug Addiction Recovery Month

in **Metuchen** and call upon the people to observe this month with appropriate programs, activities, and ceremonies supporting this year's theme, "*Join the Voices for Recovery: Speak Up, Reach Out.*"

Discussion

Mayor Vahalla opened the discussion on Tree Inventory. Fred Hall, Director of Public Works, gave a history of the purchase of a bucket truck and developed a list of priorities to help with tree trimmings and maintenance. A list was developed and trees are broken down into three levels with level 1 being the most immediate attention and level 3 being critical when convenient. He explained how his department handles phone calls from the residents in regards to the trees of Metuchen and determining if the trees are Borough or Resident owned.

This year they have removed forty-two trees completely and eight stubs that are remaining throughout Metuchen that the department needs to remove. There are eighty-two tree removals that are still pending for 2014.

The discussion continued with the different options on the continuation of this program. It is a huge expense and is getting more expensive with each year. A suggestion is to issue permits to residents and allow them to maintain the trees at their cost, similar to curbs and sidewalks. All are in agreement that something needs to change in the program.

Councilwoman Rasmussen stated that the Shade Tree Commission is working with Chris Cosenza on writing up a permit guideline to allow residents to cut down or trim trees on their property and/or in the right-of-way without a cost for the permit. It will have to go to the attorney for review before it would be implemented. The idea is to keep track of trees within the Borough. The permit would be submitted to the Zoning Officer, Shade Tree Commission and Public Works for review and sign-off. .

Mayor Vahalla thanked Fred and his crew for the good work that they do for the Borough and his time in coming before the Council.

Mayor Vahalla opened the discussion on the Cable Franchise Agreement Renewal report. He asked the TV and Technology Advisory Committee to present the report

Mike Guarino, Secretary of Metuchen's Cable and Technology Advisory Committee, spoke about the renewal process for Cablevision. The contract has been in place for 10 years and is now in its renewal process. The report summarizes the last two years of activity of the committee which most is mandated by the current statutory process. There are two parts to the report. The first is to confirm whether or not they have complied with the current franchise agreement. Through the process the Committee has determined that Cablevision has complied with the current agreement. The second part is to ascertainment of the future needs of Metuchen. In order to make this determination, they did several surveys over the last two years. Mr. Guarino continued with the findings of their report. The overall recommendation of the Committee is to go with the fifteen (15) year franchise agreement.

Denis Murphy, Esq. spoke to the Council reminding them that the agreement doesn't expire until January 2016. He explained the process for a renewal agreement and the requirements for renewal. The Council's role tonight is to either accept or reject the Advisory Committee's report as a Municipal Report.

Councilman Grayzel wanted to thank all the members of the Cable and Technology Advisory Committee for their hard work, especially Mr. Guarino and Ms. Moskowitz for their many years of services.

Council President Muldoon asked if the saturation levels of homes in Metuchen that have Cablevision. Mr. Guarino said that information is available and he will provide it.

Mayor Vahalla thanked Mr. Guarino for presenting the report and all the work the Advisory Committee has put into the report.

Beatrice Moskowitz stated that a representative from Cablevision is present and if there are any specific questions that the Council would like to ask, he is willing to answer.

Open To Public

Mayor Vahalla opened the meeting to the public for comment.

Carmen Field, 100 Hillside Ave. spoke about a situation with a dangerous Pitt Bull dog in their neighborhood. She would like to see this dog labeled as a "dangerous dog" so that when the owner walks the dog, the dog must be muzzled as well as a fence be installed on the owner's property as per the Municipal Code for dangerous animals.

Mayor Vahalla asked that any time there is a situation to contact the Police Department immediately. Ms. Field stated that she has followed the procedures and yet there has been no result. Mayor Vahalla said that the Borough Administrator will contact the Board of Health in the morning and make sure that this is processed as quickly as possible.

Angela Sielski, 68 Forrest St. asked about the Metuchen Strolling for Safer Streets Group. She wanted to find out the status of the Traffic Safety Officer. She always wanted to know if the Traffic Study is being done.

Mayor Vahalla stated that the Police are doing interviews currently for the Traffic Safety Officer and the Traffic Study is in process.

Walter Zwajin, 218 Center St. wanted to thank Officer Patrolman Rich Westover and Warren from the local EMS for their help with his wife.

As the Commander of the American Legion he read a letter to Mayor, Council and Residents of Metuchen. The letter is congratulating the Post on their services to the Community and Veterans. He addressed concerns that have been raised by people about the Post and the American Legion and what they do for the Community and beyond. He spoke about the Children's Op-Organ Transplant program that the Legion is also involved in.

Wayne Aquadro, 19 Henry St. asked for some guidance in regards to the application for a subdivision and variances that will be heard Thursday night by the Planning Board by Fox and Foxx. He wants to make the Council aware that there are a number of neighbors who are not happy about the application but are unable to attend the meeting as they are away on vacation. He is wondering if there is any way to postpone this application until the end of summer when residents will be home.

Denis Murphy, the Borough Attorney, stated that the Mayor and Council do not have the authority to postpone or adjourn an application hearing.

The suggestion is that those that can make the meeting should appear before the Planning Board and make the same suggestion to the Planning Board and see if all parties are willing to reschedule the meeting date.

Marilyn Matthews, 47 Blair Ave. is coming before the Council with the same issue of the subdivision. She complained that Fox and Foxx showed up at her house trying to talk to her about the property next door and why it was a good project.

Shearra Stern, 47 Newman St. is very upset about the litter along the railroad between Kentnor St. and High St. She is asking if there is any way to get NJ Transit and Conrail to pick up their trash which is out of control.

Mayor Vahalla has suggested that they will reach out to the Assembly and Senate people and see if they can be of any help getting the appropriate landowner to clean up the litter.

Eleanor Phelan, 515 New Durham Rd. is wondering why they are taking away Pearl Street Parking lot and why put apartments on top of businesses. She doesn't like the idea of changing the tranquility of the Borough.

Dan Cotton, 37 Van Buren Ave. has a question about the Cable Renewal. He is wondering if there is any way to get Verizon Fiber optic to the houses.

Councilman Grayzel stated that the franchise agreement that the Borough will be entering into with Cablevision is not exclusive, which means that any company can come in to Metuchen.

Hearing no one else, Mayor Vahalla closed the Public Comment session.

Ordinances - Public Hearing

Council President Muldoon opened the Public Hearing on Ordinances 2014-10, 2014-11 and 2014-12.

Ordinance 2014-10

Council President Muldoon asked that the affidavit of publication be presented on Ordinance 2014-10.

Borough Clerk Cirulli presented the affidavit of publication stating that said Ordinance 2014-10 has been published one time in the Home News Tribune according to Law on July 30, 2014.

Council President Muldoon moved that the affidavit of publication be received and filed. Councilwoman Rasmussen seconded, with all favor, the affidavit of publication has been accepted.

Borough Clerk Cirulli read the Ordinance by title.

Ordinance 2014-10

Bond Ordinance Amending Bond Ordinance 2006-5 Finally Adopted March 20, 2006 by the Borough of Metuchen, in the County of Middlesex, State of New Jersey, in Order to

Provide for a Change in the Improvements Authorized by
Such Ordinance.

Mayor Vahalla stated that this ordinance will allow for repurposing of a previous bond ordinance so that it might be used for other purposes.

Mayor Vahalla opened the Public Hearing on Ordinance 2014-10. Hearing no one, Mayor Vahalla closed the Public Hearing session.

On a motion by Council President Muldoon, second by Councilwoman Rasmussen, Ordinance 2014-10 was passed on second reading and is to be published according to law, seconded by Councilwoman Rasmussen.

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
CAMMARANO	X				MULDOON	X			
GRAYZEL	X				RASMUSSEN	X			
INSERRO	X				WALLACE	X			
MOTION	MULDOON			SECOND			RASMUSSEN		
X – INDICATES VOTE				AB- ABSENT			NV- NOT VOTING		

Ordinance 2014-10 passed, 6-0

ORDINANCE 2014-10

**BOND ORDINANCE AMENDING BOND ORDINANCE 2006-5
FINALLY ADOPTED MARCH 20, 2006 BY THE BOROUGH OF
METUCHEN, IN THE COUNTY OF MIDDLESEX, STATE OF
NEW JERSEY, IN ORDER TO PROVIDE FOR A CHANGE IN
THE IMPROVEMENTS AUTHORIZED BY SUCH ORDINANCE.**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF METUCHEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The list of purposes contained in Section 3 of Bond Ordinance 2006-5 of the Borough of Metuchen, New Jersey (the "Borough"), finally adopted March 20, 2006, and entitled "BOND ORDINANCE APPROPRIATING \$1,611,000 AND AUTHORIZING \$1,340,450 BONDS OR NOTES OF THE BOROUGH FOR VARIOUS IMPROVEMENTS AND PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF METUCHEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY" (the "Ordinance") is hereby amended to include a new clause (x) to read as follows: "(x) the acquisition of digital radios."

Section 2. Section 4(b) of the Ordinance is hereby amended to read in its entirety as follows:

"The average period of usefulness of said purposes, within the limitations of the Local Bond Law and taking into consideration the respective amounts of said obligations authorized for the purposes, according to the reasonable life thereof computed from

Ordinance 2014-11 passed, 6-0

ORDINANCE 2014-11

BOND ORDINANCE FURTHER AMENDING BOND ORDINANCE 2007-3 FINALLY ADOPTED APRIL 16, 2007 BY THE BOROUGH OF METUCHEN, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, IN ORDER TO PROVIDE FOR A FURTHER CHANGE IN THE IMPROVEMENTS AUTHORIZED BY SUCH ORDINANCE.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF METUCHEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The list of purposes contained in Section 3 of Bond Ordinance 2007-3 of the Borough of Metuchen, New Jersey (the "Borough"), finally adopted April 16, 2007, and entitled "BOND ORDINANCE APPROPRIATING \$1,677,100 AND AUTHORIZING \$1,377,500 BONDS OR NOTES OF THE BOROUGH FOR VARIOUS IMPROVEMENTS AND PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF METUCHEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY" (the "Ordinance") is hereby further amended to include a new clause (xiii) to read as follows: "(xiii) the acquisition of a digital fingerprint system and digital radios."

Section 2. Section 4(b) of the Ordinance is hereby amended to read in its entirety as follows:

"The average period of usefulness of said purposes, within the limitations of the Local Bond Law and taking into consideration the respective amounts of said obligations authorized for the purposes, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 12.32 years."

Section 3. All other details of the Ordinance shall remain the same.

Section 4. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Ordinance 2014-12

Council President Muldoon asked that the affidavit of publication be presented on Ordinance 2014-12.

