

TOWNSHIP OF LOPATCONG
COUNCIL MEETING

November 12, 2015

The Regular Session of the Council Meeting of the Lopatcong Township Council was called to order by Mayor McKay. The meeting was held in the Municipal Building located at 232 S. Third St., Phillipsburg, New Jersey 08865.

Prayer followed by Oath of Allegiance

Mayor McKay stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay. Also present was Attorney Campbell and Engineer Sterbenz.

Motion to come out of Executive Session by Councilwoman Schneider, seconded by Councilman Belcaro. All in favor.

Attorney Campbell stated that Council was in Executive Session for approximately 50 minutes. The topics of discussion were No. 1, No. 2, No. 3, No. 4, No. 5. There was no discussion on No. 6 or No. 7. Council discussed No. 8, No. 9, and No. 10. The minutes will be available at such time when confidentiality no longer exists.

R 15-130

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND THE
STATE OF NEW JERSEY AUTHORIZING AN EXECUTIVE SESSION

WHEREAS, there are presently pending matters to be considered in Executive Session concerning possible matters listed:

1. Personnel – Best Practices Inventory
2. Personnel – Building Dept./Zoning Office additional duties
3. Personnel – DPW new hire
4. Personnel – CTA/CMFO Resumes
5. Attorney/Client Privileged – Volunteers
6. Potential Litigation – Request for reimbursement of medical expenses related to incident in the Municipal Building on May 20, 2015.
7. Contracts – Banks
8. Contractual – Redeveloper’s Agreement
9. Litigation – Degan v. Lopatcong
10. Indemnification – Chapter 16 Ordinance

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and the State of New Jersey that the Council is authorized to hold an Executive Session.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Township of Lopatcong will make said matters public within approximately 30 days of said meeting or until such a time as confidentiality of the matters is no longer required.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Public Comment:

Video Position: 6:43

Motion to open by Council President Ciesla, seconded by Councilwoman Schneider. All in favor.

Joseph Pryor – Vice-Chairman of the Planning Board. He noted that George Ritter's Report on the Piazza Tract is on the agenda for discussion. Mayor McKay requested his attendance at this meeting to answer questions relating to sewer issues. He felt compelled as the Planning Board Vice-Chairman to make comments on the report. Mr. Ritter's report makes no recommendation as he was not charged to do so. In the report it states the observations and recommendations found in the report are intended as suggestions as to how the Township might use the developer's information in its decision making process and listed questions that the Planning Board may wish to investigate in more detail. The Planning Board only had an informal presentation. He thought George's report presented more questions than answers including whether economics is even a plus for the Township. After hearing the presentation and reviewing George's report, the Planning Board did not make a recommendation. His personal opinion was that he did not have the information to determine whether the project was inherently beneficial and that is a term in the Municipal Land Use Law and you consider this term when you evaluate a proposal for a Use Variance or whether the project fulfilled the positive and negative criteria that are fundamental to approve a Use Variance. He is also concerned over the lack of public input on the proposal. I think you may want to consider at this point putting the application before the Board of Adjustment. It would get a full hearing process rather than be handled rather late at a Council Meeting. Putting it before the Board of Adjustment would do a few things. A formal hearing would require the experts to testify under oath and everybody would hear that. It would allow cross-examination of the experts and direct testimony by the public. It would require the application of criteria and case law under the Municipal Land Use Law. For the Board to grant an approval, very specific criteria would have to be addressed and the burden of proof is on the applicant. The Board would issue a variance as opposed to a zoning change. A variance would allow the Board to negotiate and attach various conditions to any approval it chose to grant. It would also be looking at the Site Plan at the same time. A very efficient process. Nothing is lost except perhaps time. The applicant can appeal an adverse decision to the Council but at least the Council would have the benefit of extensive testimony, the Board's well-reasoned opinion and full documentation and it would guarantee the public would have its say. Mr. Pryor asked the Council to consider this when the matter is discussed later.

Yvette Day – 32 Meadowview Drive. Spoke on Ordinance No. 2015-12 on the LAA breaking away from the town. She has concerns with the Ordinance moving forward. Her husband and she have worked with the LAA for now twelve years and her husband is the Director of the Wrestling Program for last eleven years. Since around May, the Board has talked about the Board breaking away. The appropriate paperwork should be completed before approaching the town. This was not a unanimous decision. She was not here to say it is a bad idea but she wanted appropriate paperwork put in place. Bylaws have been drafted but not approved. There is no fiscal plan. She said the Wrestling budget is \$3300.00 off in their accounting and was not sure where the contract stood. How would the money be divided up for each sport and the equipment. How will this be disbanded? What is the sustainability plan? Nothing has been produced.

John Kosar – 8 Haze Way – He stated that for nine years he was very involved with the LAA being the president for six years. He said he understood why the town would like the LAA to form its 5013C. He said he totally understood the benefits of the 5013C. For 3 years they researched this possibility over and over again. In 1996 it was a bad situation at that time and the Township put an ordinance in place that protects the LAA. That was put in place so the LAA would not fall into these times again. He said is a believer that the LAA should be separated from the town but in order to get there, there needs to be a solid plan.

Marla Endick – 10 Byron Drive – Asked if there was any information that shows the way things are structured today and what the change would be from here to here – any sort of analysis that shows before and after?

Eric Johnson - 361 Stonehenge Drive – Item No. 2 under engineering – high school roadway improvements – is that Belvidere or the high school driveway improvements?

Mayor McKay closed the public comment – motion by Councilman Belcaro, seconded by Councilwoman McCabe. All in favor.

Special Presentation: Superintendent Roncoroni provided an update on the School District.

