

**BOROUGH OF METUCHEN COUNCIL MINUTES**  
**NOVEMBER 13, 2023**  
**7:30 PM**

The Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Monday, November 13, 2023.

The Meeting was called to order at 7:30 p.m. by Mayor Busch.

Adequate Notice of this meeting has been given in accordance with the Open Public Meeting Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the Home News Tribune and Star Ledger on December 21, 2022, posted in Borough Hall, and on file in the Clerk's Office. All requirements of the Open Public Meetings Act have been satisfied.

Mayor Busch asked all to rise for the Pledge of Allegiance.

**Roll Call**

Mayor Busch asked for a roll call.

Present were Councilmembers Branch, Giamboi, Hirsch, Hyman, Kandel, Council President Delia, and Mayor Busch. Also present were Borough Administrator Melissa Perilstein, Borough Clerk Deborah Zupan, and Borough Attorney Denis Murphy.

**Agenda Session**

Council President Delia made a motion to open the Agenda Session, second by Councilmember Giamboi, with all in favor, motion carried, 6-0.

With no action taken, Council President Delia made a motion to close the Agenda Session, second by Councilmember Giamboi, with all in favor, motion carried, 6-0.

**Best Practices Inventory**

Mayor Busch asked Councilmembers if they had reviewed the 2023 Best Practices Inventory and all confirmed that they had. Mayor Busch asked if there were any questions or matters to discuss regarding the Best Practices Inventory; there were none.

Council President Delia made a motion to accept the 2023 Best Practices Inventory, second by Councilmember Giamboi, with all in favor, motion carried, 6-0.

**Public Comment**

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

Brain Siegel, a resident of East Brunswick and one of the striking nurses at Robert Wood Johnson University Hospital, requested that Council pass a resolution in support of the Safe Staffing bills in the Legislature. He stressed that the nurses were not striking for a pay increase, only for safe staffing ratios. Mayor Busch responded that while the Borough does support the striking nurses, Council would not be passing a resolution as requested.

Liubov Smirnov, 26 Carpenter Place, explained that Robert Wood Johnson is a Level One Trauma Center, so they get the sickest patients from all over. Ms. Smirnov stated that the understaffing of nurses affects the quality of this crucial care. She added that neighboring towns have passed resolutions of support and urged Metuchen to do the same.

Paul Bradley, 22 Center Street, expressed concerns about the new coinless parking meters, and noted that the minimum charge for using the app is higher. Mr. Bradley also said he had witnessed many people having issues using the meters and they are not accessible to people who are not tech savvy. Mayor Busch provided some background on how parking decisions were reached, and Council President Delia clarified the actual minimum charge.

Grace Shackney, 110 Columbia Avenue, commented that there are people in town that don't have credit cards or smartphones because they can't afford it, and the new parking app and coinless meters are unfair to these individuals. Ms. Shackney thanked the Mayor and Council for the thought they put into making these difficult decisions.

Michael Tatick, 45 Victory Court, noted that many food delivery drivers double park and hold up traffic, and asked for better enforcement to alleviate this.

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

**Communications Consent Agenda – Items A-C**

Council President Delia made a motion to approve Communications Consent Agenda, Items A-C, second by Councilmember Giamboi, with all in favor, motion carried, 6-0.

- A. Receive and Accept Pool Commission Meeting Minutes of July 11 and August 8, 2023
- B. Receive and Accept Traffic and Transportation Committee Meeting Minutes of August 9 and September 13, 2023
- C. Receive and Approve Block Party-Street Closing for Carson Avenue, December 2, 2023

**Ordinance – Public Hearing**

Ord. 2023-29

ORDINANCE AMENDING CHAPTER 37 OF  
THE CODE OF THE BOROUGH OF  
METUCHEN, ENTITLED, “POLICE  
DEPARTMENT” TO AMEND THE  
COMPOSITION OF THE POLICE  
DEPARTMENT

Council President Delia asked that Ordinance 2023-29 be read by title only.

Ms. Zupan read Ordinance 2023-29 by title only.

Mayor Busch opened the public hearing on Ordinance 2023-29.

Seeing no one wishing to speak, Mayor Busch closed the public hearing.

Council President Delia made a motion to pass Ordinance 2023-29 on second reading and be published according to law, second by Councilmember Giamboi.

Mayor Busch asked for a roll call vote.

Roll Call: Yeas: Branch, Giamboi, Hirsch, Hyman, Kandel, Delia  
Nays: None

Ordinance 2023-29 was adopted, 6-0.

**ORDINANCE 2023-29**

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

**ORDINANCE AMENDING CHAPTER 37 OF THE CODE OF THE BOROUGH OF  
METUCHEN, ENTITLED, “POLICE DEPARTMENT” TO AMEND THE  
COMPOSITION OF THE POLICE DEPARTMENT**

**WHEREAS**, at the recommendation of the Chief of Police and Borough Administrator, the Mayor and Council have determined that it is in the best interest of the effective operations and management of the Borough of Metuchen Police Department to amend the composition of

the Metuchen Police Department to increase the number of potential full-time patrol officers from twenty (20) patrol officers to twenty-two (22) patrol officers.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Metuchen, County of Middlesex, that it hereby amends Article 1, “General Provisions” of Chapter 37 “Police Department” of the Code of the Borough of Metuchen, specifically § 37-1, entitled, “Composition; appointment”, to state as follows:

**CHAPTER 37 POLICE DEPARTMENT**

**ARTICLE 1**

**General Provisions**

**§ 37-1 Composition; appointment.**

The Police Department of the Borough of Metuchen shall consist of no more than one (1) Chief of Police, one (1) Captain of Operations/Deputy Chief, two (2) Lieutenants, six (6) Sergeants, and twenty-two (22) patrol officers, and such other employees as the Mayor and Borough Council may from time to time appoint. Patrol officers shall be appointed by the Mayor in consultation with the Appropriate Authority/Borough Administrator and the Police Chief upon confirmation by the Borough Council. The Police Chief shall be appointed by the Mayor in consultation with the Appropriate Authority/Borough Administrator upon confirmation by the Borough Council. The Captain of Operations/Deputy Chief, Lieutenants, and Sergeants shall be appointed by the Mayor in consultation with the Appropriate Authority/Borough Administrator and the Police Chief.