Borough Clerk Cirulli presented the affidavit of publication stating that said Ordinance 2014-12 has been published one time in the Home News Tribune according to Law on August 6, 2014.

Council President Muldoon moved that the affidavit of publication be received and filed. Councilwoman Rasmussen seconded, with all favor, the affidavit of publication has been accepted.

Borough Clerk Cirulli read the Ordinance by title.

Ordinance 2014-12

An Ordinance Amending the Land Development Ordinance of

the Borough of Metuchen, Chapter 110 Section 110-4 Definitions; Section 110-77 B3 Office Business District, Section 110-78 B-4 Restricted Business District and Section 110-80 D-1 Downtown Development District; Section 110-87 Conditional Uses-Specific Conditions; Section 110-134.3 Downtown Gateway Overlay in the B-3 Office Business District, B-4 Restricted Business District and D-1 Downtown Development District..

Denis Murphy recommended that at this time there be a motion to amend the ordinance to just correct the typographical error contained in Section 110-134.3, Subsection 4 to read ... fifty (50) feet in height, not (60).

Council President Muldoon motioned to make the amendment Ordinance 2014-12 to correct the typographical error in Section 110-134.3, Subsection 4, seconded by Councilwoman Rasmussen.

Mayor Vahalla asked for a roll call vote.

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
CAMMARANO	X				MULDOON	X			
GRAYZEL	X				RASMUSSEN	X			
INSERRO	X				WALLACE	X			
MOTION	MULDOON				SECOND		RASMUSSEN		
X – INDICATES VOTE			AB- ABSENT		NV- NOT VOTING				

Ordinance 2014-11 is, 6-0

Council President stated that the Planning Board has reviewed the Ordinance and found it to be consistent with the Borough’s Master Plan.

Mayor Vahalla stated that this ordinance creates an overlay zone which will allow for a supermarket in the Metuchen District site. It will not allow for any residential on the east side of Middlesex Ave. but will allow retail and residential on the second floor on the south side of Middlesex Ave.

Mayor Vahalla opened the Public Hearing on Ordinance 2014-12.

Tyreen Rueter, 16 Durham Ave., stated that she received a notice and she isn’t sure how she is within the 200’ of the property. She is in favor of this Ordinance.

Chris Cosenza, Zoning Officer, explained that they decided to notice all property owners within all the districts of this Ordinance.

Ellen Millett-Heksch, 43 Franklin School Way, she is also in favor of this Ordinance but would like to make mention that many residents have great concerns about traffic and what the plans with regard to additional developments and how the Borough is going to handle the traffic.

Mayor Vahalla stated that the traffic concerns will be part of the site plan and part of the adoption at the Planning Board when the developer comes forth with his plans. This Ordinance reduces the number of residential units by two-thirds.

Hearing no one else, Mayor Vahalla closed the Public Hearing session

On a motion by Council President Muldoon, second by Councilwoman Rasmussen, Ordinance 2014-12 was passed on second reading as amended and is to be published according to law, seconded by Councilwoman Rasmussen.

Mayor Vahalla asked for a roll call vote.

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
CAMMARANO	X				MULDOON	X			
GRAYZEL	X				RASMUSSEN	X			
INSERRO	X				WALLACE	X			
MOTION	MULDOON				SECOND		RASMUSSEN		
X – INDICATES VOTE				AB- ABSENT		NV- NOT VOTING			

Ordinance 2014-12 is approved, 6-0

ORDINANCE 2014-12

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF METUCHEN, CHAPTER 110, SECTION 110-77 B-3 OFFICE BUSINESS DISTRICT, SECTION 110-78 B-4 RESTRICTED BUSINESS DISTRICT AND SECTION 110-80 D-1 DOWNTOWN DEVELOPMENT DISTRICT; SECTION 110-87 CONDITIONAL USES – SPECIFIC CONDITIONS; SECTION 110-134.3. DOWNTOWN GATEWAY OVERLAY DISTRICT IN THE B-3 OFFICE BUSINESS DISTRICT, B-4 RESTRICTED BUSINESS DISTRICT AND D-1 DOWNTOWN DEVELOPMENT DISTRICT;

BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen that the Land Development Code of the Borough of Metuchen be amended as follows:

SECTION 1. Chapter 110 of the Code of the Borough of Metuchen is hereby amended as follows to **§ 110-77. B-3 Office Business District, § 110-78. B-4 Restricted Business District, § 110-80. D-1 Downtown Development District:**

ARTICLE 17

§ 110-77. B-3 Office Business District

Principal, accessory and conditional uses shall be permitted and regulated in the B-3 Office Business District as follows:

- C. (3) Downtown Gateway Overlay District, pursuant to 110-87AA.

§ 110-78. B-4 Restricted Business District

Principal, accessory and conditional uses shall be permitted and regulated in the B-4 Restricted Business District as follows:

- C. (8) Downtown Gateway Overlay District, pursuant to 110-87AA.

§ 110-80. D-1 Downtown Development District.

Principal, accessory and conditional uses shall be permitted and regulated in the D-1 Downtown Development District as follows:

C. (6) Downtown Gateway Overlay District, pursuant to 110-87AA.

SECTION 2. Chapter 110 of the Code of the Borough of Metuchen is hereby amended to add § **110-87.AA Downtown Gateway Overlay District:**

ARTICLE 18

Conditional Uses

§ 110-87.AA Downtown Gateway Overlay District

(1) A Downtown Gateway Overlay District shall be a permitted conditional use. The permitted uses within a Downtown Gateway Overlay District shall be:

- a) Supermarket, not exceeding 50,000 square feet in gross floor area and which may include eating, drinking and an outdoor cafe on premises.
- b) Retail shops and stores.
- c) Service businesses.
- d) Offices.
- e) Banks and other financial institutions, including drive-in banks.
- f) Eating and drinking establishments, except fast-food restaurants and drive-in restaurants.
- g) Apartments, only if located on the north side of Middlesex Avenue and not including any apartments located on the ground floor of a building fronting on Middlesex Avenue or Central Avenue.
- h) Nursery schools and day-care centers.
- i) Dry cleaning establishment where no dry-cleaning occurs on the premises. If dry cleaning occurs on the premises, it shall be subject to § 110-87B.
- j) Health clubs, gyms and spas.
- k) Inns and hotels.
- l) Social halls, clubs, lodges and places of public assembly.
- m) Borough-operated public facilities.

(2) Permitted Accessory Uses within a Downtown Gateway Overlay District shall include:

- a) Driveways, parking lots, loading areas and multilevel parking facilities.
- b) Outdoor display and sales area associated with permitted retail shops and stores and supermarkets.
- c) Outdoor cafes and restaurants, including those with appropriate licenses that serve alcoholic beverages outdoors.
- d) Plazas, courtyards, kiosks, outdoor art exhibit space, water features, permanent or temporary installations of public art, walkways and alleys and other similar type of public and semipublic open spaces.
- e) Trash enclosures, compactors and dumpsters.
- f) Walls, fences, hedges and other landscape elements.
- g) Utility boxes.
- h) Other uses deemed to be permitted accessory uses.

(3) Conditions: a Downtown Gateway Overlay District shall meet the following conditions:

- a) Minimum tract area shall be five (5) acres. For the purposes of calculating tract area, lots separated by street rights-of-way may be considered part of the same tract, including the area of the right-of-way separating such lots.
- b) Minimum frontage on Middlesex Avenue: two hundred fifty (250) feet located along both sides of the street facing one another.
- c) A supermarket shall be a required use.
- d) If development of the tract is proposed in multiple phases, a phasing plan shall be provided. The phasing plan shall identify the portions of the tract proposed for preliminary and final site plan approval as well as any phases reserved for future development. The required supermarket use shall be developed in the first phase. A concept plan for the entire tract, depicting both proposed first phase development and illustrating one or more scenarios for potential future phases, shall be provided.

SECTION 3. Chapter 110 of the Code of the Borough of Metuchen is hereby amended as follows to § 110-134.3. **Downtown Gateway Overlay District in the B-3 Office Business District, B-4 Restricted Business District and D-1 Downtown Development District.**

ARTICLE 29.C

Downtown Gateway Overlay District - Design Standards

110-134.3 Downtown Gateway Overlay District in the B-3 Office Business District, B-4 Restricted Business District and D-1 Downtown Development District.

- (1) Maximum building coverage: seventy percent (70%) of the tract.
- (2) Maximum impervious coverage: ninety percent (90%) of the tract.
- (3) Business and service uses included within a Downtown Gateway Overlay District shall be designed to be integrated with and/or compliment other existing commercial areas within the B-3, B-4 and D-1 Districts. Integration of business and service uses shall be accomplished by proximity of location, site orientation, scale and massing along the streetscape, architectural style, color, materials and details, pedestrian circulation linkages, vehicular circulation and parking, lighting, landscaping and street furniture.
- (4) Height of principal buildings fronting on Middlesex Avenue, Lake Avenue and Central Avenue shall have a minimum height of twenty (20) feet for one (1) story buildings and a maximum height of three (3) stories and forty five (45) feet. Height of principal buildings or portions of such buildings set back a minimum of fifty (50) feet from the edge of curb of the above streets shall not exceed four (4) stories and fifty (50) feet in height. Any four (4) story building shall be designed using some combination of massing, scale, roof type, cornice, projections, recesses, materials, colors and other architectural treatments to minimize the visual impact of the height of such building. For the purposes of this section, height shall be measured from finished grade.
- (5) Building elements and appurtenances such as cornices, chimneys, spires, cupolas, belfries, towers or flagpoles, designed exclusively for ornamental purposes, as well as functional elements such as elevator housing, roof-mounted HVAC systems, solar panels and roof access stairwells may exceed the height requirements by up to fifteen (15) feet.
- (6) Minimum front yard setbacks: five (5) feet, except along Central Avenue, where no minimum setback is required. Buildings shall be setback a minimum of fifteen (15) feet from the edge of curb of the street upon which such building fronts, except along Central Avenue and other internal streets, where the setback from the edge of curb shall be ten (10)