Video Position: 22:44

Old Business:

Video Position: 27:23

Minutes – Approve Minutes of Special Meeting for August 27, 2015, Executive Session and Regular Session for September 2nd and Special Meeting for September 22, 2015. Motion to approve Special Meeting for September 22, 2015 by Mayor McKay, seconded by Council President Ciesla. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Council President Ciesla, Mayor McKay

NAYS: Councilwoman Schneider

Minutes of August 27, 2015 Special Meeting and Executive Session and Regular Session for September 2, 2015. Motion by Council President Ciesla, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Council President Ciesla

NAYS: Councilwoman Schneider, Mayor McKay

ABSTAIN: Councilwoman Schneider for August 27, 2005

New Business:

Video Position: 29:07

Veteran's Memorial Project – Councilwoman McCabe reported on an update – Veterans are working on setting up a Veteran's Rally Point in the park behind the pavilion. It will be a covered pavilion suitable for musical performances, speeches and other veteran community functions. They are selling bricks that can be engraved honoring a current or former service member. They are looking for a contribution from the Township as well in the amount of \$10,000 toward the project. Mayor McKay said because the town does not have a CFO, he didn't know where the \$10,000 would come from but he thought they could get it. Today he was unable to verify funds. He would like the Council to vote that assuming they can verify funds, and the funds were available and can make them available in some fashion that they should support the project. Mayor McKay made a motion to approve subject to availability of funds that the Council approve the donation by the government of Lopatcong of \$10,000 toward the improvement of our park for the construction of the amphitheater sponsored by the veterans. Attorney Campbell made it clear this is not a donation. Seconded by Councilwoman McCabe. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Council President Ciesla made a motion subject to the availability of funds to sponsor a mailing, seconded by Mayor McKay. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Ordinance No. 2015-11 – First reading to Amend, Revise and Supplement the Code of the Township of Lopatcong to create Chapter 25, entitled “Executive Session”.

ORDINANCE NO. 15-11

ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY TO AMEND, REVISE AND SUPPLEMENT THE CODE OF THE TOWNSHIP OF LOPATCONG TO CREATE CHAPTER 25, “EXECUTIVE SESSION”.

WHEREAS, pursuant to State law (N.J.S.A. 10:4-6, *et seq.*), it requires that all meetings of public bodies be open to the public, except that a public body has a right to exclude the public when it is necessary to discuss certain items as enumerated in N.J.S.A. 10:4-12B, which at the option of the public body can be discussed in what is known as an “Executive Session”; and

WHEREAS, the Council of the Township of Lopatcong, County of Warren, State of New Jersey, wishes to memorialize its procedure with reference to Executive Sessions, so that it is consistent with State law.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Township of Lopatcong, County of Warren, State of New Jersey that the Code of the Township of Lopatcong shall be amended to create Chapter 25, “Executive Session,” as follows:

Section 1:

Chapter 25 Executive Session

§25-1 Executive Session

Whenever it is permissible pursuant to State law for the Township Council to adjourn into an Executive Session to discuss those matters which are set forth in N.J.S.A. 10:4-12B, the Township shall be required to follow the procedures as set forth herein.

§25-2 Resolution for Executive Session

Before the Township Council may discuss any matter in executive session, it must first adopt a resolution, at a meeting to which the public shall be admitted, stating the general nature of the subject to be discussed and stating as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the governing body can be disclosed to the public.

§25-3 Minutes of Executive Session

The Township Council shall cause to be kept reasonably comprehensive minutes of all executive session meetings showing the time and place, the members present, the subject considered and any other information required to be shown in the minutes by law.

§25-4 Approval of Executive Session Minutes

The Township Clerk shall make every effort to draft executive session meeting minutes within thirty (30) days of the meeting; however, all executive session minutes must be drafted and submitted to the Council no later than sixty (60) days from the meeting date, absent exigent circumstances.

When feasible, executive session minutes shall be considered for adoption by the Township Council at the next regularly scheduled meeting after the draft minutes have been provided by the Township Clerk, but no later than the second regularly scheduled meeting of the Township Council. Nothing herein shall be construed as to require the Council to authorize release of any portion of the minutes of an executive meeting when the Council, pursuant to advice from the Township attorney, deems that it cannot be released at that time because the information is still required to be withheld from the public for reasons set forth in the aforesaid statute.

§25-5 Release of Executive Session Minutes

Once the executive session meeting minutes are approved by the Township Council, those minutes are available for inspection pursuant to the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.). The Township Clerk and/or the Township Attorney shall review executive session minutes and make the appropriate redactions prior to any inspection or release of executive session minutes.

§25-6 Annual Review of Minutes

Annually, the Township Clerk and the Township Attorney shall review the executive session meetings minutes and determine if any of those records are no longer subject to redactions under the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.). A list of those meeting minutes shall be provided to Council.

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 4:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on November 12, 2015, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on December 2, 2015 at 7 p.m. or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC
Township Clerk

Councilwoman Schneider made a motion, seconded by Councilman Belcaro. Roll call vote: AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Ordinance No. 2015-12 – First reading to acknowledge the Lopatcong Athletic Associations' Formation as Non-Profit Organization and the Official Athletic Association of the Township. Mayor McKay noted that he thought this was premature – questions on duration, who does what, field use vague, etc. Council President Ciesla informed everyone this will be done via contract. LAA President Lutz spoke to the Council and public with regard to the matter.

ORDINANCE 2015-12

ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY, ACKNOWLEDGING THE LOPATCONG ATHLETIC ASSOCIATION'S FORMATION AS A NON-PROFIT ORGANIZATION AND RECOGNIZING THE LOPATCONG ATHLETIC ASSOCIATION AS THE OFFICIAL ATHLETIC ASSOCIATION OF THE TOWNSHIP

WHEREAS the elected Council of the Township of Lopatcong established the Lopatcong Athletic Association(LAA) in 1997 to further the social, intellectual and athletic development of the children of the Township of Lopatcong; and

WHEREAS over the years, the LAA has grown in participation and reach and has become a fundamental building block in the lives of the children of the Township of Lopatcong; and

WHEREAS the LAA is the governing body for all sanctioned sports in the Township, which includes Baseball, Basketball, Cheerleading, Football, Soccer, Softball, Twirling and Wrestling, and in which the athletes often participate under the LAA's common name of the Lopatcong Panthers; and

WHEREAS the LAA wishes to continue to grow as the provider of recreational athletic opportunities for the children of the Township of Lopatcong and feels it can only accomplish this goal by forming itself as a non-profit organization separate from the township; and

WHEREAS the elected Council of the Township of Lopatcong fully supports the LAA in their goal to become a non-profit organization separate from the township and recognizes that this action will also relieve the township of some of the operational burdens of the LAA;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Lopatcong, County of Warren, State of New Jersey as follows:

Section 1:

The Township Council acknowledges and supports the Lopatcong Athletic Association (LAA)'s desire to form as a non-profit organization separate from the township.

