



**BE IT FURTHER RESOLVED** that the matter discussed in and minutes of the closed session shall be disclosed to the public when the reason for confidentiality no longer exists.

Council President Grayzel made a motion to reconvene to the Open Session of the meeting, second by Councilwoman Rasmussen, with all in favor, the Public meeting was reconvened.

### **Agenda Session**

Council President Grayzel made a motion to open the Agenda Session, second by Councilwoman Rasmussen, with all in favor; the Agenda Session was opened.

With no items, Council President Grayzel made a motion to close the Agenda Session, second by Councilwoman Rasmussen, with all in favor; the Agenda Session was closed.

### **Regular Meeting**

Council President made a motion to approve the Council minutes of June 9, 2014, June 23, 2014 and February 2, 2015, Executive minutes of December 15, 2014 and February 2, 2015, second by Councilwoman Rasmussen, with five in favor and one abstention of all 2014 minutes and all in favor of the 2015 minutes; the motion carried.

Mayor Vahalla opened the discussion with Mike Atkinson on General Insurance Administrators (IDA) Insurance.

Mike Atkinson handed out a summary on Self-Funded Concept and explained how it works. The Borough has been using IDA for 10 years and is currently working on negotiating the renewal contract. The Borough had used a different vendor prior to IDA. Mr. Atkinson went over the current 6-8 funding plans that the Borough uses for different departments within the Borough. He explained the benefits of being self-funded and the control that the Borough has in the negotiations for benefits.

After a discussion between the Councilmembers and Mr. Atkinson, he will sit down with the Borough Administrator and go over the different options and costs to the Borough and then come back to a meeting to present the options.

### **Public Comment**

Mayor Vahalla opened Public Comment to any members of the public wishing to speak.

Seeing no one wishing to speak, Mayor Vahalla closed the Public Comment.

### **Ordinance – Public Hearing**

Ordinance 2015-01

Council President asked for the presentation of Affidavit of Publication for Ordinance 2015-01.

Borough Clerk presented the affidavit of publication stating that said Ordinance has been published one time in the Home News Tribune according to Law on February 3, 2015.

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

Council President Grayzel asked Borough Clerk to read Ordinance 2015-01 by title.

2015-01 An Ordinance Granting Municipal Consent for the Operation of a Cable Television System within the Borough of Metuchen, New Jersey to CSC TKR, LLC d/b/a Cablevision of Raritan

Mayor Vahalla opened the Public Hearing on Ordinance 2015-01.

Seeing no one wishing to speak, Mayor Vahalla closed the Public Hearing session.

Council President Grayzel made a motion to pass Ordinance 2015-01 on second reading and published according to law, second by Councilwoman Rasmussen.

Mayor Vahalla asked for a roll call vote.

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

Ordinance 2015-01 has passed on second reading and is to be published according to law, 6-0

**ORDINANCE 2015-01**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE BOROUGH OF METUCHEN, NEW JERSEY TO CSC TKR, LLC D/B/A CABLEVISION OF RARITAN**

**WHEREAS**, the governing body of the Borough of Metuchen (hereinafter referred to as the “Borough”) determined that CSC TKR, LLC d/b/a Cablevision of Raritan (hereinafter referred to as “the Company” or “Cablevision”) had the technical competence and general fitness to operate a cable television system in the Borough, and by prior ordinance granted its municipal consent for Cablevision to obtain a non-exclusive franchise (the “Franchise”) for the placement of facilities and the establishment of a cable television system in the Borough; and

**WHEREAS**, by application for renewal consent filed with the Borough and the Office of Cable Television on or about October, 2014, Cablevision has sought a renewal of the Franchise; and

**WHEREAS**, the Borough having held public hearings has made due inquiry to review Cablevision’s performance under the Franchise, and to identify the Borough’s future cable-related needs and interests and has concluded that Cablevision has substantially complied with its obligations under the Franchise and applicable law and has committed to certain undertakings responsive to the Borough’s future cable-related needs and interests;

**WHEREAS**, the governing body of the Borough has accordingly concluded that the consent should be renewed subject to the requirements set forth below; and that, provided Cablevision's proposal for renewal embodies the commitments set forth below, the Borough's municipal consent to the renewal of the Franchise should be given; and

**WHEREAS**, imposition of the same burdens and costs on other competitors franchised by the Borough is a basic assumption of the parties;

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Metuchen, County of Middlesex, and State of New Jersey, as follows:

### **SECTION 1. DEFINITIONS**

For the purpose of this Ordinance the terms defined above shall have the meanings there indicated, and the following additional terms shall have the following meanings:

- (a) "Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq.
- (b) "Application" shall mean Cablevision's application for Renewal of Municipal Consent, which application is on file in the Borough Clerk's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.
- (c) "Board" shall mean the Board of Public Utilities of the State of New Jersey or its successor agency.
- (d) "Borough" shall mean the governing body of the Borough of Metuchen in the County of Middlesex, and the State of New Jersey.
- (e) "Company" shall mean CSC TKR d/b/a Cablevision of Raritan ("Cablevision") the grantee of rights under this Ordinance.
- (f) "FCC" shall mean the Federal Communications Commission.
- (g) "Federal Act" shall mean that federal statute relating to cable communications commonly known as the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 et seq. and the Telecommunications Act of 1996, or as those statutes may be amended.
- (h) "Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq. (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 C.F.R. Section 76.3), or as such regulations may be amended.
- (i) "Standard installation" shall mean the installation of drop cable to a customer's premise where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.
- (j) "State" shall mean the State of New Jersey.