- feet. Steps leading to a first floor, balconies, awnings and landscape planters shall be allowed to project within the right-of-way.
- (7) Minimum side and rear yard setbacks: ten (10) feet for any residential use and five (5) feet for all other uses. Along a property line adjacent to a railroad right-of-way or utility-owned property, the minimum side or rear setback may be reduced to zero (0) feet.
 - (8) Buildings shall be located to front towards and relate to a public street, both functionally and visually. In locations where on-street parking does not exist, the entry to a use or building may be placed in a location other than facing the street at the discretion of the Planning Board. All buildings facing Middlesex Avenue, Lake Avenue and Central Avenue shall be designed with facades that engage and activate the streetscape and shall not appear to turn the backside of the building to the street. Design techniques that may be used to engage and activate the street include multi-sided pavilion-style buildings, wrap-around storefronts, large display windows to create interest along walls, overhanging awnings and canopies, front entries visible from the street, outdoor display space and café dining terraces lining the streetscape.
 - (9) A supermarket may be permitted to have parking located between the building and the street. Buildings located in the interior of a site may be permitted to front upon parking lots. In such instances, the parking lot shall be designed to incorporate visual and functional pedestrian elements such as pedestrian-scale signage and lighting, shade trees and landscaping to soften the parking area, and more detailed streetscape treatments along the frontage of such buildings.
 - (10) The predominant building material for buildings facing Middlesex Avenue, Lake Avenue and Central Avenue shall be brick in traditional colors consistent and complimentary with those found on Main Street
 - (11) Pedestrian gathering spaces shall be provided consisting of walkways and special elements such as courtyards, outdoor cafes, plazas, or similar type improvements. Sidewalks and pedestrian gathering spaces shall incorporate pedestrian amenities, such as moveable seating and chairs, benches, bicycle racks, shade trees, landscaping, accent lighting and other street furniture.
 - (12) Frontages along Middlesex Avenue, Lake Avenue and Central Avenue shall include Main Street style street lamps at intervals of spacing consistent with the existing street lamps on Main Street.
 - (13) Free-standing monument signage shall be visually compatible with the design characteristics of a town center by taking the form of unique monuments or kiosk-style structures, while strictly avoiding typical highway pylon or shopping center directory sign boards.
 - (14) Off-tract improvements may be required of the developer as part of an overall development integration plan, including but not limited to vehicular, pedestrian and bicycle circulation improvements including channelization of travel lanes along Middlesex Avenue with landscaped medians and pedestrian shelter islands, textured crosswalks, wide sidewalks designed to accommodate safe pedestrian and bicycle linkage between the downtown and the Middlesex Greenway, street connections and other improvements identified in the Circulation Plan Element of the Master Plan or that advance the Borough's Complete Streets policy, and storm water management systems.
 - (15) Parking for non-residential uses shall be subject to 110-154. Parking for residential uses shall be subject to the Residential Site Improvement Standards NJAC 5:21. The Planning Board shall entertain reductions in the required number of both non-residential and residential parking spaces if the applicant can demonstrate through expert testimony and technical documents that the proposed application would so warrant, as a result of its mixed-use nature, parking demands of specific users, proximity to transit options, specific housing demographics, a parking management plan or other special reasons.

- (16) Drive-in banks shall comply with the following standards:
- a) A total of three (3) vehicle-stacking spaces shall be provided for each drive-in lane.
 - b) A by-pass lane shall be provided to allow vehicles to alternatively exit the drive-in stacking area without having to pass the drive-in facility or window.
 - c) All drive-in stacking lanes shall have adequate directional signage and striping to ensure safe and efficient operation of the facility.
 - d) Internal circulation shall be arranged such that stacked vehicles in drive-in lanes shall not interfere with general vehicular circulation or parking or pedestrian circulation on the site. Additionally, vehicles exiting from the parking lot shall not use any drive-in lane as a means of egress.
 - e) Principal buildings and pedestrian walkways shall have the primary visual orientation to the street or a parking plaza and drive-in facilities shall maintain a secondary visual orientation through location, setbacks, driveway, width and architectural design treatments.
 - f) Where possible, drive-in lanes shall exit onto side streets or parking lots in which case setbacks may be reduced if a secondary visual orientation is appropriately achieved for the drive-in facility.
 - g) The drive-in facility shall be on the same property as the primary bank use, with walk-in service and teller windows having not less than 1,500 square feet.
 - h) The applicant shall demonstrate by competent professional evidence that vehicular ingress and egress and internal traffic circulation shall be designed in accordance with engineering standards to be safe and that no unreasonably adverse impact on adjacent thoroughfares or intersections will result from development of the site as proposed.

SECTION 4. This ordinance shall become effective immediately upon publication following final adoption, pursuant to law.

Communications Consent Agenda

Council President Muldoon made a motion to receive and accept Items 8A through 8E, seconded by Councilwoman Rasmussen, with all in favor, the Communications Consent Agenda, Items 8A through 8E has been received and accepted.

Other Communications

Reports of Councilmembers

Council President Muldoon had no report at this time.

Councilman Wallace reported that National Night Out was earlier this month.

Councilwoman Rasmussen reported the Shade Tree Commission met and discussed the fall planting. They will plant approximately fifteen trees. They also discussed the fall fair and will be working with the consultant to update the Community Forestry Plan.

The Development Commission met and discussed the benefits in applying for and obtaining the Associate Tier Main Street New Jersey. If the tier is awarded it will give support services from the Downtown New Jersey for downtown revitalization and management efforts.

She has information on 2014 E-cycled. This will allow Middlesex County residents to recycle electronic items at Papaiani Park, 100 Municipal Blvd., Edison, New Jersey. It will be the first Saturday of each month, 9 AM to 1 PM. and the third Monday of each month, 12 PM to 4 PM, August through December. Councilwoman Rasmussen requested that the information be posted to the website for the Residents of Metuchen to access.

Councilwoman Inserro reported that on Sunday, October 26th, the Metuchen Senior Inc. will be hosting their 21st annual fundraiser at Metuchen High School at 1:00 PM. Tickets will be \$25.00. The Metuchen High School Students will be helping out and if anyone else would like to volunteer let her know. She wanted to follow up on the discussion on the generator stating that the seniors have expressed their desire in having a generator installed at the Senior Center. Mayor Vahalla reminded Residents that they can drop off their electronics at the DPW office.

Councilwoman Rasmussen asked if the paving on Amboy Ave is going to be completed.

Councilwoman Inserro had no report at this time.

Councilman Grayzel reported that there is a new Advisory Committee in town named Metuchen Accessibility Committee. They can be accessed through the Metuchen website. The Accessibility Committee is an advocate committee for disable citizens of Metuchen. The email is accessibilityinmetuchen.com.

The Arts Council is in the midst of the 2014 summer concert series. This Thursday, August. 21 is “Big Nancy in Supreme Court. Thursday, August 28th is Kevin Hildebrandt which is a jazz band. The concerts are held at the Metuchen Senior Center at 7:30 and are free. This Saturday is the annual movie at Oakland Park for children, August 23rd at 8:00 PM. It is a double feature of Little Mermaid and the Goonies. It is free and popcorn is available.

Councilman Cammarano had no report at this time.

Reports of Officers

Denis Murphy, Borough Attorney, reported that there was no action on the rezoning of 103 Van Buren Ave. That is scheduled for the next Council meeting. At the last meeting he was asked to look at whether the Council could pass an ordinance to regulate truck traffic on Van Buren. He stated that the Council does have the authority to pass a truck ordinance on Van Buren Ave. but will not be able to stop trucks over 4 tons if they are making deliveries of materials on that street.

At the meeting on July 21st, the Property Maintenance Ordinance was discussed and Councilman Grayzel brought up about the possibility of regulating the interior premises in this ordinance. Denis was requested to look at the possibility of regulating the interior premises and he looked at the Borough’s ordinances and there are currently three ordinances that regulate the interior premises within the Borough. There are three chapters with the interior premises – Chapter 67 - “Buildings Unsafe”, Chapter 225 “Nuisances” and Chapter 216 – “Housing” which adopts the State Housing Code. His recommendation is to advise the Council against changing the Property Maintenance Ordinance to regulate the interior premises and recommends that if the desire is to strengthen the interior premises do it via Chapter 67, 225 or 216.

There is one change that has been made came at the recommendation of the Borough Administrator and that relates to liens on the property but also recouping the funds as soon as possible to the Borough. The change is the addition of one sentence in two chapters...*if the amount of the lien is not paid it provides*

that the Tax Collector may sell the unpaid municipal lien at the next tax sale. This is important because it would allow the Borough to get the money back into the Borough's hands as soon as possible.

Mr. Murphy reported that there is a handout for Resolution N (R2014-155) and O (R2014-156), based on some questions that came up as to the location of the Right-of-Way Agreements and request contained within the two Resolutions. The first two stapled sheets are the locations for the property in Resolution N (R2014-155). They are both made by the same company. The second part of the handout is the location for the property in Resolution O (R2014-156).

After a discussion with Council, it was decided to reinsert the two resolutions into the Consent Agenda for approval.

Bill Boerth reported that there were comments made about the Accessibility Committee that Oakland Park and Olmezar Park were not accessible to people with disabilities. The Borough Engineer and Bill went out to survey the two parks and found that there are some complicated issues but they both feel that the issues can be dealt with internally with DPW.

Report of Mayor

Mayor Vahalla reported on the Fire report dated July 1, 2014.

He reminded everyone that on September 21st the dedication of the Fire Truck is from 1 PM to 4 PM.

New Business Consent Agenda

Council President Muldoon moved to approve the New Business Consent Agenda Resolutions 2014-142 through 2014-161, seconded by Councilwoman Rasmussen, with all in favor, Resolutions 2014-142 through 2014-161 were approved.

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
CAMMARANO	X				MULDOON	X			
GRAYZEL	X				RASMUSSEN	X			
INSERRO	X				WALLACE	X			
MOTION	MULDOON			SECOND		RASMUSSEN			
X – INDICATES VOTE			AB- ABSENT		NV- NOT VOTING				

Consent Agenda approved, 6-0

RESOLUTION 2014-142

RESOLUTION AWARDDING BID AWARD FOR COMMINTOR FOR SANITARY PUMP STATION-RAPID PUMP AND METER SERVICE CO., INC

WHEREAS, bids were received by the Borough Administrator on August 12, 2014 for a Commintor for the Sanitary Pump Station for the Borough of Metuchen; and

WHEREAS, the Borough Administrator has reviewed the recommendation made by the Public Works Director on said bids; and

WHEREAS, the Chief Financial Officer has determined that sufficient funds will be available in the amount of \$26,690.00, and funds are available in the 2014 Budget as evidenced by the Chief Financial Officer's Certification, of which \$26,690.00 is 2014 Budget Funds,

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 Comminutor for the Sanitary Pump Station be and the same is hereby awarded to most responsive bidder, Rapid Pump and Meter Service Co., Inc., 285 Straight Street, PO Box AY, Patterson, NJ 07509.