Section 2:

The Township Council recognizes the Lopatcong Athletic Association, as it is now and in its future form as a non-profit organization separate from the township, as the official athletic association of the Township of Lopatcong, and that the LAA will be governed by the rules and regulations applicable to its form of non-profit organization and also by the LAA's adopted by-laws.

Section 3:

Upon formation as a non-profit organization, the Township Council requests that the LAA provide a copy of the LAA's current by-laws and financial statements to the municipal clerk on a yearly basis for public accessibility.

Section 4:

The Township Council will provide the LAA, as a non-profit organization, with a yearly donation of at least \$10,000.00 per year to cover their operating expenses, as determined by the Township Council in consultation with the LAA. This amount can be decreased upon agreement by the Township Council and the LAA.

Section 5:

The Township Council will continue to allow the LAA to use the Township's recreational fields, buildings and equipment in the manner of which they are currently accustomed to using them.

Section 6:

The Township will release all monetary fund's belonging to the LAA immediately upon their request as pursuant to the LAA by-laws approved by the LAA in April 2015 and ratified by the Township Council in May 2015.

Section 7:

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 8:

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 9:

This Ordinance shall take effect as required by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on November 12, 2015, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on December 2, 2015 at 7:30 pm or as soon thereafter as the Township Council may hear this Ordinance in the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC

Council President Ciesla made a motion seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Council President Ciesla

NAYS:

ABSTAIN: Councilwoman Schneider, Mayor McKay

Ordinance No. 2015-13 – First reading of Cable Franchise Renewal Ordinance.

Ordinance No. 2015-13

ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY REPLACING CHAPTER A249, "CABLE TELEVISION FRANCHISE," OF THE CODE OF THE TOWNSHIP OF LOPATCONG TO RENEW THE CABLE FRANCHISE ORDINANCE.

WHEREAS, Service Electric Cable TV of Hunterdon, Inc., a Pennsylvania corporation (SECTV) has applied to the Township of Lopatcong pursuant to the provisions of the Cable Television Act, N.J.S.A. 48:5A-1 et seq. ("the Act") for renewal of the Township's consent to operate a cable television system in the Township of Lopatcong and to use the public roads of the Township for its cable television system.

WHEREAS, a public hearing concerning the franchise granted to the company was held on September 22, 2015 after proper public notice pursuant to the terms and conditions of the Act, the hearing having been fully opened to the public, and the Township having received at the hearing all comments regarding the qualifications of the company to receive a franchise.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the Council of the Township of Lopatcong, County of Harmony, and State of New Jersey, as follows:

SECTION I:

Chapter A249, entitled "Cable Television Franchise" is hereby deleted and replaced in its entirety as follows:

CHAPTER A249

CABLE TELEVISION FRANCHISE

A249-1 SHORT TITLE

This ordinance shall be known and may be cited as the "Service Electric Cable TV of Hunterdon, Inc. Franchise Ordinance."

A249-2 FINDINGS

Service Electric Cable TV of Hunterdon, Inc., a Pennsylvania corporation (SECTV) has applied to the Township of Lopatcong pursuant to the provisions of the Cable Television Act, N.J.S.A. 48:5A-1 et seq. ("the Act") for renewal of the Township's consent to operate a cable television system in the Township of Lopatcong and to use the public roads of the Township for its cable television system. A public hearing concerning the franchise granted to the company was held on September 22, 2015 after proper public notice pursuant to the terms and conditions of the Act, the hearing having been fully opened to the public, and the Township having received at the hearing all comments regarding the qualifications of the company to receive a franchise.

A249-3 DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words

used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

Application shall mean the application for renewal of municipal consent filed with the Township.

Board shall mean The Board of Public Utilities of the State of New Jersey.

Commitments shall mean the commitments, terms and undertakings on the part of Service Electric set forth in this ordinance.

Cable Communications System shall mean any communications service other than cable television reception service delivered through the facilities of a CATV system and for which charges in addition to or other than those made for cable television reception service are made or proposed to be made.

Cable Television Company or *CATV Company* shall mean any person owning, controlling, operating or managing a cable television system. The term "person," as used herein, shall be construed, without limiting the generality thereof, to include specifically any agency or instrumentality of this state or of any of its political subdivisions; but this definition shall not include a telephone, telegraph or electric utility company regulated by the Board in a case where it merely leases or rents or otherwise provides to a CATV company wires, conduits, cables or pole space used in the redistribution of television signals to or toward subscribers or customers of such CATV company.

Cable Television System or *CATV System* shall mean any facility within this state which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable or other device or means for accomplishing such redistribution to members of the public who subscribe to such service or distributing through its facility any television signals, whether broadcast or not, or any part of such facility. The term "facility," as used in this definition, includes all real property, antennas, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a CATV company in providing service to its subscribers and customers.

Company shall mean the grantee of rights under this ordinance awarding a franchise and known as "Service Electric Cable TV of Hunterdon, Inc."

FCC shall mean The Federal Communications Commission.

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. § 521 et seq., or as that statute may be amended.

Federal Regulations shall mean those federal regulations relating to cable television service, 47 CFR 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 CFR 76.3, or as such regulations may be amended.

Highway shall mean every street, road, alley, thoroughfare, way or place of any kind used by the public or open to use by the public.

Person shall mean any natural person, firm, partnership, associates, corporation, company or organization of any kind.

State Act shall mean that statute of the State of New Jersey relating to cable television, commonly known as the "Cable Television Act," N.J.S.A. 48:5A-1 et seq., or as that statute may be amended.

State Regulations shall mean those regulations of the Board 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.

Subscriber Revenues shall mean those revenues derived from all recurring charges in the nature of subscription fees paid by subscribers located within the Township for cable television reception service for which no separate or additional charge is made, i.e. basic cable service.

Township or Municipality shall mean the Township of Lopatcong, County of Harmony, State of New Jersey, and shall include, as appropriate, the governing body of the Township.