**BE IT FURTHER ORDAINED** by the Mayor and Council that all prior ordinances, or sections of ordinances, inconsistent with the within ordinance are hereby repealed; and

**BE IT FURTHER ORDAINED** by the Mayor and Council that all remaining sections of Chapter 37 not amended or referenced herein shall not be affected thereby and shall remain in full force and effect; and

**BE IT FURTHER ORDAINED** by the Mayor and Council that if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable; and

**BE IT FURTHER ORDAINED** by the Mayor and Council that this ordinance shall become effective immediately upon final passage and publication as provided by law.

**Ordinance – Introduction**

Ord. 2023-30

ORDINANCE CREATING THE PROCESS FOR  
FILMING IN THE BOROUGH OF METUCHEN

Council President Delia asked that Ordinance 2023-30 be read by title only.

Ms. Zupan read Ordinance 2023-30 by title only.

Council President Delia moved that Ordinance 2023-30 be passed on first reading, be published according to law, and a public hearing be set down for Monday, November 27, 2023, second by Councilmember Giamboi.

Roll Call:                   Yeas: Branch, Giamboi, Hirsch, Hyman, Kandel, Delia  
                                  Nays: None

Ordinance 2023-30 was passed on first reading, 6-0, and will be published according to law.

### **Report of Borough Administrator**

Ms. Perilstein noted that Borough Hall had been having numerous phone issues, but phone calls to the Police and for emergencies are not affected. Ms. Perilstein thanked the Department of Public Works and Bernie Hetzel and other volunteers for the hard work they put in to decorating downtown for the holidays.

### **Reports of Councilmembers**

Council President Delia reported on the MDA's upcoming Small Business Saturday event and encouraged residents to check out the MDA's holiday gift guide which can be found on their website.

Councilmember Kandel reported that the Pool Commission would be meeting soon and that the upcoming meeting would be held in Council Chambers instead of a conference room.

Councilmember Hyman reported that the Metuchen CARES Committee had recently welcomed a new member, Jason Winhold. The Committee recently met with Metuchen Media's Brandon Uhlig to discuss effective ways to get their message out to the public. She also reported that the Parade Commission was busy preparing for holiday events including the menorah lighting and holiday parade. Finally, Councilmember Hyman noted that Staff Sergeant Uhrin's headstone had been installed and that a small ceremony had taken place.

Councilmember Hirsch reported that the Friends of the Metuchen Library had met recently, and he shared details of several upcoming Library programs.

Councilmember Giamboi reported that the Senior Center was back open following recent renovation and encouraged eligible residents to join and take advantage of their many upcoming events. Councilmember Giamboi reported that the Shade Tree Commission had met and was working on their recommended plantings list, as well as obtaining a utility-friendly tree list. She noted that the fall tree planting had been completed, and that members had recently worked on creating a list of trees along Amboy Avenue which would be forwarded to the DPW.

Councilmember Branch reported he and Council President Delia would soon be holding 'Coffee with Councilmembers' at Pastry Lu. He noted that the Human Relations Commission would be holding a Human Rights Day event on December 10 at the Library, and that the Recreation Commission had several holiday events planned to include a house decorating contest and letters to Santa.

### **New Business Consent Agenda – Resolutions 2023-268 to 2023-281**

Council President Delia moved to approve New Business Consent Agenda Resolutions 2023-268 to 2023-282, second by Councilmember Giamboi. Council President Delia provided background on Resolution 2023-281, opposing H.R. 3557, the American Broadband Act of 2023. With all in favor, motion carried, 6-0.

**RESOLUTION 2023-268**

**RESOLUTION APPROVING 2023 BUDGET TRANSFERS**

**WHEREAS**, there are unexpended balances in various 2023 appropriation accounts not required for the balance of 2023; and

**WHEREAS**, additional sums are required for the operating expenses of other Borough accounts.

**NOW, THEREFORE, BE IT RESOLVED** that the following transfers be approved:

<b>Appropriation</b>		<b>From</b>	<b>To</b>
Finance-Payroll Processing	OE		6,700.00
Public Works Administration	OE		1,200.00
Streets & Roads	OE		40,000.00
Buildings & Grounds	OE		20,000.00
Sewers	OE	30,000.00	
Legal			40,000.00
Street Lighting	OE		16,500.00
Telephone			40,000.00
Defined Contribution Retirement Plan	OE		4,000.00
METV	OE	10,000.00	
Police	OE		10,000.00
Gasoline & Diesel		50,000.00	
Woodbridge Shared Services			14,000.00
Finance	S&W	7,700.00	
Public Works Administration	S&W	90,000.00	
Administration	S&W	10,000.00	
Clerk	S&W		100.00
Recreation	S&W		1,500.00
Forestry	S&W		20,000.00
Garbage & Trash	S&W	20,000.00	
Senior Citizen Center	S&W		700.00
Sewers	S&W		3,000.00
<b>TOTALS</b>		<b>217,700.00</b>	<b>217,700.00</b>
Pool	OE		4,500.00
Pool	S&W	4,500.00	
<b>POOL UTILITY TOTALS</b>		<b>4,500.00</b>	<b>4,500.00</b>

**RESOLUTION 2023-269**

**RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION  
NJS 40A:4-87**

**WHEREAS**, NJS 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

**WHEREAS**, the Director may also approve the insertion of an item of appropriation for equal amount,

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Metuchen in the County of Middlesex, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget in the year 2023 in the sum of \$ 2,569.05, which is now available from the U.S. Department of Justice, Bureau of Justice Assistance, Bulletproof Vest Partnership in the amount of \$ 2,569.05.