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

BE IT FURTHER RESOLVED that the certified check or bid bond of the successful bidder and the next lowest bidders:

1. Rapid Pump and Meter Service Co., Inc., 285 Straight Street, PO Box AY, Patterson, NJ 07509
2. CFM Construction Inc., 5 Bay Street, Sterling, NJ 07980
3. Pumping Services, Inc., 201 Lincoln Blvd, Middlesex, NJ 08846

be returned upon the receipt of a fully executed contract and other required documents.

RESOLUTION 2014-143

RESOLUTION ACCEPTING THE FINAL REPORT OF THE BOROUGH OF METUCHEN TV AND TECHNOLOGY ADVISORY COMMITTEE AS THE MUNICIPAL REPORT PURSUANT TO N.J.A.C. 14:18-13.2

WHEREAS, pursuant to Ordinance No. 2004-19, the Borough of Metuchen granted municipal consent for the operation of a cable television system to Cablevision of Raritan Valley and for a non-exclusive franchise agreement which expires on or about July 16, 2015;

WHEREAS in New Jersey the cable franchise renewal is governed by the Federal Cable Communications Act of 1984 as amended by the Federal Cable Television and Consumer Protection Act of 1992 and the Telecommunications Act of 1996 (the Federal Act) and the New Jersey Cable Television Act of 1972 (the "State Act) as well as by the New Jersey Administrative Code;

WHEREAS by letter dated September 24, 2012 to the Borough of Metuchen, Cablevision initiated the ascertainment process in the renewal procedures of Cablevision's non-exclusive franchise agreement with Metuchen;

WHEREAS the Mayor and Borough Council of the Borough of Metuchen delegated the mandated review of the performance of Cablevision under the current Franchise Renewal Agreement and to identify the future cable related community needs and interests of Metuchen to the Borough of Metuchen TV and Technology Advisory Committee ("the Committee") and to issue a report to the Mayor and Council regarding the same; and

WHEREAS over the course of almost two years, the Committee has conducted such review and analysis and has compiled a report of its findings and recommendations for the Mayor and Borough Council relating to the ascertainment phase of the cable franchise renewal process, a copy of which is attached hereto; and

WHEREAS the Mayor and Council of the Borough of Metuchen have reviewed the report submitted by the Committee and deems it in the best interests of the residents of the Borough of Metuchen to accept the Committee's Final Report pursuant to *N.J.A.C. 14:18-13.2*.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of Borough of Metuchen that it hereby accepts the Committee's Final Report to the Borough Council Franchise Renewal Ascertainment Process & Negotiations pursuant to *N.J.A.C. 14:18-13.2*.

BE IT FURTHER RESOLVED that the Municipal Clerk is authorized and directed to forward the within Resolution to the Metuchen TV and Technology Advisory Committee and the Municipal Clerk shall also make this Resolution and the Final Report attached hereto available for public inspection; and

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Metuchen that the Committee is hereby authorized to forward the within Resolution to Cablevision and the New Jersey Office of Cable Television;

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Metuchen that it hereby thanks all of the members of the Metuchen TV and Technology Advisory Committee for all of its time and efforts expended in this regard.

RESOLUTION 2014-144

REFUND OF OTHER FEES & PERMITS – ELECTRICAL #13-0402 FERRARA

WHEREAS, Deborah Ferrara, 435 Wakefield Drive, Metuchen, NJ 08840 made payment on June 5, 2013 in the amount of \$743.00 for a Building, Electrical, Plumbing and Fire Permit fee to finish off the basement with a bathroom at 435 Wakefield Drive; and

WHEREAS, Ms. Ferrara was overcharged \$50.00 for the electrical permit; and

WHEREAS, Ms. Ferrara was overcharged \$2.00 for the DCA (*State*) fees; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Metuchen, that the Chief Financial Officer is hereby authorized and directed to refund Deborah Ferrara, 435 Wakefield Drive, Metuchen, NJ 08840 in the amount of \$52.00 for the overpayment of \$50 for the Electrical Permit fee and \$2.00 for the DCA fee.

RESOLUTION 2014-145

RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-012 23 SCHOOL STREET

WHEREAS, Michael Roosa posted \$436.00 for apron and sidewalk escrow fees at 23 School Street; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Michael Roosa,

NOW, THEREFORE, BE IT RESOLVED, that Michael Roosa be refunded \$436.00

from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-146

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-014
101 COLUMBIA AVENUE**

WHEREAS, DCR Landscaping & Construction Inc. posted \$280.00 for apron and sidewalk escrow fees at 101 Columbia Avenue; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to DCR Landscaping & Construction Inc.,

NOW, THEREFORE, BE IT RESOLVED, that DCR Landscaping & Construction Inc. be refunded \$280.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-147

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-015
16 JUNIPER STREET**

WHEREAS, LoChiatto Paving Masonry Co. posted \$168.00 for apron escrow fees at 16 Juniper Street; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to LoChiatto Paving Masonry Co.,

NOW, THEREFORE, BE IT RESOLVED, that LoChiatto Paving Masonry Co. be refunded \$168.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-148

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-018
12 JAMES PLACE**

WHEREAS, Fox & Foxx Development LLC posted \$602.00 for curb, apron and sidewalk escrow fees at 12 James Place; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Fox & Foxx Development LLC,

NOW, THEREFORE, BE IT RESOLVED, that Fox & Foxx Development LLC be refunded \$602.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-149

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-019
64 CENTER STREET**

WHEREAS, Fox & Foxx Development LLC posted \$359.50 for curb, apron and sidewalk escrow fees at 64 Center Street; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Fox & Foxx Development LLC,

NOW, THEREFORE, BE IT RESOLVED, that Fox & Foxx Development LLC be refunded \$359.50 from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-150

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-020
167 MASON DRIVE**

WHEREAS, Luciano Porchetta, Inc. posted \$600.00 for apron and sidewalk escrow fees at 167 Mason Drive; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Luciano Porchetta,

NOW, THEREFORE, BE IT RESOLVED, that Luciano Porchetta be refunded \$600.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-151

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-021
2 CLIFFWOOD PLACE**

WHEREAS, LoChiatto Paving Masonry Co. posted \$160.00 for apron and sidewalk escrow fees at 2 Cliffwood Place; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to LoChiatto Paving Masonry Co.,

NOW, THEREFORE, BE IT RESOLVED, that LoChiatto Paving Masonry Co. be refunded \$160.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-152

**REFUND OF OTHER FEES & PERMITS – ELECTRICAL, FIRE & PLUMBING #14-0557
MCCANN**

WHEREAS, Donna McCann, 81 Essex Avenue, Metuchen, NJ 08840 made payment on July 15, 2014 in the amount of \$299.00 for an Electrical, Fire & Plumbing Permit fee for the installation of a boiler and water heater at 81 Essex Avenue; and

WHEREAS, Ms. McCann submitted a copy of her PAAD card (*Pharmaceutical Assistance to the Aged and Disabled Program*) on July 17, 2014; and

WHEREAS, pursuant to Ordinance #97-12 permit fees are waived for persons having qualified pursuant to the State program known as “PAAD”; and

WHEREAS, the DCA (*State*) fees of \$4.00 are non-refundable; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Metuchen, that the Chief Financial Officer is hereby authorized and directed to refund Donna McCann, 81 Essex Avenue, Metuchen, NJ 08840 in the amount of \$295.00 for an Electrical, Fire & Plumbing Permit fee which is minus the DCA (*State*) fee which is non-refundable.

RESOLUTION 2014-153

**RESOLUTION AUTHORIZING REFUND OF INSPECTION FEE FOR SIDEWALK ESCROW-24
RENNINGER ROAD-B73 L31**

WHEREAS, Jagadish Shelley, 18 Willow Avenue, Somerset, NJ 08873, made payment on April 25, 2014 in the amount of \$150.00 for an inspection fee for sidewalk replacement at 24 Renninger Road, Block 73, Lot 31; and

WHEREAS, Jagadish Shelley has moved; and

WHEREAS, the new owner has taken out a sidewalk replacement permit for sidewalk repair to 24 Renninger Road; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Metuchen, that the Chief Financial Officer is hereby authorized and directed to release the inspection fee in the amount of \$150.00 to Jagadish Shelley, 18 Willow Avenue, Somerset, NJ 08873.

RESOLUTION 2014-154

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #14-006
JAGADISH SHELLEY – 24 RENNINGER ROAD**

WHEREAS, Jagadish Shelley posted \$32.00 for sidewalk escrow fees at 24 Renninger Road; and

WHEREAS, Jagadish Shelley has requested the sidewalk escrow fee be refunded because the new owner posted permit and escrow fees for sidewalk repairs to 24 Renninger Road; and

NOW, THEREFORE, BE IT RESOLVED, that Jagadish Shelley be refunded \$32.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2014-155

**RESOLUTION AUTHORIZING EXECUTION OF RIGHT-OF-WAY USE AGREEMENT
BETWEEN THE BOROUGH OF METUCHEN AND LIGHT TOWER FIBER LLC TO PERMIT
THE INSTALLATION,
OPERATION AND MAINTENANCE OF TELECOMMUNICATIONS
FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY**

WHEREAS, Light Tower Fiber, LLC dba Lighttower Fiber Networks (“Lighttower”), a Delaware limited liability company, with offices located in Boxborough, Massachusetts, is authorized to provide intrastate telecommunications services throughout the State of New Jersey pursuant to an Order issued by the New Jersey Board of Public Utilities (“NJPU”) in Docket No. TM08040212 dated June 16, 2008; and

WHEREAS, Lighttower has requested the consent of the Borough for permission to occupy public rights-of-way within the Borough of Metuchen for a period of fifty (50) years for the purpose of constructing, installing, operating, repairing, maintaining and replacing a telecommunications system; and

WHEREAS, the grant of municipal consent for the location of fiber optic cable along the Borough of Metuchen public right of way is governed by Section 166-54, *et seq.* of the Code of the Borough of Metuchen; and

WHEREAS, the Borough Engineer has review said request and issued a report to the Mayor and Borough Council relating to said request; and

WHEREAS, pursuant to the Engineer's report the requested locations for the projects are as follows: (1) begins at a utility pole at the northwesterly corner of the Grove Avenue bridge; thence, attached to the existing poles, southerly along Grove Ave to Middlesex Ave (Rt 27), thence, westerly along said Middlesex Ave to Lake Ave; thence, southerly, along Lake Avenue south of New St; thence, southwestly along Lake Ave underground south of the Amtrak lines to an utility pole; thence, attached to the existing utility poles, southerly along Lake Ave to Essex Av; thence, westerly along Essex Ave to the Edison Township municipal boundary and (2) beginning at a utility pole at the intersection of Lake Ave and Amboy Ave; thence, westerly along Amboy Ave to the intersection of said Amboy Ave and Main St; thence, southerly along Main St to the Edison Township municipal boundary, also installing underground in existing Verizon conduit southerly along Main St from Juniper St to the Edison Township municipal boundary;

WHEREAS, it is deemed to be in the best interest of the Borough and its citizenry, including the commercial and industrial citizens, for the Borough to grant municipal consent to Lighttower 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 Lighttower's continued compliance with all existing and future ordinances of the Borough and its entering into a written agreement with the Borough to, *inter alia*, indemnify and hold the Borough harmless as to all claims and liability resulting from the installation 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 Lighttower's 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 Lighttower to occupy the public rights-of-way within the Borough of Metuchen for the purpose of construction, installation, operation, repair, maintenance and replacement of a telecommunications system for a period of fifty (50) years as outline herein as well as the Borough Engineer's report attached hereto.
2. The within granted permission is conditioned upon Lighttower entering into Right-of-Way Use Agreement with the Borough of Metuchen providing for liability and property damage insurance coverage in a form acceptable to the Borough Administrator and legal counsel.
3. The Mayor and Municipal Clerk are hereby authorized to execute the Right-of-Way Use Agreement in a form acceptable to the Borough Administrator and legal counsel.