A249-4 QUALIFICATIONS AND GRANT OF AUTHORITY

The Township hereby finds that the company possesses the necessary legal, technical, character, financial and other qualifications and that the company's operating and construction arrangements are adequate and feasible. The Township therefore grants the company a franchise, right and privilege to construct, erect, operate, modify and maintain in, upon, along, across, above, over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto such poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Township of a cable television system and cable communications system for the purpose of distributing television and radio signals and other electronic impulses in order to furnish television and radio programs and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said highways, streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth as provided by the Federal Act and State Act.

A249-5 FRANCHISE TERM

The nonexclusive franchise granted the company herein shall expire fifteen (15) years from the date of expiration of the previous certification of approval by the Board. The fifteen-

year term shall be conditioned upon the company complying with a mutually negotiated agreement between the Township and the company for the expansion of the company's cable and internet service to the areas designated in §A249-8 of this Ordinance. The Township reserves the right at any time to enforce and/or terminate the franchise according to applicable laws, rules and regulations for the company's failure to perform any of its commitments and obligations as set forth in this ordinance. Prior to enforcement or termination, the Township shall give the company 60 days written notice to cure the noncompliance. In the event, noncompliance continues, the Township shall file a petition with the Board of Public Utilities seeking such relief as is appropriate under the circumstance.

A249-6 EXPIRATION AND SUBSEQUENT RENEWAL

If the company seeks successive consent, it shall, prior to the expiration of this consent, apply for municipal consent and certificate of approval in accordance with the Cable Television Act, N.J.S.A. 48:5A-11 and 48:5A-16, and applicable State and Federal Rules and Regulations. The company shall also petition the Board for continued operation during the period following expiration of the consent granted herein and until such a time that a decision is made by the municipal governing body relative to the renewal of said consent.

A249-7 PAYMENT TO TOWNSHIP

A. Pursuant to the terms and conditions of the Act, the company shall, during each year of operation under the consent granted herein, pay to the municipality two (2%) percent of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service in the municipality or any amount permitted by the Cable Television Act or otherwise allowable by law. The fee shall be paid on or before January 25 of each year and at the same time the company shall file with the chief financial officer of the municipality a statement showing the gross receipts upon which payment is based.

B. In the event applicable law hereafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Township and the company shall negotiate in good faith with respect to the amount. Additionally, in the event the relevant laws are amended in the future to allow additional fees and/or charges (collectively "fees") to be paid to the Township, the Township shall have the right to impose such fees in accordance with the applicable law. In the event the law does not state the amount the Township is allowed to impose, the parties shall negotiate in good faith with respect to the amount of the fee. In the event any of the fees provided for in this section cannot be agreed to after negotiations, then the Township shall have all rights available to it under law in order to establish the fee.

A249-8 EXTENSION OF SERVICE

A. The Company shall be required to offer service to any residence located in those areas of the franchise territory described herein, in accordance with the proposal for the provision of services as described in the application. Any additional extension of the system will be made in accordance with the proposal in the application.

B. New cable service or products made available to the residents of Phillipsburg shall be made available to all of Lopatcong Township.

C. Any future extensions of the system, or any extension of the system along private roads will be made in accordance with the company's line extension policy, where applicable.

A249-9 CONSTRUCTION REQUIREMENTS

- A. In the event that the company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces in the natural topography, the company shall at its sole expense restore and replace such places or things so disturbed in as good condition as existed prior to the commencement of said work.
- B. In the event that at any time during the term of this ordinance the Township shall lawfully elect to alter or change the grade of any street, alley or other public way, the company, upon reasonable notice by the Township, shall, at its expense, remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures.
- C. The company shall, on the request of any person holding a valid building moving permit issued by the Township, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the company shall have the authority to require such payment in advance. The company shall be given not less than 10 days' advance notice to arrange for temporary wire changes.
- D. During the exercise of its rights and privileges under this franchise, the company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places within the Township so as to prevent the branches of such trees from coming into contact with the wires and cables of the company. Such trimming shall be performed only to the extent necessary to maintain proper clearance for the company's wires and cables.
- E. The company shall cause any and all construction plans relating to work on any extension of the company plant or work which could have a significant impact on public works within the Township to be filed with the Township Engineer.
- F. All facilities and equipment of the company shall be constructed and maintained in accordance with the requirements and specifications of the applicable ordinances and regulations set forth by the Township and/or any other local, state or federal agencies.

A249-10 TERRITORY

The consent granted herein to the company shall apply to the entirety of the municipality and any property hereafter annexed.

A249-11 LOCAL OFFICE AND COMPLAINT PROCEDURES

During the term of this franchise and any renewal term, the company shall maintain a local business office or agent for the purpose of receiving, investigating and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters in accordance with N.J.A.C. 14:18-5.1. All complaints shall be received and processed by the company pursuant to N.J.A.C. 14:17-6.5. The local office shall be open to receive inquiries and complaints and to receive payment of bills from subscribers during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday. Any complaints from subscribers shall be investigated as soon as practicable, but at least within two business days of their receipt. The company shall keep a maintenance service log in the manner required by the regulations of the Office of Cable Television.

A249-12 MUNICIPAL COMPLAINT OFFICER.

The New Jersey Office of Cable Television (OCTV) is hereby designated as the complaint officer required by N.J.S.A. 48:5A-26 to receive and act upon complaints by subscribers to cable television reception service provided pursuant to this franchise.

A249-13 COMMITMENTS BY COMPANY

- A. Facilities and equipment. In transmitting its television signals to subscribers in the Township, the company shall provide a quality of signal that is at least as good as that customarily provided under prevailing industry standards, and the company shall comply with any requirements imposed by the Federal Regulations, any federal pronouncements and, to the extent not preempted by Federal Law, any state pronouncements relating to technical standards for the transmission of television signals, transmission quality or facilities and equipment.

- B. Emergency uses. The company is in compliance with the Federal Emergency Alert System (“EAS) and, as such, the company 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 municipality pursuant to state and federal requirements. The company shall in no way be held liable for any injuries suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television systems as contemplated herein. The municipality shall utilize the state-approved procedures for such emergency uses.

- C. Customer service. At the request of the township, the company and township’s designee shall meet at least semiannually to review all matters relating to cable television in the township, with the minutes of such meetings to be delivered to the company and to be filed with the township.