- (k) “State Regulations” shall mean those regulations of the State of New Jersey Board of Public Utilities relating to cable television. N.J.A.C. 14:17-1.1 et seq. and N.J.A.C. 14:18-1 et seq., or as such regulations may be amended.

## **SECTION 2. STATEMENT OF FINDINGS**

A public hearing concerning the consent herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of Cablevision to receive this consent, the Borough hereby finds Cablevision possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that Cablevision’s operating and construction arrangements are adequate and feasible.

## **SECTION 3. GRANT OF AUTHORITY**

The Borough hereby grants to Cablevision its non-exclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Borough of a cable television system or other communications facility, and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

## **SECTION 4. DURATION OF FRANCHISE**

This consent granted herein shall be non-exclusive and shall be for a term of fifteen (15) years from the date of issuance of a Certificate of Approval by the Board.

## **SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL**

If Cablevision seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A 48:5A-16, and applicable state and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Borough and Cablevision shall be bound by the terms of this municipal consent until such time as Cablevision converts the municipal consent (and any certificate of approval) into a system-wide franchise.

## **SECTION 6. FRANCHISE TERRITORY**

The consent granted under this Ordinance to Cablevision shall apply to the entirety of the Borough and any property hereafter annexed.

## **SECTION 7. SERVICE AREA**

Cablevision shall be required to proffer video programming service along any public right-of-way to any person’s residence within the portion of the Franchise territory, as described in the Application for municipal consent, at Cablevision’s schedule of rates for standard and nonstandard installation

## **SECTION 8. EXTENSION OF SERVICE**

Cablevision shall extend service along any public right of way outside its service area to those residences within the franchise territory which are located in areas that have a residential density of twenty-five (25) homes per mile or greater, or areas with less than twenty-five (25) homes per mile where

residents agree to share the costs of such extension in accordance with the line extension formula as provided by the Company in its Application for municipal consent.

### **SECTION 9. FRANCHISE FEE**

Pursuant to the terms and conditions of the Cable Television Act, Cablevision shall pay to the Borough, as an annual franchise fee in accordance with N.J.S.A. 48:5A-30, a sum equal to two percent (2%) of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the Borough. In the event applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Borough and Cablevision shall negotiate in good faith with respect to the amount thereof; provided, however, that nothing herein shall be construed to permit the Borough to require payment of a franchise fee by Cablevision that is higher than the fee paid by all other cable television service providers offering service in the Municipality.

### **SECTION 10. FREE SERVICE**

Cablevision shall, upon written request, provide free of charge, one (1) standard installation and monthly cable television reception service to all State or locally accredited public schools and all municipal public libraries, as well as municipal buildings located within the Borough.

Upon written request from the Borough, the Company shall provide to all State and locally accredited elementary and secondary schools and municipal public libraries in the Borough, without charge, the following: (1) one standard installation per school and library; (2) one cable modem per installation; and, (3) basic monthly internet service for the term of this Ordinance for each installation. This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.

Upon written request from the Borough, the Company shall also provide to one (1) municipally owned facility, without charge, the following: (1) one standard installation; (2) one cable modem per installation; and (3) basic monthly internet service for the term of this Ordinance for each installation. This offer shall be subject to the terms, conditions and use policies of the Company as those policies may exist from time to time.

In addition to the above, at each location the Borough, School or Library shall be permitted, at its own cost, to network additional computer terminals to the cable modem provided by Cablevision. This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.

### **SECTION 11. CONSTRUCTION/SYSTEM REQUIREMENTS**

Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its cable plant and facilities in the Borough:

(a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work as determined by the Borough Engineer under the Borough's generally applicable law, rules, ordinances and regulations.

(b) If at any time during the period of this consent, the municipality shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough shall remove or relocate its equipment, at its own expense.

(c) Upon request of a person holding a building or moving permit issued by the Borough, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than fourteen (14) days prior written notice in order to arrange for the changes required.