4. Nothing herein shall be construed as alleviating Lighttower from obtaining further consent from any third party.
5. A copy of this Resolution and the executed Right-of-Way Use Agreement shall be filed in the Office of the Municipal Clerk.

RESOLUTION 2014-156

**RESOLUTION AUTHORIZING EXECUTION OF RIGHT-OF-WAY USE AGREEMENT
BETWEEN THE BOROUGH OF METUCHEN AND LIGHT TOWER FIBER LLC TO PERMIT
THE INSTALLATION,
OPERATION AND MAINTENANCE OF TELECOMMUNICATIONS
FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY**

WHEREAS, Light Tower Fiber, LLC dba Lighttower Fiber Networks (“Lighttower”), a Delaware limited liability company, with offices located in Boxborough, Massachusetts, is authorized to provide intrastate telecommunications services throughout the State of New Jersey pursuant to an Order issued by the New Jersey Board of Public Utilities (“NJPU”) in Docket No. TM08040212 dated June 16, 2008; and

WHEREAS, Lighttower has requested the consent of the Borough for permission to occupy public rights-of-way within the Borough of Metuchen for a period of fifty (50) years for the purpose of constructing, installing, operating, repairing, maintaining and replacing a telecommunications system; and

WHEREAS, the grant of municipal consent for the location of fiber optic cable along the Borough of Metuchen public right of way is governed by Section 166-54, *et seq.* of the Code of the Borough of Metuchen; and

WHEREAS, the Borough Engineer has review said request and issued a report to the Mayor and Borough Council relating to said request; and

WHEREAS, pursuant to the Engineer’s report, the requested location for the project is as follows: (1) beginning at a junction box on the north side of the Reading Railroad tracks, thence, underground, up the railroad embankment to a junction box at the northwesterly corner of the Grove Ave. Railroad bridge, thence, westerly under the Grove Ave. pavement to the westerly side of Grove Ave; thence, northerly along Grove Ave, attached to the existing utility poles, to the Edison Township municipal boundary.

WHEREAS, it is deemed to be in the best interest of the Borough and its citizenry, including the commercial and industrial citizens, for the Borough to grant municipal consent to Lighttower 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 Lighttower’s continued compliance with all existing and future ordinances of the Borough and its entering into a written agreement with the Borough to, *inter alia*, indemnify and hold the Borough harmless as to all claims and liability resulting from the installation and 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 Lighttower’s 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:**

6. That non-exclusive consent is hereby granted to Lighttower to occupy the public rights-of-way within the Borough of Metuchen for the purpose of construction, installation, operation, repair, maintenance and replacement of a telecommunications system for a period of fifty (50) years as outline herein as well as the Borough Engineer's report attached hereto.
7. The within granted permission is conditioned upon Lighttower entering into Right-of-Way Use Agreement with the Borough of Metuchen providing for liability and property damage insurance coverage in a form acceptable to the Borough Administrator and legal counsel.
8. The Mayor and Municipal Clerk are hereby authorized to execute the a Right-of-Way Use Agreement in a form acceptable to the Borough Administrator and legal counsel.
9. Nothing herein shall be construed as alleviating Lighttower from obtaining further consent from any third party.
10. A copy of this Resolution and the executed Right-of-Way Use Agreement shall be filed in the Office of the Municipal Clerk.

RESOLUTION 2014-157

**REFUND OF OTHER FEES & PERMITS – 200 FOOT LIST
ALL STATE NEW JERSEY INSURANCE**

WHEREAS, All State New Jersey Insurance Company, PO Box 162, Washington, NJ 07882 made payment on July 21, 2014 in the amount of \$10.00 for a 200 foot property list for 32 Atlantic Street, which is located in the Township of Woodbridge,

WHEREAS, the 200' list cannot be compiled since the subject property is not in the Borough of Metuchen; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Metuchen, that the Chief Financial Officer is hereby authorized and directed to refund All State New Jersey Insurance Company, Other Fees & Permit fee in the amount of \$10.00.

RESOLUTION 2014-158

**RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE BOND FOR FOX AND FOXX
DEVELOPMENT, LLC.-BLOCK 154.1 LOT 44-14 SYLVAN AVENUE**

WHEREAS, Fox and Foxx Development, LLC., has requested a refund of the performance bond for site improvements on Block 154.1 Lot 44-14 Sylvan Avenue; and

WHEREAS, the Project Engineer in a letter dated May 6, 2014 and a memo from the Zoning Officer dated July 15, 2014 has reported that the contract has been completed in an acceptable manner; and

WHEREAS, Birdsall Engineers and the Borough of Metuchen Zoning Officer recommended the full release of the performance guarantee in the amount of \$3,000.00(posted in cash) and that no maintenance bond is required; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen that the Chief Financial Officer and Borough Clerk are hereby authorized and directed to release

said performance bond in the amount of \$3,000.00 as directed by the Project Engineer and Zoning Official to Fox and Foxx Development, LLC., 940 Amboy Avenue., Suite 101, Edison, NJ 08837.

RESOLUTION NO 2014-159

RESOLUTION AUTHORIZING CANCELLATION OF MUNICIPAL LIEN

WHEREAS, the Tax Collector received the necessary amount to redeem the following Tax Sale Certificate on the following property:

<u>Cert #</u>	<u>Block/Lot</u>	<u>Address</u>	<u>Lienholder</u>
13-00004	217/35	48 Hickory Street	P Farbaniec/J Malinowski

BE IT FURTHER RESOLVED that the Tax Collector be authorized to cancel this lien from the municipal record.

RESOLUTION 2014-160

RESOLUTION AUTHORIZING RELEASE OF STREET OPENING BOND-177 CENTER STREET-KL SERVICE LLC., #14-020

WHEREAS, in accordance with the Borough of Metuchen Ordinance, \$500.00 was posted by KL Service LLC., as the required Performance Guarantees for Street Opening #14-020-177 Center Street; and

WHEREAS, the Director of Public Works advises that said work has been completed in a manner satisfactory to his department; and

WHEREAS, the Director of Public Works advises it is in order to release the monies previously deposited,

NOW, THEREFORE, BE IT RESOLVED, by The Borough Council of the Borough of Metuchen that the Chief Financial Officer be and is hereby authorized to release said funds in the amount of \$500.00 to, KL Service LLC., 22 Wilson Road, Somerset, NJ 08873, as recommended by the Director of Public Works.

RESOLUTION 2014-161

RESOLUTION AUTHORIZING RELEASE OF STREET OPENING BOND-175 CENTER STREET-KL SERVICE LLC., #14-021

WHEREAS, in accordance with the Borough of Metuchen Ordinance, \$500.00 was posted by KL Service LLC., as the required Performance Guarantees for Street Opening #14-021-175 Center Street; and

WHEREAS, the Director of Public Works advises that said work has been completed in a manner satisfactory to his department; and

WHEREAS, the Director of Public Works advises it is in order to release the monies previously deposited, and

NOW, THEREFORE, BE IT RESOLVED, by The Borough Council of the Borough of Metuchen that the Chief Financial Officer be and is hereby authorized to release said funds in the amount of \$500.00 to,

KL Service LLC., 22 Wilson Road, Somerset, NJ 08873, as recommended by the Director of Public Works.

Other New Business

Bill Resolution

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with all in favor, the Bill Resolution in the amount of **\$8,718,292.83** was approved.

Appointments

Mayor Vahalla appointed Dan Topping as an Alternate to the Zoning Board.

Mayor Vahalla made two recommendations for appointments: Catherine Tardosky and Steve Rueter to the Arts Council.

Council President Muldoon moved the appointment of Catherine Tardosky and Steve Rueter to the Arts Council, seconded by Councilman Grayzel, with all in favor, the appointments of Catherine Tardosky and Steve Rueter were approved.

Ordinances – Introduction

Council President Muldoon moved Ordinance 2014-13 be introduced and taken up on first reading, seconded by Councilwoman Rasmussen, with all in favor, Ordinance 2014-13 was taken up on first reading.

The Borough Clerk read the Ordinance by title only.

Ordinance 2014-13 **An Ordinance Amending Chapter 140, Entitled “Property Maintenance” of the Code of the Borough of Metuchen.**

On a motion by Council President Muldoon, second by Councilwoman Rasmussen, Ordinance 2014-13 was passed on first reading and is to be published according to law and a public hearing date set for September 2, 2014.

Mayor Vahalla asked for a roll call vote.

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
CAMMARANO			X		MULDOON	X			
GRAYZEL	X				RASMUSSEN	X			
INSERRO	X				WALLACE	X			
MOTION	MULDOON				SECOND	RASMUSSEN			
X – INDICATES VOTE AB- ABSENT NV- NOT VOTING									

Ordinance 2014-13 passed on first reading, 5-0, 1 Abstention.

Ordinance 2014-13

An Ordinance Amending Chapter 140, Entitled “Property Maintenance” of the Code of the Borough of Metuchen.

CHAPTER 140
PROPERTY MAINTENANCE

Article 1
Commercial and Industrial Maintenance

§ 140-1 Title, findings and purpose.