A249-14 RATES

A. The Township acknowledges that, under the Federal Act, municipalities do not have the authority to regulate the rates the company charges subscribers for its services. Therefore, the Township will not regulate the rates the company may charge subscribers for its service; provided, that, in the event the Federal Act and other applicable law hereinafter is amended to permit the exercise of regulatory power over rates by municipalities, the Township reserves the right to exercise the maximum power permitted by law.

B. The Township is desirous of obtaining reduced rates for senior citizens, disabled residents and other parties for whom reduced rates may currently be available or may be available during the term of this ordinance. Therefore, if the company adopts reduced rates for senior citizens, disabled persons or other parties in the future in accordance with N.J.S.A. 48:5A-11.1 et seq. and the Federal Act or any other law or regulation, these special rates shall be offered to qualified Lopatcong residents.

A249-15 PROGRAMMING

Although nothing herein shall require the company to carry or transmit any particular television stations or programming source, the company shall provide the subscribers in the Township with at least the same broad categories of programming, in approximately the same quantity, as are now provided and which appear in the application.

A249-16 FREE SERVICES

- A. The company shall provide free installation and basic cable service through one service outlet to the following facilities: the municipal building, each Lopatcong Township School building, each police, fire, first aid, emergency management facility,

Department of Public Works, and township-operated community center at no cost. This obligation shall apply to any new facilities in the preceding categories constructed during the term of municipal consent. The installation of each additional outlet shall be paid for by the institution on a material plus labor basis. Monthly service on such additional outlets shall be charged at the regular tariffed rates for additional outlets.

B. The company shall provide free installation of internet services to the same facilities listed in Section A. This obligation shall apply to any new facilities in the preceding categories constructed during the term of municipal consent. The company is not required to provide the monthly service fee free of charge.

A249-17 LIABILITY AND INDEMNIFICATION

- A. The company shall indemnify, protect and save the Township harmless from and against losses and physical damage to property, including those properties owned or under the control of the Township, and bodily injury or death of persons, including payments made under any workmen's compensation law, which may arise out of or be caused by the erection, maintenance, presence, use or removal of said attachments on poles, antennas within the Township or by any act of the company, its agents or employees or arising out of the use, operation, maintenance or revocation for renewal of the system contemplated by this franchise.
- B. The company shall maintain at all times during the term of the franchise liability insurance naming the Township as an insured and providing insurance coverage against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to physical damages to property or bodily injury or death to any one person shall not be less than \$1,000,000 and not less than \$1,000,000 as to any one accident and an excess liability (or "umbrella") policy in the amount of \$5,000,000.
- C. The company shall also maintain any such insurance as it deems necessary to protect it from all claims under the workmen's compensation laws in effect that may be applicable to the franchise.
- D. All insurance required by this ordinance shall be and remain in full force and effect for the entire life of this franchise. A certificate of insurance must be submitted to the Township Attorney to review for compliance with the above-mentioned limits of liability. The Township shall be a named insured on said policies. The insurer shall notice the Township at least 30 days prior of its intention to cancel any policy.

A249-18 PERFORMANCE BOND

During the life of the franchise, the company shall give a bond to the Township in accordance with N.J.S.A. 48:5A-28(d), which bond shall be in the minimum amount of \$25,000. Such bond shall be to insure the faithful performance of all undertakings of the company as represented in the application herein.

A249-19 COMPANY RULES AND REGULATIONS

The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this franchise and to assure uninterrupted service to each and all of its subscribers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with federal and/or state laws.

A249-20 APPROVAL OF TRANSFER

The company shall not sell or transfer its CATV system to another, nor transfer any rights under this franchise to another, except as provided in the State Act.

A249-21 MODIFICATION OF FCC RULES

Any modification of existing and applicable FCC rules resulting from amendment thereto by the FCC shall, to the extent applicable, be considered as part of this franchise as of the effective date of the amendment made by the FCC and shall be incorporated in this franchise by specific amendments thereto by the lawful action of the Township Council within one year from the effective date of the FCC's amendment or at the time of renewal to this franchise, whichever occurs first.

A249-22 COMPLIANCE WITH STATE AND FEDERAL ACTS

This ordinance and franchise are subject to all provisions of the State Act and Federal Act and to all lawful rules and regulations of the OCTV adopted pursuant thereto. The company shall at all times comply with the state regulations governing cable television operation, the State Act, the Federal Act and any other. In the event of a conflict between the State Act and state regulations and any FCC rules and regulations, the FCC rules and regulations shall prevail.

A249-23 PROHIBITED ACTIVITIES

The company shall not allow its cable or other operations to interfere with the television reception of persons not served by the company, nor shall the CATV system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents of the Township.

A249-24 ADDITIONAL SERVICES

In the event, new cable services or products are made available to subscribers in the Town of Phillipsburg, the same or similar service or product shall be made available to all of Lopatcong Township.

A249-25 AMENDMENTS

Subject to the requirements of the Federal Act and approval by the Board, the Township reserves the power to amend any portion of this ordinance after public hearing for the purpose of requiring reasonable additions or greater standards of construction, operation, maintenance or otherwise on the part of the company. Said amendments shall be feasible and within the economic capabilities of the company.

A249-26 COMPLIANCE WITH OTHER PROVISIONS

Notwithstanding any specific mention of applicable federal or state statutes or regulations above, the company shall comply with all of the requirements of the Federal Act, the Federal Regulations, the State Act and State Regulations (to the extent not preempted) and any other valid statute, regulation, rule or promulgation.

A249-27 COMPLIANCE WITH FUTURE PROVISIONS

Should any of the federal or state statutes, regulations or pronouncements applicable to the regulation of cable television be modified in any way, such modifications, to the extent that they embody required terms and conditions and meaningfully can be incorporated into this ordinance, shall be so incorporated, consistent with any applicable effective dates specified in such modification. To the extent that any such modification places limits on permissible terms and conditions and any provision of this ordinance becomes invalid by virtue of such modification, Section A249-27 shall apply.