(d) During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

#### **SECTION 12. TECHNICAL AND CUSTOMER SERVICE STANDARDS**

Cablevision shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

#### **SECTION 13. LOCAL OFFICE OR AGENT**

Cablevision shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

#### **SECTION 14. DESIGNATION OF COMPLAINT OFFICER**

The Borough Municipal Clerk is hereby designated as the complaint officer for the Borough pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.S.A. 48:5A-26 and N.J.A.C. 14:17-6.5. The Company shall also comply with such provisions of the Act and State Regulations in its response to customer complaints. Upon receipt of a written complaint, the Borough Municipal Clerk shall serve a copy of such a complaint upon the Company, and the Company shall within thirty (30) days of its written receipt of such complaint, file with the complaint officer a written report of such action as may have been taken by the Company, or such action as shall be taken by the Company in regard to such complaint. The complaint officer will forward a letter to the customers within ten (10) days of receipt of the Company's response indicating the disposition or status of this complaint. Complaints shall be without prejudice to the right of any party to file a petition pursuant to N.J.S.A. 48:5A-1, et seq., to institute formal proceedings.

#### **SECTION 15. LIABILITY INSURANCE**

Cablevision agrees to maintain and keep in force and effect at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of five-hundred thousand dollars (\$500,000) for bodily injury or death to one person, and one million dollars

(\$1,000,000) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder.

### **SECTION 16. PERFORMANCE BOND**

Cablevision shall obtain and maintain, at its sole cost and expense, during the entire term of this Agreement, a bond to the municipality in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of its obligations as provided in this Franchise.

### **SECTION 17. RATES**

A. The rates of the Company for cable television service shall be subject to regulation to the extent permitted by federal and State law.

B. Cablevision shall implement a senior citizen discount in the amount of ten percent (10%) off the monthly broadcast basic level of cable television service rate to any person sixty-two (62) years of age or older, who subscribes to cable television services provided by the Company, subject to the following:

- (i) Such discount shall only be available to eligible senior citizens who do not share the subscription with more than one person in the same household who is less than sixty-two (62) years of age; and,
- (ii) In accordance with N.J.S.A. 48:5A-11.2, subscribers seeking eligibility for the discount must meet the income and residence requirements of the Pharmaceutical Assistance to the Aged and Disabled program pursuant to N.J.S.A. 30:4D-21; and,
- (iii) The senior citizen discount herein relates only to the broadcast basic level of cable television service, and shall not apply to any additional service, feature, or equipment offered by the Company, including any premium channel services and pay-per-view services; and,
- (iv) Senior citizens who subscribe to a level of cable television service beyond expanded basic service, including any premium or per channel a la carte service, shall not be eligible for the discount; and,

C The Company shall have no further obligation to provide the senior discount herein in the event that (a) the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1; or (b) upon Board approval of a certification that another cable television service provider offering services to residents of the Borough files, in accordance with N.J.S.A. 48:5A-30(d), that it is capable of serving sixty percent (60%) or more of the households within the Borough. In the event the Company does cease providing a senior discount pursuant to this provision, it shall comply with all notice requirements of applicable law.

### **SECTION 18. EMERGENCY USES**

Cablevision shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein. The Borough shall utilize the state-approved procedures for such emergency uses.

### **SECTION 19. EQUITABLE TERMS**

In the event that the service of another multi-channel video program provider not subject to the Borough's regulatory authority within the Borough creates a significant competitive disadvantage to Cablevision, the Company shall have the right to request from the Borough lawful amendments to its Franchise that relieve it of burdens which create the unfair competitive situation. Should the Company seek such amendments to its Franchise, the parties agree to negotiate in good-faith appropriate changes to the Franchise in order to relieve the Company of such competitive disadvantages. If the parties can reach an agreement on such terms, the Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.

If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Borough acknowledges that the Company shall have the right to petition the Board directly for such amendments in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7; provided, however, the Borough shall be under no obligation to support Cablevision's request for such relief from the Board.

In any subsequent municipal consent, Borough shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Borough's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

### **SECTION 20. REMOVAL OF FACILITIES**

Upon expiration, termination or revocation of this Ordinance, Cablevision at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the cable services authorized herein, unless Cablevision, its affiliated entities or assignees should, within six (6) months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

### **SECTION 21. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS**

A. Cablevision shall continue to make available non-commercial public, educational and governmental (PEG) access services to the residents of the Borough as described in the Application for municipal consent. All Cablevision support for PEG access shall be for the exclusive benefit of Cablevision's subscribers.

B. The Borough agrees that Cablevision shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough's provision of PEG access programming on such channel.

C. Cablevision shall continue to provide and maintain one (1) fiber access return feed at each of the following four (3) locations: Borough Hall (500 Main Street); the Metuchen Public Library (480 Middlesex Avenue) and Metuchen High School (400 Grove Avenue). The Borough shall use said return feeds exclusively for non-commercial public, education and government access programming in the cable system.

D. Cablevision shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Section 21.

E. In consideration of the rights granted in this Ordinance, Cablevision shall provide the Borough with a PEG grant of up to forty five thousand dollars (\$45,000) payable as follows: (1) an initial grant payment of ten thousand dollars (\$10,000) within sixty (60) days of the issuance of the Certificate of Approval by the Board of Public Utilities (the "Initial Grant"); and (2) beginning in the second year of this municipal consent and annually thereafter through the fifteen (15) year term of this franchise, Cablevision shall, upon annual written request, pay an annual grant in the amount of two thousand five hundred dollars (\$2,500) (the "Annual Grant"). The Annual Grant shall be payable to the Borough within ninety (90) days from receipt of the Borough's annual written request. Cablevision shall not be obligated to make any additional payments beyond year fifteen of the franchise term.