- A. Title. This article shall be known as the "Commercial and Industrial Maintenance Code of the Borough of Metuchen" and is referred to in this article in the short form as "this code."
- B. Findings and declaration of policy. It is hereby found and declared that the lack of maintenance of real property leads to progressive deterioration and loss of property values. It is further found and declared that by reason of lack of maintenance and progressive deterioration, the conditions of certain premises have further effect of creating blighting conditions and initiating slums and that, if the same is not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and neighborhood and property values thereby maintained, the desirability and amenities of premises and neighborhood enhances and the public health, safety and welfare protected and fostered.
- C. Purpose. The purpose of this code is to protect and promote the public health, safety and welfare by establishing minimum standards for the maintenance, appearance and conditions of commercial and industrial premises in the Borough, to fix responsibilities and duties upon owners, operators and occupants, to authorize and establish procedures for the inspection of commercial and industrial premises, to fix penalties for the violations of this code to permit the Borough to make necessary repairs and assert a lien on such premises and to provide for the right of access to permit repairs when necessary. This code is hereby declared to be protective, preventative, remedial and necessary for the public interest, and it is intended that this code be liberally construed to effectuate the purpose as stated herein.

§ 140-2 Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMMERCIAL OR INDUSTRIAL PREMISES - A lot, plot, parcel or tract of land, vacant or occupied, including the building or structures thereon, on any part of which commercial or industrial activity of any kind may take place in the Borough of Metuchen. For purposes of this code, this activity is defined as all commercial and industrial uses permitted or allowed by prior nonconforming uses, including but not limited to retail sales, professional activities, office uses, personal services, warehouse, research and manufacturing. Any apartments or other residences

above or within a commercial or industrial structure shall be included within the scope and coverage of this code.

EXTERIOR OF PREMISES - The exterior facades or external portions of a building and the remainder of the lot or property outside of any building erected thereon which is exposed to view from a public right-of-way and/or an adjacent or nearby property.

INFESTATION - The presence of insects, rodents, vermin or other pests on the premises which constitutes a health hazard as certified by the Borough Health Officer.

NUISANCE

- A. Any physical condition or use of any premises regarded as a nuisance at common law or as provided by the laws of the State of New Jersey or other ordinances of the Borough of Metuchen.
- B. Any attractive nuisance which may prove detrimental to the health or safety of children whether located in a building or on a lot, including but not limited to the following: excavations and other earthworks, shafts or structurally unsound fences or structures.
- C. Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.
- D. Any premises which has unsanitary sewerage or plumbing facilities.
- E. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings or whatever creates an unreasonable hazard through odor or noise so as to deprive adjacent owners of the quiet enjoyment of their property?
- F. Any premises which is manifestly capable of being a fire hazard or is manifestly unsafe or unsecure as to endanger life, limb or nearby property.
- G. Any premises which is unsanitary or which is littered with accumulated rubbish or garbage or which has an uncontrolled growth of weeds.

OCCUPANT - A person in actual possession of any commercial or industrial premises or any part thereof.

OPERATOR - A person who has charge, care or control of commercial or industrial premises, or any part thereof, whether with or without the consent of the owner.

OWNER - Any person who, alone or jointly with others, has legal or equitable title to any commercial or industrial premises, with or without accompanying actual possession, or has charge, care or control of any commercial or industrial premises as owner or as fiduciary, including but not limited to an executor, executrix, administrator, administratrix, trustee, receiver or guardian of an estate, or as a mortgagee in possession, regardless of how such possession was

obtained. Any person who is a lessee, subletting or reassigning any part or all of a commercial or industrial premises, shall be deemed to have joint responsibility as if he or she were an owner over the portion of the premises sublet or assigned.

WORKMANLIKE - Maintenance or repair work that has been performed in a reasonably skillful manner.

§ 140-3 Compliance with code; liability.

A. Compliance with code.

- (1) Minimum standards. This code establishes minimum standards for the maintenance of the exterior of all premises and structures, which are used or may be used as commercial and industrial premises, in the Borough of Metuchen, including those occupied and used before the adoption of this code, and does not replace or lessen standards otherwise established for the construction, repair, alteration or use of the commercial or industrial buildings or premises contained therein. Where there is mixed occupancy with commercial and other uses on the same premises, all such uses shall be regulated by and subject to the provisions of this code.
- (2) Interpretation. Where the provisions of this code impose a higher standard than is set forth in any other ordinance of the Borough of Metuchen or under the laws of the State of New Jersey, then the standards set forth herein shall prevail; but if the provisions of this code impose a lesser standard than other ordinances of the Borough of Metuchen or laws of the State of New Jersey, then the more rigorous standard contained in such ordinances or law shall prevail. This code should not be interpreted or construed to replace or effect any and all other codes and ordinances of the Borough and the powers and remedies authorized thereunder, including but not limited to Chapter 67, entitled "Unsafe Buildings".
- (3) Responsibility. The owner of the premises shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or operate premises which do not comply with the requirements of this article.
- (4) Vacant structures and land. All vacant structures and premises thereof or vacant land shall be in full compliance with all of the provisions and requirements of this Chapter. Vacant structures and premises shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a nuisance to exist or adversely affect the public health or safety.

B. Liability.

- (1) Owners and operators shall have all the duties and responsibilities prescribed in this code, and no owner or operator shall be relieved from any duty or responsibility, or be entitled to defend against any charge of violation, by reason of the fact that the occupant is also responsible and in violation thereof.
- (2) Occupants shall have such duties and responsibilities as are prescribed for them in the § 140-4, and shall not be relieved of any duty and responsibility or be entitled to

defend against any charge of violation by reason of the fact that the owner or operator is also responsible and in violation thereof.

§ 140-4 Regulations of premises.

- A. Exterior to be kept free of all nuisances. The exterior of structures and premises shall be kept free of nuisances, unsanitary conditions and any other hazards to the health or safety of occupants, pedestrians and other persons entering the premises. All exterior features of structures and premises shall be maintained in a good and workmanlike condition and state of repair. Any nuisance, unsanitary condition, lack of maintenance or other hazard shall be promptly removed and/or abated by the owner and/or operator and/or occupant to keep the premises free of hazards, including but not limited to the following:
- (1) Refuse. Brush, weeds, stumps, roots, obnoxious growths, broken glass, filth, garbage, trash, litter, rubbish and debris of any description.
 - (2) Natural growth. Brush, weeds, ragweed, stumps, roots and obnoxious growth; dead and dying trees and limbs or other natural growth which due to lack of maintenance or through rotting or deteriorating conditions or storm damage constitute a hazard or nuisance to persons or property in the vicinity. Trees and landscaping shall be kept pruned and trimmed, where appropriate, to prevent such conditions.
 - (3) Decorative features. All cornices, wall facings, bas reliefs or similar decorative and architectural details, including overhanging features of buildings and similar decorative features of site improvements, shall be maintained in good and workmanlike repair. They shall be properly anchored and kept in a safe and attractive condition.
 - (4) Ground surface hazards or unsanitary conditions. Holes, excavations, earthworks, breaks, projections, obstructions, broken or missing pavement, ice, uncleansed snow and excretion of pets and other animals. All holes and excavations shall be filled and repaired, walks and steps repaired and other conditions removed where necessary to eliminate hazards or unsanitary conditions. It shall be the responsibility of owners, occupants and operators to take reasonable steps to discover and remove any such hazards or unsanitary conditions which may exist on their premises.
 - (5) Recurring accumulations of storm water. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.
 - (6) Sources of infestation. The presence of insects, rodents, vermin or other pests on the premises shall constitute a health hazard as certified by the Borough Health Officer.
 - (7) Signs. All signs, markings, printed matter and pictures or illustrations contained on the exterior of the premises permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good and workmanlike repair and kept in a neat and clean condition.
- B. Landscaping. Lawns, other ground cover, hedges and shrubs shall be kept trimmed and maintained from becoming overgrown.
- C. Premises to be kept in good repair. All sides of the exterior of every structure or accessory structure, including fences and store facades, shall be maintained in good repair. All structural surfaces shall be kept clean and neatly painted where necessary for

preservation and appearance, free of excessive peeling paint and maintained free of safety hazards, such as broken windows, loose and falling shingles and crumbling and falling stone or brick. Owners, operators and occupants shall not be liable for recurring acts of vandalism involving graffiti so long as they take reasonable efforts to remove the graffiti within two weeks of its discovery by them or within seven days of notice provided to them by borough officials. The premises shall further be subject to the following regulations:

- (1) Signs and billboards. All permanent signs and billboards exposed to public view permitted by ordinance or other regulations or as a lawful nonconforming use shall be maintained in good and workmanlike repair. Any sign or billboard which has weathered excessively or faded or the paint on which has excessively peeled or cracked shall, with its supporting members, be removed forthwith or put into a state of good and workmanlike repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.
- (2) Windows exposed to public view. All windows exposed to public view shall be unbroken. No windows shall remain boarded up except for a temporary period awaiting the replacement of broken glass.
- (3) Awnings or marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or other portion of the premises shall be maintained in a workmanlike manner as to not constitute a nuisance or safety hazard. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material, such as paint or other protective treatment. In the event any such awning or marquee is not properly maintained in accordance with the foregoing, it shall, together with its supporting members, be removed forthwith. In the event any such awning or marquee is made of cloth, canvas, vinyl, plastic or of similar materials, said materials, where exposed to public view, shall be maintained in good and clean condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing or other deterioration. Nothing herein shall be construed to authorize any encroachment of an awning, marquee or its accompanying structural members on streets, sidewalks or other parts of the public domain.
- (4) Temporary scaffolding or equipment. No temporary painting scaffold or other temporary equipment used for construction, repair or maintenance shall be permitted to remain in place beyond the period reasonably necessary to complete the purpose for which such equipment was brought to the premises.
- (5) Construction, repair or alteration delays in completion. Any construction, repair or alteration work on a structure or premises, including site work, shall take place in a timely manner without delays or complete stoppage so as to constitute a prolonged hazardous or unsightly condition. If such work shall be delayed or stopped for a prolonged period, the exterior of an affected structure or premise shall be returned to a safe and presentable condition that complies with all other sections of this article and all other applicable ordinances and codes.
- (6) Store fronts. All store fronts shall be maintained in good and workmanlike repair, and all surfaces thereof shall be kept clean and neatly painted when necessary for the purposes of preservation and appearance.

- D. Removal of garbage and refuse. The owner, operator and occupant shall have the duty and responsibility of removing refuse and garbage stored outdoors as often as required, but at least once per week.
- E. Maintenance of sidewalks. Every day that the premises is open for business, the occupant and/or operator shall be responsible for removing litter from the sidewalk or other pedestrian areas, if any, in front of the occupant's commercial premises. The area shall be swept as often as necessary to maintain it free of litter, spillage, snow, ice and other debris. The owner, operator and occupant shall also have the duty and responsibility to provide sufficient trash cans for the premises which shall be located and/or screened in order to maintain the attractive appearance of the commercial premises.

§ 140-5 Inspections.