A249-28 RESERVATION OF RIGHTS

The Township reserves the right to amend this ordinance in the event of any changes in state and/or federal law or regulations regarding cable television in a manner consistent with the regulations of the OCTV/BPU.

A249-29 INCORPORATION OF FRANCHISE APPLICATION

All of the statements and commitments contained in the application and any amendment thereto or otherwise submitted in writing to the Township or its Governing body, except as modified herein, are binding upon the company as terms and conditions of this consent. The application and any other relevant writings submitted by the company shall be annexed hereto and made part hereof by reference to the extent that they do not conflict with state or federal law.

SECTION II

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid, preempted or unconstitutional by any court or Federal or State agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of this ordinance and such holding shall not affect the validity of the remaining portions hereof.

SECTION IV

This Ordinance shall take effect immediately upon final publication as provided by law.

**TOWNSHIP COUNCIL OF THE
TOWNSHIP OF LOPATCONG**

ATTEST:

Beth Dilts, Township Clerk

Thomas McKay, Mayor

DATED: _____

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Township Council of the Township of Lopatcong held on November 12, 2015, at 7:00 PM and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on December 2, 2015, at 7:00 PM, or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 South Third Street, Phillipsburg, New Jersey 08865, at which time all persons interested may appear for or against the passage of said Ordinance.

Beth Dilts, Township Clerk

CERTIFICATION

I, BETH DILTS, Clerk of the Township of Lopatcong, do hereby certify that the foregoing Ordinance was duly adopted by the Township of Lopatcong Council on the day of _____, 2015.

Beth Dilts, Township Clerk

Councilwoman Schneider made a motion to approve seconded by Councilwoman McCabe. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Mayor McKay

NAYS: None

ABSTAIN: Council President Ciesla

Nisivoccia Consulting, LLC – Approve quote from Nisivoccia to purchase computer for Tax Collector’s office at \$845.00 with estimated installation cost of \$330.00. Table until next year’s budget.

Fox Brothers DPW CCTV System – Approve quote from Fox Brothers for repair/upgrade to DPW CCTV System at a cost of \$1,450.00 and replace Camera No. 1 at the Municipal Building at a cost of \$725.00. Table until next year’s budget.

Vanguard Energy, LLC – Authorize quote for Vanguard to analyze the Solar Invertor at Delaware Park Engine Co., No. 1 garage in the amount of \$1,194.20 submitted by Vanguard Energy, LLC. Motion to approve by Councilwoman Schneider, seconded by Council President Ciesla. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Resolution No. 15-131 – Posting on Public Property Policy.

R 15-131

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY IMPLEMENTING A POLICY FOR POSTING MATERIALS ON TOWNSHIP PROPERTY

WHEREAS, the Mayor and Township Council wishes to implement a policy for the posting on municipal property; and

WHEREAS, the Mayor and Township Council believe that a written policy regarding posting material on Township property is important to inform all employees, volunteers and the public of the Township’s policy and the process for disposal of improperly posted material; and

NOW, THEREFORE BE IT RESOLVED, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey the following policy is hereby created:

Posting Materials on Township Property

No person(s), organization, group or entity may post or cause to be posted on any Township property, including but not limited to all Township buildings (interior or exterior), facilities or

equipment, any materials, notices, posters, flyers, banners, signs, letters or stickers. Any material posted in violation of this policy shall be removed and disposed of by the Township. The above prohibition does not prohibit the Township from posting notices issued by any State, County or local government agency.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a Meeting held on Thursday, November 12, 2015.

Margaret B. Dilts, CMC

Motion to adopt by Councilwoman Schneider, seconded by Councilman Belcaro. Roll call vote: AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Resolution No. 15-132 – Prompt Payment Law Policy.

R 15-132

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY IMPLEMENTING A POLICY FOR PAYMENT OF CONSTRUCTION CONTRACTS CONSISTENT WITH THE PROMPT PAYMENT ACT.

WHEREAS, the Mayor and Township Council wishes to implement a policy for the payment of construction contracts consistent with the Prompt Payment Act, N.J.S.A. 2A:30A-1 et seq.; and

WHEREAS, the Prompt Payment Act applies to construction contracts taking effect after September 1, 2006, in which the contractor has contracted directly with the Township.

NOW, THEREFORE BE IT RESOLVED, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey the following policy is hereby created:

Prompt Payment Policy

1. Purpose & Scope

By adopting this policy, the Township of Lopatcong intends to achieve compliance with New Jersey's Prompt Payment Act ("PPA"), N.J.S.A. 2A:30A-1 to -2. The PPA applies to construction contracts taking effect after September 1, 2006, in which the contractor has contracted directly with the Township. The PPA does not apply to transportation projects.

2. Definitions

"Payment cycle" — For purposes of the PPA, the Township's payment cycle occurs on the 1st and 15th days of each month.

"Public meeting" means the Town Council's next scheduled meeting open to the public, whether or not it is a meeting at which the Council routinely takes formal action. The term includes workshop meetings, agenda meetings, forty-eight-hour-notice meetings, and special meetings, but does not include closed or executive sessions or emergency meetings.

3. Required Contract Provisions

- A. In all bid specifications and construction contracts, the Township will include a provision defining “billing date,” for the purposes of final and retainage payments, as the date the bill is received by the Township.
- B. When a construction contract requires more than one payment, the Township will include a provision specifying a “periodic billing date” for each payment.
- C. In all bid specifications and construction contracts, the Township will include a provision defining its bill payment procedure for payments subject to Town Council approval as detailed below, and defining the Township’s “payment cycle” as occurring on the 1st and 15th days of each month.
- D. In all bid specifications and construction contracts, the Township will include a clause providing “that disputes regarding whether a party has failed to make payments required pursuant to the Prompt Payment Act may be submitted to a process of alternative dispute resolution (ADR).” This clause will also provide that the ADR process shall consist of ‘(1) immediate communication between the parties, followed by (2) a review by the Township’s Chief Fiscal Officer, followed by (3) a review by the Town Council, followed by (4) use of an outside mediator or arbitrator”.