**BE IT FURTHER RESOLVED** that the like sum of \$ 2,569.05 is hereby appropriated under the caption Federal Bulletproof Vest Partnership Grant; and

**BE IT FURTHER RESOLVED** that the above is the result of funds from U.S. Department of Justice, Office of Justice Programs, Bulletproof Vest Partnership in the amount of \$ 2,569.05.

**RESOLUTION 2023-271**

**RESOLUTION APPROVING ADOPTION OF THE CORRECTIVE ACTION PLAN FOR ANNUAL AUDIT**

**WHEREAS**, the Annual Report of Audit for the year 2022 was filed with the Municipal Clerk pursuant to N.J.S.A. 40A:5 on November 9, 2023; and

**WHEREAS**, the Governing Body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Findings and Recommendations," have signed the group affidavit form, and adopted the resolution of certification; and

**WHEREAS**, the CFO has filed the attached Corrective Action Plan pursuant to N.J.S.A 40A: 5; and

**WHEREAS**, N.J.S.A. 40A:5 requires the Governing Body to adopt by resolution the Corrective Action Plan within 60 days of receipt of audit.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Metuchen that the Corrective Action Plan is hereby approved.

**RESOLUTION 2023-272**

**RESOLUTION AUTHORIZING ADOPTION OF THE BOROUGH OF METUCHEN AMENDED PERSONNEL POLICIES AND PROCEDURES MANUAL DATED OCTOBER 2023**

**WHEREAS**, the Borough by way of Resolution 2021-171 incorporated various existing Borough handbooks, policies, and procedures relating to personnel and employment issues into a single current Policies and Procedures Manual ("Manual") which will serve as a governing document for personnel matters; and

**WHEREAS**, the Manual has been revised and reviewed by the Borough's Labor Counsel in accordance with requirements of the Employment Practices Liability Program of the New Jersey Municipal Excess Liability Joint Insurance Fund.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen to approve the Manual, along with any necessary formatting changes necessary to finalize the Manual for distribution in accordance with the requirements of the Employment Practices Liability Program of the New Jersey Municipal Excess Liability Joint Insurance Fund.

**BE IT FURTHER RESOLVED** that the policies and procedures set forth in the Manual shall be effective immediately upon adoption of this Resolution, except as otherwise provided therein, and shall replace and supersede all preexisting handbooks, policies, and procedures addressing personnel issues previously in existence and/or utilized in the Borough; and

**BE IT FURTHER RESOLVED** that copies of the Manual will be distributed and made available to all current and future Borough employees in electronic form, and as requested, in hard copy form; and

**BE IT FURTHER RESOLVED** that copies of the Manual will be distributed and made available to all current and future volunteers, appointed officials, and independent contractors to the extent applicable to them in electronic and/or hard copy form. To facilitate such distribution, the Business Administrator is authorized to compile and distribute applicable policies in an appropriate format for distribution to volunteers, appointed officials, and/or independent contractors consistent with the Manual.

**RESOLUTION 2023-273**

**RESOLUTION AUTHORIZING THE AWARD OF  
CONTRACT FOR BOROUGH SPECIAL COUNSEL**

**WHEREAS**, the Borough of Metuchen has a need to acquire the services of Borough Special Counsel for cannabis litigation and for in rem foreclosure matters as a fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

**WHEREAS**, Requests for Qualifications were received on October 18, 2023 and reviewed by the Borough Administrator, Chief Financial Officer/Qualified Purchasing Agent, and Borough Clerk; and

**WHEREAS**, the Chief Financial Officer anticipates that the value of the services rendered will exceed \$5,000; and

**WHEREAS**, the anticipated term of this contract is for the calendar year 2023; and

**WHEREAS**, the maximum amount of the contract is forty five thousand dollars (\$45,000.00) for the specific purposes of special legal counsel for cannabis litigation and in rem foreclosure matters and the Chief Financial Officer has certified that there are sufficient funds for such contract and is available and is designated from 2023 Adopted Budget Legal Account number 3-01-20-712-027 in the amount not to exceed forty thousand dollars and no cents, and from Capital Bond Ordinance 2023-14, C-04-55-943-002 in the amount not to exceed five thousand dollars and no cents (\$5,000.00) for these services.

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

1. The Mayor and Borough Clerk are hereby authorized and directed to execute an agreement with McManimon, Scotland & Baumann LLC, 75 Livingston Avenue, Second Floor, Roseland, New Jersey 07068.
2. This contract is awarded as a fair and open "Professional Service" in accordance with  
N.J.S.A. 19:44A-20.4.
3. Notice of this action shall be printed once in The Home News Tribune.

**RESOLUTION 2023-274**

**RESOLUTION AUTHORIZING AWARD OF A WINDOW CONTRACT FOR FABRICATION AND INSTALLATION OF INTERIOR SIGNAGE**

**WHEREAS**, there exists a need for interior signage in the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

**WHEREAS**, the Borough of Metuchen has solicited quotes for the fabrication and installation of interior signage using a fair and open process, with vendor solicitations issued and two written quotes returned; and

**WHEREAS**, the amount for the fabrication and installation of interior signage is under the bid threshold as set by New Jersey Local Public Contracts Law N.J.S.A. 40A:11-1 et seq, but above \$17,500.00; and

**WHEREAS**, the Chief Financial Officer's Certification of Funds is made authorizing the award for the fabrication and installation of interior signage in the amount not to exceed twenty eight thousand four hundred ninety six dollars and no cents (\$28,496.00) from Capital Bond Ordinance 2023-07, C-04-55-939-007; and

**WHEREAS** this procurement is awarded under N.J.S.A. 19:44A20.4 et seq. using a fair and open process to Forman Sign Company, who submitted the lowest, compliant quote for fabrication and installation of interior signage for the Borough of Metuchen.