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Health Officer, Zoning Officer, Police Department or any other official charged with the duty of enforcing regulations governing any aspect or conduct of the activity on the premises. At the time of such inspection, all portions of the premises subject to this code must be available and accessible for such inspection, and the owner, operator and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made during regular business hours of the business occupying said premises, unless there is sufficient reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

§ 140-6 Correction of violation; abatement by municipal officers.

- A. Immediate abatement. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb or presents an immediate threat to the health, safety and welfare of the occupants, invitees, adjoining property owners or the general public, unless abated without delay, the Construction Code Official, Health Officer, Zoning Officer or Police Department may order the owner, operator or occupant to correct the violation or condition within the period of time consistent with the hazard involved and with the measures necessary to remove the hazard, and, upon the failure of the operator, owner or occupant to correct said condition, the Police Department, Construction Code Official, Zoning Officer or Health Officer shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as prescribed in Section I below.
- B. Procedure upon discovery of violations. Except as otherwise provided in Subsection A above, where violations of this code or the regulations hereunder are found to exist, a written notice from the Construction Code Official, Zoning Officer or Health Officer shall be served on the person or persons responsible for the correction thereof.
- C. Notice. Notice shall be served personally or by certified mail, addressed to the last-known address of the person to be served. In the case of an occupant, notice may be posted upon the main entrance door of the building, and in the case of an owner, the last-

known address shall be the address of the owner as shown in the records of the office of the Tax Collector.

- D. Contents of notice. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time, not to exceed 30 days, to abate the violation, the right of the person served to request a hearing and that the notice shall become an order of the Construction Code Official, Zoning Officer or Health Officer in ten (10) days after service unless a hearing is requested pursuant to these provisions.
- E. Request for hearing. Within ten (10) days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon by serving a written request within the ten (10) day period in person or by certified mail on the Construction Code Official, Zoning Officer or Health Officer. Such request for a hearing shall set forth briefly the reasons for which the request for a hearing is made and the factual matters contained in the notice of violation for which the hearing is requested. The Construction Code Official, Zoning Officer or Health Officer, upon receipt of the request for hearing, shall, within thirty (30) days therefrom and upon five (5) days' notice to the parties so requesting, conduct a hearing.
- F. Hearings and orders. At the hearing provided hereunder, the Construction Code Official, Zoning Officer or Health Officer shall hear all parties and his or her final determination shall be made within ten (10) days from the completion of the hearing. He or she shall then issue an order incorporating the determinations and directions contained in the notice, modifying said notice if he or she so deems necessary. The Construction Code Official, Zoning Officer or Health Officer may extend the time for correction of the violations when deemed by him or her to be necessary.
- G. Summons for unabated violation. In the event the violation is not abated, removed, cured or otherwise fully remedied within the time period prescribed in the initial notice or extended time period as permitted by the Construction Code Official, Zoning Officer, or Health Officer, a summons shall then be issued against such person or persons charged with the violation. A summons may also be issued without initial written notice in the circumstances described in § 140-6A.
- H. In addition to the issuance of Summons for an unabated violation, and where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, and upon the Certification of the Health Officer, Fire Official and/or the Borough Engineer and after the approval of the Borough Administrator and Mayor and Council, the Construction Code Official, Zoning Officer or Health Officer may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth garage, trash, debris as permitted by N.J.S.A. 40:48-2.13 and N.J.S.A. 40:48-2.13a.
- I. In the event that the immediate abatement is necessary pursuant to Section A hereof, or that brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious

growth, filth garbage trash, debris are sought to be removed or destroyed pursuant to Section H herein, the officer of the municipality seeking such removal and the Borough Administrator shall obtain and certify the costs thereof to the Mayor and Borough Council, who shall examine the certificate, and if found to be correct and appropriate shall authorize and direct by way of Resolution the removal and/or destruction and to direct the costs as shown thereon to be charged against said dwelling or lands and the amounts so charged shall forthwith become a lien upon such property or lands and shall be added to and become part of the taxes next to be assessed and levied upon such property or lands, the same to bear interest at the same rate as taxes. A copy of the resolution authorizing and directing the removal and the costs and expenses to be charged shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection thereof, with a copy of the report and resolution sent by certified mail to the owner, operator and/or occupant of the premises. If the amount of the lien is not paid, the Tax Collector may sell the unpaid municipal lien at the next tax sale. Notwithstanding anything to the contrary contained herein, nothing shall prevent the Borough from simultaneously proceeding to collect these costs and expenses, as well as to impose fines and penalties upon the owner, operator and occupant by commencing and continuing a proceeding in the Municipal Court of the Borough against those responsible for noncompliance with this code.

§ 140-7 Violations and penalties.

Any person who shall violate any of the provisions of this article or any order promulgated hereunder shall, upon conviction, be punished as provided in Chapter 1, General Provisions, Article 1, and each violation of any of the provisions of this article and each day that such violation shall continue shall be deemed to be a separate and distinct offense.

Article 2
Residential Property Maintenance

§ 140-8 Title, findings and purpose.

- A. Title. This article shall be known as the "Residential Property Maintenance Code of the Borough of Metuchen," sometimes referred to in this article as "this code."
- B. Findings and declaration of policy. It is hereby found and declared that the lack of maintenance of real property leads to progressive deterioration and loss of property values. It is further found and declared that by reason of lack of maintenance and progressive deterioration, the condition of certain premises has further effect of creating blighting conditions and initiating slums and that, if the same is not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and neighborhood and property values thereby maintained, the desirability and amenities of premises and neighborhood enhances and the public health, safety and welfare protected and fostered.

- C. Purpose. The purpose of this code is to provide for a maintenance code similar in content and with the parallel objectives to the Commercial and Industrial Maintenance Code as set forth in Article 1 of this chapter already adopted by the Borough in 1988. Its objectives are to prescribe the minimum standards for the maintenance, appearance and conditions of one- and two-family dwellings within the Borough, to establish procedures for the inspection of these residential dwellings, to fix penalties for the violation of this code and to prescribe the manner by which repairs may be made by the Borough when necessary. This code is hereby declared to be protective, preventative, remedial and necessary in the public interest, and this code should be liberally construed to effectuate the purposes stated herein.

§ 140-9 Definitions.

- A. To the extent not inconsistent with the express terms or definitions herein, the terms already defined in the Commercial and Industrial Maintenance Code shall have the same meaning in this code, except that the word "residential" shall be understood to replace the words "commercial" or "industrial" as contained in that code.

- B. As used in this article, the following terms shall have the meanings indicated:

ABANDONED OR UNUSED VEHICLES - Automobiles or other motorized forms of vehicular transportation stored in the exterior property areas of a residential premises without current registration or license plates or undriven for more than 30 days as a result of being in a condition rendering the vehicle inoperable on the public highways without extensive repairs or replacement of parts. These vehicles, as defined herein, shall be considered to be litter, as defined and prohibited both under this code and in Chapter 118, Littering, of the Code of the Borough of Metuchen.

DWELLING, ONE-FAMILY- A structure containing one dwelling unit with one or more persons living as a single, nonprofit, no transient housekeeping unit, as distinguished from individuals or groups occupying a hotel, club, boardinghouse or other facility on a temporary basis. The family shall be deemed to include necessary servants where the servants share the common housekeeping facilities as the family they serve.

DWELLING, TWO-FAMILY - A detached or semi-detached structure where the individual family units are entirely separated by vertical walls or horizontal floors, unpierced except for common access to the outside or in a common basement.

DWELLING, MULTIFAMILY - A structure or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

DWELLING UNIT - A single housekeeping unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EXTERIOR PROPERTY AREAS - The open space on the premises and on adjoining property under the control of the owners or occupants of such premises.

MAINTENANCE - Acts of repair or other acts to prevent a decline in the condition of structures, exterior premises and exterior property areas such that the condition shall not fall below the standards established by this code, other applicable ordinances of the Borough or other obligations established or imposed by law.

PREMISES - A lot, plot or parcel of land, including the buildings or structures thereon.

RESIDENTIAL PREMISES - A one- or two-family dwelling.

UNSAFE STRUCTURE - Any structure or building that is in a state of dilapidation, deterioration or decay; any structure that is open, vacant or abandoned and in danger of collapse or failure or causing danger to anyone on or near the premises; any structure previously damaged by fire or other casualty to the extent as not to provide shelter where there has been a cessation of normal reconstruction or rehabilitation for more than six months.

§ 140-10 Compliance with code; liability

A. Compliance with code.

- (1) **Minimum standards.** This code establishes minimum standards for the maintenance of the exterior of all residential premises and structures in the Borough of Metuchen, including those occupied and used before the adoption of this code. It is designed as a maintenance code for preexisting structures and premises and does not replace or lessen standards otherwise established for the construction, repair, alteration or continued use of these buildings and premises. This code does not apply to those multifamily structures or boarding houses separately regulated by state statute.
- (2) **Interpretation.** Where the provisions of this code impose a higher standard than is set forth in any other ordinance of the Borough of Metuchen or under the laws of the State of New Jersey, then the standards set forth herein shall prevail; but if the provisions of this code impose a lesser standard than other ordinances of the Borough of Metuchen or laws of the State of New Jersey, then the more rigorous standard contained in such ordinances or law shall prevail. This code should not be interpreted or construed to replace or effect any and all other codes and ordinances of the Borough and the powers and remedies authorized thereunder, including but not limited to Chapter 67, entitled "Unsafe Buildings".
- (3) **Responsibility.** The owner and/or occupant of the premises shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner or occupant or let to another for occupancy premises which do not comply with the following requirements of this article.
- (4) **Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be in full compliance with all the provisions and requirements of this Chapter. Vacant structures and premises shall be maintained in a clean, safe, secure and

sanitary condition as provided herein so as not to cause a nuisance to exist or adversely affect the public health or safety.

B. Liability.

- (1) Owners shall have all the duties and responsibilities prescribed in this code, and no owner shall be relieved from any duty or responsibility, or be entitled to defend against any charge of violation, by reason of the fact that the occupant is also responsible and in violation thereof.
- (2) Occupants shall have such duties and responsibilities as are prescribed for them in the § 140-11, and shall not be relieved of any duty and responsibility or be entitled to defend against any charge of violation by reason of the fact that the owner or operator is also responsible and in violation thereof.

§ 140-11 Regulation of premises.