F. Cablevision shall not relocate the Borough's PEG channel from its current location without advance written notice to the Borough. In the event that Cablevision shall move the Borough's PEG access channel to another channel position during the term of the franchise granted in this Ordinance, Cablevision shall reimburse the Borough costs reasonably incurred by the Borough in the amount not to exceed two thousand five hundred dollars (\$2,500) relating to the relocation of the PEG channel, such as printing expenses, advertising costs and other methods of public outreach to inform the Borough residents of the change. Upon the Borough making the request for reimbursement, Cablevision shall be entitled to request an itemized list of expenses for which the Borough seeks reimbursement.

G. The Borough agrees that the Initial Grant and the Annual Grant provided pursuant to Paragraph E shall be used for the exclusive support of PEG access programming, such as the purchase and/or rental of PEG access equipment and facilities. On request, the Borough shall provide Cablevision with a certification of compliance with this Section 21(F).

H. The Company shall have no further obligation to provide any PEG grant payments due and payable after the date upon which the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1.

## **SECTION 22. INCORPORATION OF APPLICATION**

All of the commitments contained in the Application and any amendment thereto submitted in writing to the Borough by the Company except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The Application and any other written amendments thereto submitted by Cablevision in connection with this consent are incorporated in this Ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this Ordinance, or to the extent that they conflict with State or federal law.

## **SECTION 23. CONSISTENCY WITH APPLICABLE LAWS**

This consent shall be construed in a manner consistent with all applicable federal, State and local laws, as such laws, rules and regulations may be amended from time to time.

## **SECTION 24. SEPARABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a

separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

**SECTION 25. NOTICE**

Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective. The time to respond to notices under this Ordinance shall run from receipt of such written notice.

Notices to the Company shall be mailed to:

Cablevision Systems Corporation  
111 Stewart Avenue  
Bethpage, NY 11714  
Attention: Vice President for Government/Public Affairs, New Jersey

With a copy to:

Cablevision of Raritan  
1111 Stewart Avenue  
Bethpage, NY 11714  
Attention: Legal Department

Notices to the Borough shall be mailed to:

Borough of Metuchen  
500 Main Street  
Metuchen, New Jersey 08840  
Attention: Borough Administrator

**SECTION 26. EFFECTIVE DATE AND BOARD OF PUBLIC UTILITY APPROVAL**

This Ordinance shall take effect upon issuance of a Certificate of Approval as issued by the Board of Public Utilities that incorporates the material terms of this Ordinance. Nothing herein shall alter the right of the Company to seek modification of this Ordinance in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect upon the passage, and publication as required by law.

Ordinance 2015-02

Council President asked for the presentation of Affidavit of Publication for Ordinance 2015-02.

Borough Clerk presented the affidavit of publication stating that said Ordinance has been published one time in the Home News Tribune according to Law on February 5, 2015.

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





Seeing no one wishing to speak, Mayor Vahalla closed the Public Hearing session.

Council President Grayzel made a motion to pass Ordinance 2015-03 on second reading and published according to law, second by Councilwoman Rasmussen.

Mayor Vahalla asked for a roll call vote.

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

Ordinance 2015-03 has passed on second reading and is to be published according to law, 6-0

**ORDINANCE 2015-03**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCES OF THE BOROUGH OF METUCHEN, SPECIFICALLY, CHAPTER 110, SECTIONS 112.7, ENTITLED “DESIGN AND LANDSCAPE PROVISIONS, 147, ENTITLED, “DESIGN STANDARDS AND 149, ENTITLED, “PRIVATE WALKWAYS”**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Metuchen that Chapter 110 of the Land Development Ordinances of the Borough of Metuchen, specifically §110-112.7, entitled, “Design and landscape provisions”, §110-147, entitled, “Design standards” and §110-149, entitled, “Private walkways” are hereby amended as follows:

**§110-112.7. Design and landscape provisions.**

Design provisions. The following provisions shall apply to all applications involving construction, reconstruction or addition to a single- or two-family detached dwelling. In the case of an application involving less than five hundred (500) square feet of construction, reconstruction or an addition to a single or two-family detached dwelling, the following provisions may be waived at the determination of the reviewing agency or the Zoning Officer.

A. Orientation. The dwelling shall be oriented to face to and relate to the street and sidewalk in terms of the footprint location and front entrance. On corner lots, the reviewing agency or the Zoning Officer shall have the ability to determine which street such dwelling shall face and relate to as the primary street and which side shall be treated as a secondary street for the purposes of orientation.