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

The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to Forman Sign Company, 10447 Drummond Road, Philadelphia PA 19154.

**RESOLUTION 2023-275**

**RESOLUTION TO TRANSFER 2023 TAX OVERPAYMENT DUE TO PARCELS AFFECTED BY SUBDIVISION, LAND BOUNDARY CHANGES OR COMBINING PARCELS**

**WHEREAS**, Block 114, Lot 24 and Block 114 Lot 26 were affected by subdivision, boundary changes or combining parcels where parcels are being combined/eliminated, and



**WHEREAS**, payments for quarters one and two were made, with the parcels subsequently eliminated as billable parcels at the time of certification of the extended tax duplicate for 2023, and

**WHEREAS** to properly account for taxes billed and paid, the following transfers of payments is requested from the Tax Collector.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen, that the Tax Collector be and is hereby authorized to make transfer adjustments for 2023 tax payments on the following properties due to subdivision, boundary changes or combining parcels where parcels are being combined/eliminated, in the amount of \$31,256.63.

Block/Lot/Qual	Address	Owner	Amount to Transfer	Quarter of Transfer
114/24	427-429 Main Street	Metuchen Savings and Loan Assoc	(8,868.57)	1/2023
114/24	427-429 Main Street	Metuchen Savings and Loan Assoc	(8,868.56)	2/2023
114/26	425 Main Street	Metuchen Savings and Loan Assoc	(4,726.87)	1/2023
114/26	425 Main Street	Metuchen Savings and Loan Assoc	(4,726.86)	2/2023
114/66	Pearl Street	Metuchen Savings and Loan Assoc	(2,032.89)	1/2023
114/66	Pearl Street	Metuchen Savings and Loan Assoc	(2,032.88)	2/2023
114/24.01	425-429 Main Street	Manasquan Bank	31,256.63	4/2023

**RESOLUTION 2023-276**

**RESOLUTION RESCINDING RESOLUTION 2023-228 AUTHORIZING AWARD OF A WINDOW CONTRACT FOR PAINTING SERVICES AT BOROUGH HALL THROUGH HUNTERDON COUNTY EDUCATIONAL SERVICE COMMISSION COOPERATIVE PURCHASING PROGRAM**

**WHEREAS**, by way of Resolution 2023-228, a window contract was awarded to GPC, Inc., for a contract for painting services at the Borough of Metuchen; and

**WHEREAS**, the scope of the painting services quote has been determined to be inadequate; and

**WHEREAS**, the Borough will requote for Borough Hall painting services with an expanded scope of services and will obtain the approval by resolution of the Governing Body at a future council meeting for award of a contract for the expanded painting services; and

**WHEREAS**, the vendor previously awarded the contract by Resolution 2023-228 has not been issued a purchase order and has been advised to submit a revised quote for painting services for the expanded scope of services.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen, in the County of Middlesex that the contract previously awarded by way of Resolution 2023-228 is rescinded.

**RESOLUTION 2023-277**

**RESOLUTION TO AFFIRM THE BOROUGH OF METUCHEN'S  
CIVIL RIGHTS POLICY WITH RESPECT TO ALL OFFICIALS,  
APPOINTEES, EMPLOYEES, PROSPECTIVE EMPLOYEES, VOLUNTERS,  
INDEPENDENT CONTRACTORS, AND MEMBERS OF THE PUBLIC THAT COME  
INTO CONTACT WITH MUNICIPAL EMPLOYEES,  
OFFICIALS AND VOLUNTEERS**

**WHEREAS**, it is the policy of the Borough of Metuchen to treat the public, employees, prospective employees, appointees, volunteers, and contractors in a manner consistent with all applicable civil rights laws and regulations including, but not limited to the Federal Civil Rights Act of 1964 as subsequently amended, the New Jersey Law against Discrimination, the Americans with Disabilities Act and the Conscientious Employee Protection Act; and

**WHEREAS**, the governing body of the Borough of Metuchen has determined that certain procedures need to be established to accomplish this policy.

**NOW, THEREFORE, BE IT ADOPTED** by the Borough Council of the Borough of Metuchen that:

**Section 1:** No official, employee, appointee or volunteer of the Borough by whatever title known, or any entity that is in any way a part of the Borough shall engage, either directly or indirectly in any act including the failure to act that constitutes discrimination, harassment or a violation of any person's constitutional rights while such official, employee, appointee volunteer, or entity is engaged in or acting on behalf of the Borough's business or using the facilities or property of the Borough.

**Section 2:** The prohibitions and requirements of this resolution shall extend to any person or entity, including but not limited to any volunteer organization or inter-local organization, whether structured as a governmental entity or a private entity, that receives authorization or support in any way from the Borough to provide services that otherwise could be performed by the Borough.

**Section 3:** Discrimination, harassment and civil rights shall be defined for purposes of this resolution using the latest definitions contained in the applicable Federal and State laws concerning discrimination, harassment and civil rights.

**Section 4:** The Borough Administrator shall establish written procedures for any person to report alleged discrimination, harassment and violations of civil rights prohibited by this resolution. Such procedures shall include alternate ways to report a complaint so that the person making the complaint need not communicate with the alleged violator in the event the alleged violator would be the normal contact for such complaints.