- A. The exterior of the premises and all structures thereon shall be kept free of all nuisances, unsanitary conditions and any other hazards to the health and safety of occupants, pedestrians and other persons entering the premises or residing in or occupying nearby properties to the same extent as stated in Article 1 of this chapter, All exterior features of structures and premises shall be maintained in a good and workmanlike condition and state of repair. Any nuisance, unsanitary condition, lack of maintenance or other hazard shall be promptly removed and/or abated by the owner and/or occupant to keep the premises free of hazards, including but not limited to the following:
- (1) Refuse. Brush, weeds, stumps, roots, obnoxious growths, broken glass, filth, garbage, trash, litter, rubbish and debris of any description.
 - (2) Natural growth. Brush, weeds, ragweed, stumps, roots and obnoxious growth; dead and dying trees and limbs or other natural growth which through lack of maintenance, rotting or deteriorating conditions or storm damage constitute a hazard or nuisance to persons or property in the vicinity. Trees and landscaping shall be kept pruned and trimmed, where appropriate, to prevent such conditions.
 - (3) Decorative features. All cornices, wall facings, bas reliefs or similar decorative and architectural details, including overhanging features of buildings and similar decorative features of site improvements, shall be maintained in good and workmanlike repair. They shall be properly anchored and kept in a safe and attractive condition.
 - (4) Ground surface hazards or unsanitary conditions. Holes, excavations, earthworks, breaks, projections, obstructions, broken or missing pavement, ice, uncleansed snow and excretion of pets and other animals. All holes and excavations shall be filled and repaired, walks and steps repaired and other conditions removed where necessary to eliminate hazards or unsanitary conditions. It shall be the responsibility of owners and operators to take reasonable steps to discover and remove any such hazards or unsanitary conditions which may exist on their premises.
 - (5) Recurring accumulations of storm water. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.

- (6) Sources of infestation. The presence of insects, rodents, vermin or other pests on the premises shall constitute a health hazard as certified by the Borough Health Officer.
- B. Landscaping. Lawns, other ground cover, hedges and shrubs shall be kept trimmed and maintained from becoming overgrown.
- C. Premises to be kept in good repair. All sides of the exterior of every structure or accessory structure, including fences and store facades, shall be maintained in good repair. All structural surfaces shall be kept clean and neatly painted where necessary for preservation and appearance, free of excessive peeling paint and maintained free of safety hazards, such as broken windows, loose and falling shingles and crumbling and falling stone or brick. Owners and occupants shall not be liable for recurring acts of vandalism involving graffiti so long as they take reasonable efforts to remove the graffiti within two weeks of its discovery by them or within seven days of notice provided to them by borough officials. The premises shall further be subject to the following regulations:
- D. Windows exposed to public view. All windows exposed to public view shall be unbroken. No windows shall remain boarded up except for a temporary period awaiting the replacement of broken glass.
- E. Temporary scaffolding or equipment. No temporary painting scaffold or other temporary equipment used for construction, repair or maintenance shall be permitted to remain in place beyond the period reasonably necessary to complete the purpose for which such equipment was brought to the premises.
- F. Construction, repair or alteration delays in completion. Any construction, repair or alteration work on a structure or premises, including site work, shall take place in a timely manner without delays or complete stoppage so as to constitute a prolonged hazardous or unsightly condition. If such work shall be delayed or stopped for a prolonged period, the exterior of an affected structure or premise shall be returned to a safe and presentable condition that complies with all other sections of this article and all other applicable ordinances and codes. Any reconstruction, repair or alteration work commenced on a residential premises, whether caused by previous fire, other casualty or permitted structural expansion shall proceed in a timely manner without delay so as to avoid a prolonged hazardous, unsightly condition or unsafe structure to the owners of the neighboring properties. Should such work be delayed or halted for more than sixty (60) days or if the time for completion extends beyond six months from commencement, the exterior of the affected structure or premises shall be returned forthwith to a safe and presentable condition that complies with the maintenance provisions of this article and all other applicable ordinances and codes.
- G. Removal of garbage and refuse. The owner and occupant shall have the duty and responsibility of securing and removing refuse and garbage stored outdoors as often as required, but at least once per week.

- H. Maintenance of sidewalks. The owner and occupant shall be responsible for removing litter from the sidewalk or other pedestrian areas, if any, in front of the occupant's premises. The area shall be swept as often as necessary to maintain it free of litter, spillage, snow, ice and other debris. The owner and occupant shall also have the duty and responsibility to provide sufficient trash cans for the premises which shall be located and/or screened in order to maintain the attractive appearance of the premises.
- I. No abandoned or unused vehicles shall be stored anywhere in the exterior property areas of a residential premises.

§ 140-12 Inspections.

All buildings and premises subject to this code are subject to inspection from time to time by the Construction Code Official, Health Officer, Zoning Officer, Police Department or any other official charged with the duty of enforcing regulations governing the premises. At the time of such inspection, all portions of the premises subject to this code must be available and accessible for such inspection, and the owner and occupant are required to provide the necessary arrangements to facilitate such inspection. Such inspection shall be made during regular business hours, unless there is sufficient reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

§ 140-13 Correction of violation; abatement by municipal officers.

- A. Immediate abatement. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb or presents an immediate threat to the health, safety and welfare of the occupants, adjoining property owners and/or the general public unless abated without delay, the Construction Code Official, Health Officer, Zoning Officer or Police Department may order the owner, operator or occupant to correct the violation or condition within the period of time consistent with the hazard involved and with the measures necessary to remove the hazard, and, upon the failure of the owner or occupant to correct said condition, the Police Department, Construction Code Official, Zoning Officer or Health Officer shall issue a summons forthwith and shall cause said condition to be immediately abated thereafter as prescribed in Section I below.
- B. Procedure upon discovery of violations. Except as otherwise provided in Subsection A above, where violations of this code or the regulations hereunder are found to exist, a written notice from the Construction Code Official, Zoning Officer or Health Officer shall be served on the person or persons responsible for the correction thereof.
- C. Notice. Notice shall be served personally or by certified mail, addressed to the last-known address of the person to be served. In the case of an occupant, notice may be posted upon the entrance door of the dwelling, and in the case of an owner, the last-known address shall be the address of the owner as shown in the records of the office of the Tax Collector.

- D. Contents of notice. The notice shall specify the violation or violations committed, what must be done to correct the same, a reasonable period of time, not to exceed thirty (30) days, to abate the violation, the right of the person served to request a hearing and that the notice shall become an order of the Construction Code Official, Zoning Officer or Health Officer in ten (10) days after service unless a hearing is requested pursuant to these provisions.
- E. Request for hearing. Within ten (10) days of the date of service of a notice, the notice shall constitute a final order unless any person affected by the notice requests a hearing thereon by serving a written request within the ten (10) day period in person or by certified mail on the Construction Code Official, Zoning Officer or Health Officer. Such request for a hearing shall set forth briefly the reasons for which the request for a hearing is made and the factual matters contained in the notice of violation for which the hearing is requested. The Construction Code Official, Zoning Officer or Health Officer, upon receipt of the request for hearing, shall, within thirty (30) days therefrom and upon five (5) days' notice to the parties so requesting, conduct a hearing.
- F. Hearings and orders. At the hearing provided hereunder, the Construction Code Official, Zoning Officer or Health Officer shall hear all parties and his or her final determination shall be made within ten (10) days from the completion of the hearing. He or she shall then issue an order incorporating the determinations and directions contained in the notice, modifying said notice if he or she so deems necessary. The Construction Code Official, Zoning Officer or Health Officer may extend the time for correction of the violations when deemed by him or her to be necessary.
- G. Summons for unabated violation. In the event the violation is not abated, removed, cured or otherwise fully remedied within the time period prescribed in the initial notice or extended time period as permitted by the Construction Code Official, Zoning Officer or Health Officer, a summons shall then be issued against such person or persons charged with the violation. A summons may also be issued without initial written notice in the circumstances described in § 140-6A.
- H. In addition to the issuance of Summons for an unabated violation, and where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, and upon the Certification of the Health Officer, Fire Official and/or the Borough Engineer and after the approval of the Borough Administrator and Mayor and Council, the Construction Code Official, Zoning Officer or Health Officer may provide for the removal of or destruction of overgrown brush, weeds, including ragweed, dead or dying trees, stumps, roots, obnoxious growths, filth garage, trash, debris as permitted in N.J.S.A. 40:48-2.13 and N.J.S.A. 40:48-2.13a.
- I. In the event that the immediate abatement is necessary pursuant to Section A hereof, or that overgrown brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growth, filth garbage trash, debris are sought to be removed or destroyed pursuant to Section H herein, the officer of the municipality seeking such removal and the Borough Administrator shall obtain and certify the proposed costs thereof to the

Mayor and Borough Council, who shall examine the certificate, and if found to be correct and appropriate shall authorize and direct by way of Resolution the removal and/or destruction and to direct the costs as shown thereon to be charged against said dwelling or lands and the amounts so charged shall forthwith become a lien upon such a dwelling or lands and shall be added to and become part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes. A copy of the resolution authorizing and directing the removal and the costs and expenses to be charged shall be certified by the Borough Clerk and filed with the Tax Collector of the Borough, who shall be responsible for the collection thereof, with a copy of the report and resolution sent by certified mail to the owner and/or occupant of the premises. If the amount of the lien is not paid, the Tax Collector may sell the unpaid municipal lien at the next tax sale. Notwithstanding anything to the contrary contained herein, nothing shall prevent the Borough from simultaneously proceeding to collect these costs and expenses, as well as to impose fines and penalties upon the owner and occupant by commencing and continuing a proceeding in the Municipal Court of the Borough against those responsible for noncompliance with this code.

§ 140-14 Violations and penalties.

Any person who shall violate any of the provisions of this article or any order promulgated hereunder shall, upon conviction, be punished as provided in Chapter 1, General Provisions, Article 1, and each violation of any of the provisions of this article and each day that such violation shall continue shall be deemed to be a separate and distinct offense.

Public Comment

Mayor Vahalla opened the meeting to the public for comment.

Bill Moyle, 59 Forrest St, Metuchen, had a question in regards to Ordinance 2014-12 and if there is anything already in place that would restrict trucks if the current owners on Van Duren sell the business.

Mr. Murphy, Borough Attorney, responded that the Ordinance still would not regulate the truck traffic for deliveries.

The Council asked Mr. Murphy to look into this concern more.

Angela Sielski, 68 Forrest St., Metuchen, made a statement about the Ordinance 2014-12 and hopes that a happy medium can be found to satisfy the residents on Forrest Street.

Judge Pleckner, 62 Oak Ave., Metuchen, asked if the Accessibility Committee can look into leaving the door by the handicap parking open during meetings to make accessibility easier to attend meetings.

Mayor Vahalla stated that the Police and Administrator can look into that.

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

Adjournment

Borough Council Meeting
August 18, 2014

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with all in favor, the meeting was adjourned.

Respectfully Submitted

Susan D. Jackson,
Metuchen Borough Clerk