B. Facade width. The width of the foremost portion of the front of the structure shall not extend greater than 50% of the required lot width. A structure may gradually become wider by stepping back and outward with offsets of a minimum of eight (8) feet from the foremost portion of the front of the structure. For the purposes of this subsection, a covered porch at least eight (8) feet in width at the foremost portion

of such structure shall meet the intent of being a portion of the principal structure. This provision shall apply to pre-existing dwellings that currently conform to this provision and new dwellings only.

C. Garage locations and design. A one- or two-car garage facing the street shall be recessed behind the nearest portion of the facade by a minimum of eight (8) feet. Any three-car garage shall be located to face the side or rear of the property and not the street. In relation to the facade, any garage facing a street shall be designed as a less obvious feature of the home in terms of location, massing, recessing, shadowing by overhangs and architectural treatments. In no case shall the garage door(s) be closer to the street than the main entry door. For the purposes of this subsection, a covered porch at least eight (8) feet in width at the foremost portion of such structure shall meet the intent of being a portion of the principal structure. This provision shall apply to pre-existing dwellings that currently conform to this provision and new dwellings only.

D. Repetition of building design. The same building design shall not be utilized on adjacent lots not within 200 feet of another building of the same design. Building design shall vary in terms of footprint, architectural elevations, fenestration, type of roof, height, entrance and garage location, architectural style, materials and colors and details. This provision shall only apply to an application involving a subdivision.

E. Existing vegetation. To the greatest extent possible, significant existing vegetation in good health and condition shall be preserved. Particular consideration shall be given to preserving any tree greater than four (4) inches in caliper, as well as existing stands of trees and tall shrubs and hedgerows along property lines. In cases where tree(s) are removed, their replacement shall be provided in accordance with Article 46 of this Chapter.

F. Foundation plantings. The base of the front yard and side of all buildings shall be planted consisting of evergreen and deciduous shrubs and trees. Such plantings shall be a minimum of thirty (30) inches tall at time of planting and spaced an average of three (3) feet on center. A planting bed containing extensive flower and ground cover shall extend a minimum of two (2) feet in front of the foundation plantings along the entire façade facing the street.

G. Front yard plantings. The front yard of each dwelling shall be planted with a minimum of one (1) shade tree and one (1) flowering tree for each 50 feet of frontage along the street or part thereof. Such trees shall be a minimum of 3 ½ inches in caliper. If shade tree(s) cannot be reasonably accommodated, a contribution to the Shade Tree Commission in lieu of planting shade tree(s) on the lot shall meet the intent of this subsection.

H. Street Trees. Street trees shall be provided in accordance with Article 46 of this Chapter. If street tree(s) cannot be reasonably accommodated, a contribution to the Shade Tree Commission in lieu of planting street tree(s) on the property shall meet the intent of this subsection.

I. Public sidewalks and private walkways. Public sidewalks and private walkways shall be provided in accordance with Article 34 of this Chapter..

#### **§ 110-147. Design Standards.**

The following standards shall be used to prepare and review any development plan that involves the construction of a new public sidewalk or private walkway or repair of an existing public sidewalk or private walkway:

A. Lot access. All lots shall have private walkway access to a public sidewalk in the right-of-way if such is provided. Such access shall be designed for the safety, control, efficient movement, convenience

and encouragement of pedestrian traffic into and out of the site and to promote pedestrian circulation generally within the Borough.

B. Construction and repair specifications. All sidewalks and walkways shall meet the construction specifications as set forth in applicable Borough ordinances or as approved by the Borough Engineer. This shall also apply to recommendations by the Borough Engineer regarding the maintenance, repair or upgrading of existing sidewalks located in that portion of the public right-of-way that directly abuts the tract to be developed.

C. Materials. The Board may waive the paving material specifications required by Subsection B above, if the applicant can demonstrate, in addition to the requirements of § 110-126, that the substitute paving material(s) will be architecturally compatible with the style, materials, colors and details of buildings and other structures on the site and adjacent properties and will create a more attractive development generally. In no instance, however, shall a sidewalk located in a public right-of-way be permitted to be constructed of asphalt.

D. In the B-1 and D-1 Districts, the material used for sidewalks shall be white concrete constructed in approximately 10 foot sections. The sidewalk sections shall be separated by a band of 4" x 8" red clay brick spaced approximately ten feet, eight inches (10' - 8") on center. The brick band shall be perpendicular to the curb with bricks laid parallel with the curb. The concrete shall be scored into four (4) smaller symmetric areas. Sidewalk improvements along the right of way of any property shall be constructed to match improvements on adjacent portions of the right of way that meet this design standard. A plan shall be submitted to and approved by the Borough Zoning Officer prior to the issuance of a permit for construction. Construction permits shall be obtained from the Middlesex County Road Department for property located on a County Road and by the Borough Zoning Officer for property located on a Municipal Road.

E. In any residential district, the applicant may request and be granted, by the Zoning Officer, Technical Review Committee, or the Board, an alternative to sidewalk construction. The alternative shall be the payment to the Borough in an amount equal to 75% of the estimated cost of the sidewalk, which amount shall be reserved for sidewalk installation or replacement in the Borough.