**Section 5:** No person shall retaliate against any person who reports any alleged discrimination, harassment or violation of civil rights, provided however, that any person who reports alleged violations in bad faith shall be subject to appropriate discipline.

**Section 6:** The Borough Administrator shall establish written procedures that require all officials, employees, appointees and volunteers of the Borough as well as all other entities subject to this resolution to periodically complete training concerning their duties, responsibilities and rights pursuant to this resolution.

**Section 7:** The Borough Administrator shall establish a system to monitor compliance and shall report at least annually to the governing body the results of the monitoring.

**Section 8:** At least annually, the Borough Administrator shall cause a summary of this resolution and the procedures established pursuant to this resolution to be communicated within the Borough. This communication shall include a statement from the governing body expressing its unequivocal commitment to enforce this resolution. This summary shall also be posted on the Borough's web site.

**Section 9:** This resolution shall take effect immediately.

**Section 10:** A copy of this resolution shall be published in the official newspaper of the Borough in order for the public to be made aware of this policy and the Borough's commitment to the implementation and enforcement of this policy.

**RESOLUTION 2023-278**

**RESOLUTION AUTHORIZING PURCHASE FROM SOMERSET COUNTY COOPERATIVE PRICING FOR RED DYED #2 DIESEL FUEL (ULTRA LOW SULFUR DIESEL), RED DYED WINTER BLEND DIESEL AND FUEL OIL-FIRST YEAR CC-0036-23**

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

**WHEREAS**, this can be purchased through the Somerset County Cooperative Red Dyed #2 Diesel Fuel (Ultra Low Sulfur Diesel), Red Dyed Winter Blend Diesel and Fuel Oil, Open-ended Contract #CC-0036-23, Cooperative Pricing Bid #2-SOCCP, First Year of a Two-Year Contract pursuant to the provisions of NJSA 40A:11-11 (5); and

**WHEREAS**, said contract is the first year of a two-year contract for Red Dyed #2 Diesel Fuel (Ultra Low Sulfur Diesel), Red Dyed Winter Blend Diesel and Fuel Oil, Open-ended Contract #CC-0036-23, Co-operative Pricing Bid #2-SOCCP which was approved on October 24, 2023 by the Somerset County Board of County Commissioners is effective from October 24, 2023, to October 23, 2024; and

**WHEREAS**, the authorization to purchase under this award expires on December 31, 2023; and

**WHEREAS**, the maximum amount of the purchase of Red Dyed #2 Diesel Fuel (Ultra Low Sulfur Diesel), Red Dyed Winter Blend Diesel and Fuel Oil under this award resolution for the Borough of Metuchen is thirty two thousand dollars and no cents (\$32,000.00) and that there are sufficient funds for such award as certified from the 2023 Adopted Budget, designated from Diesel and Gasoline Fuel Account Number 3-01-31-821-074; and

**WHEREAS**, the vendor chosen for award for purchase of Red Dyed #2 Diesel Fuel (Ultra Low Sulfur Diesel), Red Dyed Winter Blend Diesel and Fuel Oil is National Fuel Oil, Inc. for the period of November 13, 2023, through December 31, 2023; and

**WHEREAS**, the County of Somerset, New Jersey shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all other provisions of the revised statutes.

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

The Chief Financial Officer and Borough Administrator are hereby authorized and directed to approve and forward a Purchase Order to National Fuel Oil Inc., 175 Orange Street, Newark, NJ 07103.

**RESOLUTION 2023-279**

**RESOLUTION AMENDING RESOLUTION 2023-184 AUTHORIZING  
PURCHASE FROM SOMERSET COUNTY COOPERATIVE PRICING  
UNLEADED GASOLINE, 87 OCTANE-YEAR TWO OF TWO YEAR CONTRACT  
CC-0045-22**

**WHEREAS**, by way of Resolution 2023-184, authorization to purchase unleaded gasoline was awarded for the Borough of Metuchen, in the County of Middlesex, State of New Jersey; and

**WHEREAS**, the need to purchase unleaded gasoline through the Somerset County Cooperative Unleaded Gasoline, 87 Octane, Open-ended Contract #CC-0045-22, Cooperative Pricing Bid #2-SOCCP pursuant to the provisions of N.J.S.A. 40A:11-11 (5) continues; and

**WHEREAS**, Somerset County Cooperative awarded the second year of a two-year contract #CC-0045-22 awarded on May 23, 2023 through May 22, 2024; and

**WHEREAS**, this authorization to purchase under this award ends on December 31, 2023; and,

**WHEREAS**, the maximum amount of the purchase of Unleaded Gasoline, 87 Octane fuel for the Borough of Metuchen approved by Resolution 2023-184 is \$ 50,000.00; and

**WHEREAS**, an additional award in the amount not to exceed \$10,000.00 is needed and is certified from the 2023 Adopted Budget, designated from Diesel and Gasoline Fuel Account Number 3-01-31-821-074; and

**WHEREAS**, the vendor chosen for award for purchase of Unleaded Gasoline, 87 Octane Fuel continues to be National Fuel Oil, Inc., for the period of November 13, 2023, through December 31, 2023; and

**WHEREAS**, the County of Somerset, New Jersey shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:1 1-1 et seq.) and all other provisions of the revised statutes.

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

The Chief Financial Officer and Borough Administrator are hereby authorized and directed to amend the existing purchase order and forward the amended Purchase Order to National Fuel Oil Inc., 175 Orange Street, Newark, NJ 07103, in an amount not to exceed a grand total of \$ 60,000.00 for the calendar year 2023.