4. Procedure for Payments Not Subject to Town Council Approval

Where:

- (1) a contractor has performed in accordance with the provisions of a contract,
- (2) the billing for the work has been approved and certified by the Township or the Township’s authorized approving agent, and
- (3) the payment is not subject to Township Council approval,

such payment will be made within thirty calendar days, unless the Township provides, before the end of the twentieth calendar day, a written statement of the amount withheld, the reason for withholding payment, and the steps necessary to cure the deficiency. If the Township provides no such statement, the billing shall be deemed approved and certified. In the event of any withholding, the Township will engage in a good-faith effort to resolve the reason for the withholding in order to avoid work stoppages under the PPA.

Procedure for Payments Subject to Town Council Approval

Where:

- (1) a contractor “has performed in accordance with the provisions of a contract,”
- (2) the billing for the work has been approved and certified by the Township or the Township’s authorized approving agent, and
- (3) the payment is subject to Township Council approval,

such billing will be submitted to a vote for approval at the Town Council’s next scheduled public meeting following the twentieth calendar day after the billing date. Each approved payment will be made during the Township’s next billing cycle. For each denied payment, the Township will within ten calendar days provide the contractor with a written statement of the amount withheld, the reason for withholding payment, and the steps necessary to cure the deficiency. In the event

of any withholding, the Township will engage in a good-faith effort to resolve the reason for the withholding in order to avoid work stoppages under the PPA.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a Meeting held on Thursday, November 12, 2015.

Margaret B. Dilts, CMC

Motion by Councilwoman McCabe, seconded by Councilwoman Schneider. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Consent Agenda:

Video Position: 1:15:04

Motion to approve Consent Agenda by Council President Ciesla.

Councilman Belcaro asked to put No. 10 aside. Clerk Dilts explained the carpet cleaning routine.

Councilwoman Schneider – Asked about the Towing Contract. Clerk Dilts explained that every three years we go out for applications.

Councilwoman McCabe seconded the Consent Agenda. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Resolution No. 15-133 – Approve Towing Contracts with H&K Auto Body Repairs, Inc., Stew’s Towing, Inc., and Rossnagle’s Service Center, Inc., for a three-year period.

R 15-133

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING THE TOWERS LIST FOR A TERM OF THREE
YEARS – 2016 THRU 2018

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey received applications from companies meeting the criteria set forth in Chapter 223 of the Code of the Township of Lopatcong to provide motor vehicle towing and wrecker services; and

WHEREAS, pursuant to Chapter 223 of the Code of the Township of Lopatcong, approved applicants shall be authorized to provide services for a period of three years; 2016, 2017, and 2018; and

WHEREAS, the following companies have been approved and placed on the “Official Towers List”:

H & K Auto Body Repairs

Rossnagle’s Service Center

Stew's Towing, Inc.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey that the above named companies are approved to provide towing and wrecker services to the Township of Lopatcong for a three-year period.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Thursday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-134 – Authorize redemption of Tax Sale Certificate No. 2015-026 and Premium in the amount of \$3,301.16 on Block 119, Lot 4.

R 15-134

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO
OUTSIDE LIENHOLDER ON BLOCK 119, LOT 4

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on September 23, 2015, a lien was sold on Block 119, Lot 4 also known as 29 Peddlers Lane for 2014 delinquent taxes; and

WHEREAS, this lien, known as Tax Sale Certificate No. 2015-026 was sold to Arthur Frustaci for a Premium of \$1,600.00; and

WHEREAS, Core Logic Tax Real Estate mortgage company for new property owners has satisfied the redemption amount on Certificate No. 2015-026 in the amount of \$1,701.16.

NOW, THEREFORE, BE IT RESOLVED on this 12th day of November 2015, that the Chief Financial Officer be authorized to issue a check in the amount of \$3,301.16 for the redemption of Tax Sale Certificate No. 2015-026 and Premium to:

Arthur Frustaci
712 Rugby Road
Phillipsburg, NJ 08865

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-135 – Authorize redemption of Tax Sale Certificate No. 2014-041 and Premium in the amount of \$4,871.65 on Block 103, Lot 4.

R 15-135

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO
OUTSIDE LIENHOLDER ON BLOCK 103, LOT 4

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on June 25, 2014, a lien was sold on Block 103, Lot 4 also known as 15 Arden Court for 2013 delinquent sewer; and

WHEREAS, this lien known as Tax Sale Certificate No. 2014-041 was sold to US Bank Cust for Actlien Holding for a Premium of \$1,800.00; and

WHEREAS, Corelogic mortgage company for property owners has satisfied the redemption amount on Certificate No. 2014-041 in the amount of \$3,071.65.

NOW, THEREFORE, BE IT RESOLVED on this 12th day of November 2015 that the Chief Financial Officer be authorized to issue a check in the amount of \$4,871.65 for the redemption of Tax Sale Certificate No. 2015-041 and Premium to:

US Bank Cust for Actlien Holding
50 S. 16th St., Suite 1950
Philadelphia, PA 19102

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-136 – Authorize redemption of Tax Sale Certificate No. 2015-007 and Premium in the amount of \$3,988.02 on Block 25, Lot 16.

R 15-136

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO
OUTSIDE LIENHOLDER ON BLOCK 25, LOT 16

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on September 23, 2015, a lien was sold on Block 25, Lot 16 also known as 679 Belvidere Road for 2014 delinquent sewer; and

WHEREAS, this lien known as Tax Sale Certificate No. 2015-007 was sold to US Bank Cust for BV001 Trst & Crdtrs, S010 for a Premium of \$1,800.00; and

WHEREAS, Lereta, mortgage company for new property owners, has satisfied the redemption amount on Certificate No. 2015-007 in the amount of \$2,188.02.

NOW, THEREFORE, BE IT RESOLVED no this 12th day of November, 2015 that the Chief Financial Officer be authorized to issue a check in the amount of \$3,988.02 for the redemption of Tax Sale Certificate No. 2015-007 and Premium to:

US Bank Cust for BV001 Trst & Crdtrs, S010
50 S. 16th St., Suite 1950

Philadelphia, PA 19102

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-137 - Authorize redemption of Tax Sale Certificate No. 10-04 and Premium in the amount of \$52,809.00 on Block 85.03, Lot 6.