#### **§ 110-149 Private Walkways**

Walkways shall be located on a site to facilitate pedestrian access between the public sidewalk, buildings, parking lots and other facilities and to provide for pedestrian circulation generally within a site. Where walkways abut the ends of parking spaces and wheel stops are not provided, the minimum width of such walkways shall be a minimum of five feet in order to provide for the front ends of vehicles to overhang onto such walkways with appropriate space remaining for the passage of pedestrians. For residential properties, in the case where there is no public sidewalk located or to be provided at the front of the property, such may provide access from the driveway.

**BE IT FURTHER ORDAINED** by the Mayor and Council of the Borough of Metuchen that the within Ordinance and amendments made herein shall become effective immediately upon publication following final adoption and pursuant to law.

Council President Grayzel asked that Mayor Vahalla recognize Councilman Muldoon, liaison to the Parking Authority, who will be making a motion on 2015-04.

Councilman Muldoon made a motion to table Ordinance 2015-04 to the next Council meeting on March 2, 2015. There have been some revisions on some of the language related to the Payment



**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF METUCHEN, CHAPTER 185, VEHICLES AND TRAFFIC, SECTION 23, MULTIWAY STOP INTERSECTIONS**

**BE IT ORDAINED**, by the Mayor and Council of the Borough of Metuchen, County of Middlesex, State of New Jersey, that:

**SECTION 1.** Section 185-23 is hereby supplemented, amended and revised to reflect:

Maple Avenue and Center Street: stop signs shall be installed on all approaches; and

West Chestnut Avenue and Center Street: stop sign shall be installed on all approaches

**SECTION 2.** In accordance with N.J.S.A. 39:4-197(1)j., the Borough Engineer has certified (attached hereto and made a part thereof) the following information regarding the Maple Avenue & Center Street and West Chestnut Avenue & Center Street intersections: (i) that all intersecting streets are under municipal jurisdiction; (ii) that both intersections are within 500 feet of a school, or a playground or a youth recreational facility as defined therein; and (iii) the intersections are on streets contiguous to a school, or playground or youth recreational facility.

**SECTION 3.** The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged invalid and shall not be deemed to effect the operation of any other portion thereof, which shall remain in full force and effect.

**SECTION 4.** All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 5.** This Ordinance shall take effect immediately upon final passage and publication according to law.

**Communication Consent Agenda – Items A**

Council President Grayzel made a motion to receive and accept the Consent Agenda Item A through E, second by Councilwoman Rasmussen, with all in favor, Consent Agenda Items were received and accepted.

- A. Receive and Approve Request for Annual American Legion Auxiliary Poppy Program for American Legion Fugle-Hummer Post 65 for May 1, 2015 through May 25, 2015.
- B. Receive and Approve Request for American Legion Auxiliary to Hold Spring Annual Flea Market on Saturday, May 2, 2015 with Rain Date of Sunday, May 3, 2015 and Fall Flea Market on Saturday, September 12, 2015 with a Rain Date of Sunday, September 13, 2015.
- C. Receive and Approve Metuchen Planning Board Minutes of January 15, 2015
- D. Receive and Approve Metuchen Recreation Committee Minutes of January 23, 2015
- E. Receive and Approve Metuchen Historic Preservation Committee Minutes of January 13, 2015

### **Reports of Councilmembers**

Mayor Vahalla opened Reports of Councilmembers at this time.

Council President Grayzel –

- Mayor Vahalla had asked the Borough Administrator, Len Roseman, Jim Graziano and himself to convene a series of meetings and to review the resources and assets of the Construction Department. Metuchen has continued to bring additional resources through home improvements and construction projects and the resources have begun to become strained. They met with the Construction Official who went through his concerns of limited resources. He recommended that the fee structure should be evaluated. It has been approximately four years since the fees have been reviewed and updated. They will report back to the Mayor and Council after they have looked at all the additional resources that are available to the Borough.

Councilwoman Inzerro –

- On Sunday, February 8<sup>th</sup>, Councilwoman Inzerro attended the presentation on Opiate Addiction given by Heather Jones, a local Girl Scout. There were about 100 people who attended at the Reformed Church on Lake Avenue. She would like to thank Heather, her parents and the Community members who participated in the film. She will let everyone know when it can be seen in the Borough.
- Last Thursday, the Metuchen Municipal Alliance met and continues to discuss some new fund raising ideas as well as their regular events. The money helps provide drug abuse awareness programs for the Youth Services Board.
- Friday, March 13<sup>th</sup> there will be a magic show at Campbell School at 7:00 PM. Each adult ticket is \$10.00 with one free child and each additional child is \$3.00.
- Board of Health will meet tomorrow night at 7:30 PM.
- Senior Commission met last week. They discussed their concerns with parking around Senior Center and Accessible parking. They are very interesting in any changes that are being made in the Downtown area.
- On February 25<sup>th</sup> from 9:00 AM to 4:00 PM the Downtown Management Institute that the Borough is hosting along with the Chamber of Commerce and the Street Main Street Program. There are only a few tickets left for Metuchen Businesses and Residents to attend for free.