**RESOLUTION 2023-280**

**RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING (MOU)  
BY AND BETWEEN THE COUNTY OF MIDDLESEX COUNTY AND THE  
BOROUGH OF METUCHEN FOR USE OF PUBLIC SAFETY AND HEALTH  
SPECIALIZED EQUIPMENT FOR THE DURATION OF THE 2024 CALENDAR YEAR**

**WHEREAS**, the County of Middlesex Department of Public Safety and Health is interested in supporting municipalities and government entities within the County of Middlesex in their efforts to serve, protect, and provide for the safety and welfare of its citizens and visitors by ensuring that said municipalities and government entities have access to state-of-the-art equipment owned by and in the possession of the County of Middlesex Department of Public Safety and Health; and

**WHEREAS**, specialized equipment has been purchased for and by the County of Middlesex with funding derived from its Federal, State, County and local partners that will support our collective efforts to provide for the safety and welfare of its citizens and visitors; and

**WHEREAS**, the Middlesex County Department of Public Safety and Health concurs that the strategic deployment of specialized equipment based upon need and risk assessment is a significant step in reaching the goal of providing for the safety and welfare of the citizens of Middlesex County; and

**WHEREAS**, the Director of the Middlesex County Department of Public Safety and Health, with the approval and/or consensus of the respective County officials to which the specialized equipment is assigned, reserves the right to approve the loaning of said specialized equipment to a specific municipality or entity that enters into this MOU, as well as the right to re-direct the assignment of specialized equipment previously committed for use by one municipality or entity for a particular event to a different municipality or entity based upon need and risk assessment; and

**WHEREAS**, any municipality or entity that wishes to be considered to have this specialized equipment made available for use within their respective jurisdictional area, hereinafter referred to as "participating municipality or entity", is hereby required to execute and comply with all aspects of this MOU.

**NOW, THEREFORE, BE IT RESOLVED** that the parties of this MOU agree that the preamble above is included herein and shall have full force and binding effect and that the specialized equipment will be made available for use on as as-needed, priority basis, as determined solely by the Middlesex Department of Public Safety and Health, subject to the following provisions:

**A. EQUIPMENT AND TRAINING**

1. Specialized equipment shall, at the discretion of the Director of Public Safety and Health, with the approval of the County agency that has management control over said equipment, be made available for use exclusively by participating municipality or entity. Criteria for receiving the designation as a participating municipality or entity includes, but is not limited to, execution of this MOU, requisite training, and the provision of all requisite documentation and insurance information prior to the equipment being loaned to said agencies.

2. Unless otherwise agreed to by the designated County official, specialized equipment shall be operated and utilized solely by authorized personnel employed by the participating municipality or entity and may not be loaned out to or given to another municipality or entity without the express authorization of the designated County official. Said personnel must successfully complete the established training requirements for the use/operation of said

equipment. The training shall be administered by a designated staff member of the County of Middlesex.

3. The participating municipality or entity assume full responsibility for the security, proper care, and maintenance of said equipment while it is in their possession. To the extent that the intended use of the specialized equipment is anticipated to cause more than normal wear and tear such that there will be a material decrease in the anticipated useful life of the specialized equipment, the County of Middlesex reserves the right to impose a reasonable fee upon the participating municipality or entity for the use of said equipment. The participating municipality or entity agrees to return the equipment to the designated County official immediately upon conclusion of the event or by the agreed upon date, whichever is earlier. Additionally, the County of Middlesex also reserves the right to impose a late fee in case specialized equipment that is in high demand by other law enforcement agencies is not returned prior to the agreed upon date of return (as set forth in B. (3) below), and the County of Middlesex has not agreed to any extensions of time. The amount of the late fee shall be agreed to prior to the release of said equipment by the County to the participating municipality or entity.

#### B. DEPLOYMENT

1. Specialized equipment will be stored at a designated County facility and will be made available to participating municipality or entity for use on an "as-needed, priority basis", subject to availability and requisite approval.

2. The participating municipality or entity hereby agrees to properly store and provide the requisite security of the specialized equipment while it is in their possession, and to take reasonable steps to prevent damage to same.

3. The participating municipality or entity hereby agrees to provide individual formal written requests to the Middlesex County Director of Public Safety and Health for each event in which the use of specialized equipment is sought. The request shall contain a detailed explanation describing the equipment being requested, the event in which it is to be employed, the reason it is needed, and the intended duration (dates/times) that it will be needed.

4. The participating municipality or entity hereby agrees to provide proof of insurance via a Certificate of Insurance with either each request submitted, or for a calendar year if the Certificate of Insurance is applicable to the type of equipment the agency is seeking to utilize. The participating municipality or entity shall always carry and maintain during the period of use the following insurance coverage with an insurance company or companies acceptable to the County, with limits not less than those shown below. A Certificate of Insurance shall be filed with the County prior to commencement of use.

a. Commercial General Liability (CGL): Coverage for all operations including, but not limited to, contractual, products and completed operations, and personal injury with limits no less than \$1,000,000 per occurrence/\$2,000,000 aggregate. The County of Middlesex, its officers, officials, employees, and volunteers shall be included as an additional insured.

b. Automobile Liability: Coverage for all owned, non-owned and hired vehicles with limits not less than \$1,000,000 per occurrence, combined single limits (CSL) or its equivalent.

c. Workers Compensation: As required by the State of New Jersey and Employers Liability with limits not less than \$1,000,000 per accident for bodily injury or disease.

d. Property Insurance (equipment): Coverage insuring against all risk of loss to real or personal property of County while in User's care, custody, and control with limits not less than \$1,000,000 per occurrence/\$2,000,000 aggregate.