Councilman Leibfried –

- Pool Committee met on February 9<sup>th</sup>. He thanked the Administrator for working with the Pool Committee in getting the DPW to help install a new fence at the party area at the pool as well as the annual maintaining of the garden. They send their thanks to the DPW for all their help. The bathroom improvements are still in discussions. Hiring is moving ahead and would like to encourage all local residents to apply for the position available.
- The Library Board met last Tuesday evening. The Board of Trustees are moving ahead analyzing the need for a strategic plan to specifically outline their objectives to insure that the Library continues to prosper under the leadership of Susanna Chen.

Councilman Muldoon –

- The Parking Authority is meeting tonight and will be reviewing the Payment in Lieu of Parking Ordinance. They will also be getting an update on the development of the interim parking plan that is being created for when the construction begins.
- HPC met last week and continues their work on the application for listing Woodwild Park, Middlesex Avenue Historic District on the National and State Register. This would create Metuchen's first historic district and as part of the process, the Committee is creating a booklet

that will be distributed to the public sometime this summer. The booklet will highlight some of the research findings and the history of this part of Metuchen.

Councilwoman Rasmussen –

- Environmental Commission is working on a Sustainability element for the Master Plan. They will be looking to write a policy that will be approved by the Council and Planner for current and future use so that the residents can enjoy the sustainability of Metuchen.
- The Shade Tree Commission has received some feedback on the Community Forestry Plan and the reviewers have some more information that they would like the Commission to include in the Plan.
- Development Commission will be working with graduate students from Rutgers University in the Landscape/Architect program to redesign the space at the Train Station for beautification. They will be able to help on any projects for beautification at no cost to the Borough as part of their graduate program.
- The Chamber of Commerce met and has events coming up soon. On April 25<sup>th</sup> is the Springtime Borough Wide Garage Sale and on May 4<sup>th</sup> is the Annual Golf Outing. Any families wanting to join the Chamber, the fee is \$75.00. This membership includes a \$20.00 Chamber gift certificate and free participation in the Annual Borough Garage Sale.

Councilman Wallace – No report at this time.

### **Reports of Professionals and Administrator**

Denis Murphy, Esq. – No report at this time.

Jennifer Maier, Administrator –

- She spoke on a few of the important issues of the report given to each Councilmember:
- Fire and Safety Services, the only bidder for Fire Apparatus Service and Repair, all required documents were in the bid and she forwarded her recommendation letter for awarding the contract to Fire and Safety Services.
- The market has changed in terms of recycling where the Borough used to get a \$20,000 income, now the Borough will be paying \$20,000 per year to have the recycling to be taken away. Currently they are looking at different ways for costs reductions. One is to immediately stop taking recycling from non-Metuchen residents. There is a possibility of reducing the Recycling Center hours to three instead of five hours. She would like some feedback from Mayor and Council on their thoughts of having residents just mulch grass on site and/or compost grass. The Borough would still pick up brush and leaves but grass would no longer be picked up. That cost to remove the grass to a different location is \$11,724.00 and in addition it takes close to \$40,000.00 in labor for the staff.
- She is meeting with JFK on a Wellness Programs for residents
- An Employee Manual is being worked on in-house and will be presented to the Council for their comments.
- A prototype flier is being developed on how to start a new business in Metuchen.

### **Report of the Mayor-**

- The Borough received a check for \$1.1 million from the County and the Administrator and Mayor will be meeting with the Parking Authority to figure out how to apply the money.
- The filming of “Our Town Metuchen” has been completed by Cablevision and when it is edited, they will hold a screening for the Council at a Council meeting and then will show it on Channel 12 and on the local access network.

- He asked Mr. Murphy to work with the Borough on creating an Ordinance which will reduce the traffic speed on Grove Avenue to make the entire length to 25 miles per hour. He announced that the Borough has received the letter stating that the Borough is receiving \$192,000 for “Safe Routes to School” crosswalk lighting and improvements. The Engineer feels that this amount of money will cover all the improvements that have been requested in the grant. A discussion ensued on further improvements on other crosswalks and reduction of speed on other streets within the Borough.
- On Friday, the Mayor, Administrator and Fire Chief will be visiting other Fire Houses. He still encourages the Councilmembers to call the Fire Chief to take a tour of the Fire House to see the current conditions.
- On February 19<sup>th</sup>, they are meeting with JFK.
- Council President Grayzel and Mayor met with the Mayor of Edison and his aid on having a joint combined Dog Park Committee. The Mayor of Edison is also very interested in discussing the interchange on 287 and 27. Edison is looking at development in that area and the interchange will be a big help to get the interchange to the next level for funding from the DOT.

**New Business – Consent Agenda – Resolutions R2015-60 through R2015-63**

Council President Grayzel moved Consent Agenda Resolutions R2015-60 through R2015-63 for approval, seconded by Councilwoman Rasmussen, with all in favor, Resolutions R2015-60 through R2015-63 were approved.