Additional Insurance Provisions

- Any combination of primary and umbrella/ excess may be used to satisfy the Limits.
  - Primary Coverage: The Certificate of Insurance should indicate that all insurance coverage's will be provided on a primary, non-contributory basis as respects to the County of Middlesex, its officers, officials, employees, and volunteers for all coverages except Workers Compensation.
  - Notice of Cancellation: Each Insurance Policy required above shall provide that coverage shall not be cancelled, except with notice to the Entity, which in this case is the Middlesex Department of Public Safety and Health.
  - Special Risks: The County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
5. The participating municipality or entity is responsible for conducting a visual and operational inspection of the specialized equipment at the time of the pickup. The participating municipality or entity agrees to document/report any damage or non-operational equipment directly to the designated County representative prior to taking custody of said equipment.
  6. The participating municipality or entity hereby agrees to report directly to the designated County representative any damage incurred to the specialized equipment, as well as non-functional equipment, while said equipment was in their custody and control.
  7. The participating municipality or entity hereby agrees to immediately report any non-functioning or malfunctioning components of the specialized equipment directly to the designee of the County of Middlesex.
  8. The participating municipality or entity hereby agrees to assume responsibility for reimbursing the County for the full costs for the repairs for any damages that occur to the specialized equipment while said equipment is in their custody, or that was not reported at the time of pickup. This clause will be waived if it is determined by the designated County representative that the damage/equipment failure was not the fault of the participating municipality or entity or its personnel.
  9. The participating municipality or entity hereby agrees to return specialized equipment that is equipped with a fuel tank with a full tank of fuel. In the event the participating municipality or entity fails to do so, the participating municipality or entity shall be required to reimburse the County for cost of the fuel to fill the tank (at the rate per gallon in which the County pays for fuel) as well as an additional service fee of \$25.00.
  10. While the County will typically transport the specialized equipment, in the event that County personnel are unavailable or unable to do so, the participating municipality or entity hereby agrees to provide the proper means to transport the specialized equipment to and from the designated County storage facility.
  11. The participating municipality or entity hereby agrees to confer with the OEM Police Bureau personnel concerning deployment of any specialized equipment during events that are deemed confidential, sensitive, high-profile, or controversial in nature.

#### C. INDEMNIFICATION

To the fullest extent permitted by law, the participating municipality or entity shall save, protect, indemnify, and save harmless the County of Middlesex, County Prosecutor, their elected officials, officers, and employees from any and all injuries to persons, deaths or damages to property or claims for injuries to persons, death or damages to property arising out of the participating municipality or entity's use of the specialized equipment including when the active or passive negligence of the County is alleged or proven.

D. SUPERSEDE

This MOU supersedes any prior executed MOUs in respect to specialized equipment

E. COUNTERPARTS

This MOU may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This MOU shall become effective as to each participating municipality or entity upon the execution of the agreement by that participating municipality or entity and upon receipt of the requisite proof of insurance.

**RESOLUTION 2023-281**

**RESOLUTION OPPOSING H.R. 3557, THE AMERICAN BROADBAND ACT OF 2023**

**WHEREAS**, H.R. 3557, “American Broadband Act of 2023,” was introduced with little notice and without full text on May 22, 2023, and was approved by the House Committee on Energy and Commerce, and ordered to be reported following markup only two days later on May 24, 2023; and

**WHEREAS**, prior to H.R. 3557’s introduction, only a single hearing was held on the eventual contents, on April 19, 2023, before the House Communications Subcommittee, the testimony before which consisted exclusively of that from witnesses supportive of federal preemption and to which not a single state or local government representative was invited to testify; and

**WHEREAS**, H.R. 3557 would pre-empt local governments’ rights-of-way compensation and management authority, zoning powers, cable franchising authority, and property rights; and

**WHEREAS**, the proposed bill would bestow on broadband providers an unprecedented federal grant of access to state and local public property, but impose no obligations on those providers to serve “unserved” and “underserved” Americans; and

**WHEREAS**, H.R. 3557 would mandate that siting decisions be “deemed granted” if not denied by a local government within 60 days, which is as little as 25 % of the time the federal government gives itself to make identical decisions concerning access to federal property; and

**WHEREAS**, H.R. 3557 would make virtually any local government decision not to allow the installation of a proposed wireless facility at a provider’s request a “prohibition” preempted by federal law, and would require local governments to draft and publicly release a written explanation for the decision to deny an application on the same day it votes on the decision—a virtually impossible task because such written decisions typically require the examination and analysis of evidence presented to local council; and

**WHEREAS**, the bill would substitute the FCC for the local federal district court as the reviewing body for challenges to local government decisions regarding wireless facility applications, thus breaking the promise made by Congress in 1996 that local governments would not be required to travel to Washington to defend local decisions; and

**WHEREAS**, H.R. 3557 would also eliminate cable franchise renewals, thereby restricting the ability of state or local franchising authorities to enforce franchise obligations such as public, educational, and government channel capacity and facilities, customer service requirements, and system build-out requirements; and

**WHEREAS**, H.R. 3557 would affirmatively grant cable operators the right to use local rights-of-way to provide non-cable services while prohibiting localities from imposing any fees on non-cable services for use of those rights-of-way; and



**WHEREAS**, Congressman Frank Joseph Pallone Jr. serves as the U.S. representative for New Jersey's 6th congressional district, which includes the Borough of Metuchen, and holds a prominent position as a ranking member of the House Energy and Commerce Committee, which approved H.R. 3557; and

**WHEREAS**, during the hearing on H.R. 3557, Congressman Pallone proposed an Amendment opposing the bill and any actions to approve it; and

**WHEREAS**, Congressman Pallone challenged his fellow members of the House Committee on Energy and Commerce to seek input from their respective mayors and councils regarding H.R. 3557 and its potential local impact; and

**WHEREAS**, both the Jersey Access Group and the New Jersey League of Municipalities, organizations of which the Borough of Metuchen is a member, have actively opposed H.R. 3557 and have urged their member organizations to call upon their federal representatives to halt the progress of this legislation; and

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Metuchen opposes H.R. 3557 and urges the House and Senate not to pass this Legislation.

**BE IT FURTHER RESOLVED** that a copy of this resolution be sent to Senate President, Vice President of the United States, Kamala Harris; Speaker of the House of Representatives, Senator Kevin McCarthy; Senator Cory Booker; Senator Bob Menendez; Representative Frank Pallone Jr.; President of the United States Joseph R. Biden; and New Jersey State League of Municipalities.

[Resolution 2024-282 has been rescinded]

**RESOLUTION 2023-282**

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

***RESOLUTION APPROVING A PILOT REVENUE SHARING AGREEMENT IN THE BOROUGH OF METUCHEN, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY***

***WHEREAS***, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Local Redevelopment and Housing Law"), as amended and supplemented provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

***WHEREAS***, by way of Resolution No. 2020-50, adopted February 3, 2020, the Borough's governing body (the "Borough Council") formally declared the entirety of the Borough as an "Area in Need of Rehabilitation" (the "Rehabilitation Area") in accordance with the Local Redevelopment and Housing Law; and

***WHEREAS***, by way of Ordinance No. 2020-10, adopted May 11, 2020, the Borough Council adopted a redevelopment plan entitled "Redevelopment Plan for the Rehabilitation Area in the Borough of Metuchen March 2020," as amended or supplemented, which sets forth, inter alia, the plans for the planning, development, redevelopment, and rehabilitation of the Rehabilitation Area in accordance with the Local Redevelopment and Housing Law; and

***WHEREAS***, pursuant to the Local Redevelopment and Housing Law, via Resolution No. 2015-226 adopted on September 8, 2015, the Borough Council designated Block 37, Lots 5.03, 5.05, 5.12, 5.22, 6, 7.01, 7.02, 13, 14, 15.01, 16.02, 16.03, 17.01 & 17.02; Block 42, Lots 1-7; and, Block 66, Lots 1-3 as a "Non-Condensation Redevelopment Area" (the "Redevelopment Area"); and

**WHEREAS**, by way of Ordinance No. 2021-19, adopted on September 13, 2021, the Borough Council adopted in accordance with the Local Redevelopment and Housing Law a more specific redevelopment plan for the Redevelopment Area, entitled, “Gulton Tract Redevelopment Plan,” prepared by LRK, Inc.; and

**WHEREAS**, by way of Ordinance No. 2022-04, adopted on March 28, 2022, the Borough Council adopted the “Amended Gulton Tract Redevelopment Plan,” prepared by LRK, Inc., dated March 11, 2022, which superseded all previously adopted redevelopment plans for the Redevelopment Area (as amended, the “Redevelopment Plan”); and

**WHEREAS**, pursuant to the Local Redevelopment and Housing Law and Resolution 2022-128, adopted May 23rd, 2022, the Borough and 212 Durham Urban Renewal, LLC entered into a Redevelopment Agreement (the “Redevelopment Agreement”), designating 212 Durham Urban Renewal, LLC (the “Redeveloper”) as redeveloper of a portion of the Redevelopment Area as specified in the Redevelopment Agreement, and setting forth the terms and conditions to which such portion is to be redeveloped; and

**WHEREAS**, pursuant to the Redevelopment Agreement, the Redeveloper proposes to undertake a project consisting of two components, a Residential Project consisting of five (5) story single structure with up to two hundred and seventy-two (272) residential units, fifteen percent (15%) of which shall consist of affordable housing units and associated amenities and Open Space Improvements, a portion of which shall be financed with governmental bonds (collectively, the “Project”); and

**WHEREAS**, by way of Ordinance No. 2022-09, adopted May 23, 2022, the Borough entered into a Financial Agreement for a Long-Term Tax Exemption with the Redeveloper (the “Financial Agreement” or “PILOT Agreement”) in order to memorialize the terms and conditions by which the Redeveloper will pay an Annual Service Charge in lieu of real property taxes on the Project Improvements and Land; and

**WHEREAS**, the Borough will enter into a Pilot Revenue Sharing Agreement (the “Agreement”) with the Metuchen Board of Education (the “BOE”) in order to share a percentage of the PILOT revenue received pursuant to the Financial Agreement for the Project.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen as follows:

1. The foregoing recitals are incorporated herein by reference as if fully set forth at length.
2. That the Pilot Revenue Sharing Agreement be approved and that the Mayor and/or Borough Administrator and the Borough Clerk are hereby authorized to execute the Agreement, upon the review and approval of its final form by the Borough Administrator, Borough Solicitor and Borough Redevelopment Counsel, which such final form will be on file with the Borough Clerk.

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

### **Other New Business**

R2023- 283

RESOLUTION AUTHORIZING THE PAYMENT  
OF THE BILL LIST IN THE AMOUNT OF  
\$10,651,986.23

Council President Delia made a motion to approve Resolution 2023-283, second by Councilmember Giamboi with all in favor, motion carried, 6-0.

**RESOLUTION 2023-283**

**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 \$10,651,986.23.

I, Rebecca Cuthbert, Chief Financial Officer of the Borough of Metuchen do hereby certify that funds are available for the payment of bills for the Borough of Metuchen.

**Adjournment**

Council President Delia made a motion to adjourn the meeting, second by Councilmember Branch, with all in favor, 6-0, the meeting was adjourned at 8:14 p.m.

Respectfully Submitted,

Deborah Zupan, RMC, Borough Clerk