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

**RESOLUTION 2015-60**

**RESOLUTION APPROVING SUBMISSION OF THE 2014 TONNAGE REPORT**

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

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

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

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

**WHEREAS**, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and to indicate the assent of the Borough

Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Metuchen that the Borough of Metuchen endorses the submission of the recycling tonnage grant application for the year **2014** to the New Jersey Department of Environmental Protection and Energy and designates Fred Hall to ensure that the application is properly filed; and

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

**RESOLUTION 2015-61**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**RESOLUTION ACCEPTING SUB-GRANT AGREEMENT HAZARD MITIGATION GRANT PROGRAM (CFDA#97.039) FEMA-DR-4086-NJ-0171-R IN THE AMOUNT OF \$65,900.00**

**WHEREAS**, the Borough of Metuchen, New Jersey, applied for Federal Emergency Management Agency-Assistance to Hazard Mitigation Grant Program (HMGP) for a variety of hazard mitigation activities, including generators and/or quick connect switches for critical facilities; and

**WHEREAS**, the grant application was prepared and submitted to FEMA by the Borough of Metuchen, Middlesex County, State of New Jersey; and

**WHEREAS**, the State office of Emergency Management has advised that said grant application has been approved by FEMA and the period of performance of this Project is the period beginning January 13, 2015 and ending January 13, 2018; and

**WHEREAS**, the Grant Agreement estimated cost for the purchase and installation of one (1) permanently mounted diesel-duel generator at the Department of Public Works, located at 44 Jersey Avenue; and installation of transfer switches and circuitry to an existing backup generator at the Police Department/Borough Hall, located at 500 Main Street is \$65,900.00 as per said agreement attached; and

**WHEREAS**, the Mayor and Council of the Borough of Metuchen is of the opinion that the adoption of said Project is in the best interest of the residents of the Borough of Metuchen;

**NOW THEREFORE BE IT RESOLVED** by the Borough of Metuchen, County of Middlesex, State of New Jersey that the Mayor and Council of the Borough of Metuchen do hereby accept the Sub-Grant Agreement Hazard Mitigation Grant Program (CFDA#97.039) FEMA-DR-4086-NJ-0171-R in the amount of \$65,900.00;

**BE IT FURTHER RESOLVED,**

1. The Mayor of Metuchen Borough is to execute the agreement as the Sub-grantee – Borough of Metuchen; and

2. The Borough Clerk of the Borough of Metuchen shall forward an executed agreement and certified copy of this resolution to the office of the Federal Emergency Management Agency (FEMA).

**R2015-62**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**RESOLUTION AUTHORIZING REFUND OF 2014 TAXES**

**WHEREAS**, the following has made an overpayment of taxes,

Name	Block/Lot	Address	Amount		Year
District at Metuchen	Various	Various	35,062.02	Excess funds qtr. 1 2015 payment	
Elena Kholina	93/101	47 Victory Court	1212.11	Duplicate payment	3 <sup>rd</sup> qtr. 2014
Elena Kholina	93/101	47 Victory Court	1162.19	Duplicate payment	4 <sup>th</sup> qtr. 2014

**NOW, THEREFORE, BE IT RESOLVED**, that the above listed property owner or agent be refunded property taxes as described in the amount of \$37,363.32.

**RESOLUTION 2015-63**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**RESOLUTION AUTHORIZING BID AWARD FOR FIRE APPARATUS SERVICE AND REPAIR**

**WHEREAS**, bids were received by the Borough Administrator on February 11, 2015 for the Fire Apparatus Service And Repair for the Borough of Metuchen; and

**WHEREAS**, the Finance Officer has determined that sufficient funds will be available in the amount of \$24,500 as evidenced by the Finance Officer's certification,

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen, County of Middlesex, State of New Jersey that the contract for Fire Apparatus Service and Repair be and the same is hereby awarded to Fire and Safety Services, 200 Ryan Street, South Plainfield, NJ 07080.

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

**Other New Business**

Borough Council Meeting  
February 17, 2014

Council President Grayzel made a motion to approve R2015-64, Payment of the Bill List in the amount of \$5,720,911.00, second by Councilwoman Rasmussen, with all in favor, R2015-64 was approved.

**RESOLUTION 2015-64**

*Borough of Metuchen  
County of Middlesex  
State of New Jersey*

**RESOLUTION AUTHORIZING THE PAYMENT OF THE BILL LIST**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Metuchen that the proper warrants be drawn and all bills be paid totaling **\$5,720,911.00**

**Public Session**

Mayor Vahalla opened to Public Session ro anyone wishing to speak.

Seeing no one wishing to speak, Mayor Vahalla closed the Public Session.

**Adjournment**

On a motion by Councilwoman Rasmussen, seconded by Council Leibfried, with all in favor, the meeting was adjourned at 9:21 PM.

Respectfully Submitted,

Susan D. Jackson,  
Metuchen Borough Clerk