R 15-137

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEPTION MONIES TO
OUTSIDE LIENHOLDER ON BLOCK 85.03, LOT 6

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on December 2, 2010 a lien was sold on Block 85.03, Lot 6 also known as 24 Dinah Drive for delinquent taxes; and

WHEREAS, this lien, known as Tax Sale Certificate No. 10-04 was sold to US Bank Cust for Pro Capital I, LLC for a Premium of \$3,800.00; and

WHEREAS, PLS Title and Settlement Services, title company for new property owners has satisfied the redemption amount on Certificate No. 10-04 in the amount of \$49,009.00.

NOW, THEREFORE, BE IT RESOLVED on this 12th day of November 2015 that the Chief Financial Officer be authorized to issue a check in the amount of \$ 52,809.00 for the redemption of Tax Sale Certificate No. 10-04 and Premium to:

US Bank Cust for Pro Capital I, LLC
50 S. 16th St., Suite 1950
Philadelphia, PA 19102

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-138 – Authorize redemption of Tax Sale Certificate No. 2013-016 and Premium in the amount of \$14,385.89 on Block 88, Lot 1.03.

R 15-138

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO
OUTSIDE LIENHOLDER ON BLOCK 88, LOT L.03

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on June 19, 2013 a lien was sold on Block 88, Lot 1.03 also known as 245 Belview Road for 2012 delinquent taxes; and

WHEREAS, this lien, known as Tax Sale Certificate No. 2013-016 was sold to US Bank Cust for Pro Cap II, LLC for a Premium of \$1,500; and

WHEREAS, Property owners have satisfied the redemption amount on Certificate No. 2013-016 in the amount of \$12,885.89.

NOW, THEREFORE, BE IT RESOLVED, on this 12th day of November, 2015 that the Chief Financial Officer be authorized to issue a check in the amount of \$14,385.89 for the redemption of Tax Sale Certificate No. 2013-016 and Premium to:

US Bank Cust for Pro Cap II, LLC
50 S. 16th St., Suite 1950
Philadelphia, PA 19102

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-139 – Authorize redemption of Tax Sale Certificate No. 2015-023 and Premium in the amount of \$3,697.05 on Block 99, Lot 123 C0078.

R 15-139

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO OUTSIDE LIENHOLDER ON BLOCK 99, LOT 123 C0078

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on September 23, 2015, a lien was sold on Block 99, Lot 123 C0078 also known as 78 Overlook Drive in Lopatcong Township for 2014 delinquent sewer taxes; and

WHEREAS, this lien known as Tax Sale Certificate No. 2015-023 was sold to Stuart Lasher for a Premium of \$1,400.00; and

WHEREAS, Wells Fargo mortgage company for property owners has satisfied the redemption amount on Certificate No. 2015-023 in the amount of \$2,297.05.

NOW, THEREFORE, BE IT RESOLVED on this 12th day of November 2015 that the Chief Financial Officer be authorized to issue a check in the amount of \$3,697.05 for the redemption of Tax Sale Certificate No. 2015-023 and Premium to:

Stuart Lasher
P.O. Box 83
Milltown, NJ 08850-0083

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-140 – Authorize redemption of Tax Sale Certificate No. 2015-021 in the amount of \$1,538.12.

R 15-140

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING REDEMPTION OF TAX SALE CERTIFICATE
NO. 2014-021 ON BLOCK 82, LOT 7.01

WHEREAS, at the Lopatcong Township Municipal Tax Ale held on June 25, 2014, a lien was sold on Block 82, Lot 7.01 also known as 502 Baltimore Street for 2013 delinquent sewer taxes; and

WHEREAS, this lien known as Tax Sale Certificate No. 2014-021 was sold to US Bank as Cust. for Actlien Holding for 15% interest; and

WHEREAS, Wells Fargo mortgage company for property owners has satisfied the redemption amount on Certificate No. 2014-021 in the amount of \$1,538.12.

NOW, THEREFORE, BE IT RESOLVED on this 12th day of November 2015 that the Chief Financial Officer is authorized to issue a check in the amount of \$1,538.12 for the redemption of Tax Sale Certificate No. 2014-021 to:

US Bank as Cust for Actlien Holding, Inc.
50 S. 16th St., Suite 1950
Philadelphia, PA 19102

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Resolution No. 15-141 – Authorize refund of duplicate tax payment on Block 99, Lot 67 C0406 in the amount of \$1,364.57 for tax year 2015.

R 15-141

RESOLUTON OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND
STATE OF NEW JERSEY AUTHORIZING TO REFUND DUPLICATE TAX PAYMENTS
FOR TAX YEAR 2015

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey that warrants be drawn to the property owners listed below in the designated amounts representing duplicate tax payments as follows for the tax year 2015.

<u>Block & Lot</u>	<u>Name of Payee</u>	<u>Amount</u>
Block 99, Lot 67 C0406	Kohl, Margaret C/O Cortes & Hay, Inc. 110 Main Street Flemington, NJ 08822	\$1,364.57

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey have approved the refunds made rather than applying these payments to the 2016 property taxes due.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, November 12, 2015.

Margaret B. Dilts, CMC

Brian's Professional Cleaning Co. – Approve quote in the amount of \$975.00 to clean carpets in the Municipal Building.

Twilight Gymnastics 5K Race – Approve Twilight Gymnastics to hold a 5K run in Lopatcong Park on Thursday, November 26, 2015 to raise funds for animal rescue group F.U.R.R.

Engineering Items:

Coordinated health Performance Guarantee – Approve release of Performance Guarantee held on Coordinated Health Block 85, Lots 5 and 5.02 pursuant to conditions outlined in Engineer Sterbenz Report dated November 3, 2015. Engineer Sterbenz recommended release of bonding and also recommended waiver of the Maintenance Bond as there are no public improvements associated with the project. Motion by Councilwoman Schneider, seconded by Councilwoman McCabe. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Phillipsburg High School Roadway Improvement Project – Authorize Engineer Sterbenz to prepare plans and bid documents for the Phillipsburg High School Roadway Improvements following receipt of funds from the Phillipsburg School district. Motion by Councilwoman Schneider, seconded by Councilman Belcaro. Engineer Sterbenz said the Interlocal Agreement is here to be signed. Mayor McKay said he had it and will sign it. He held this back because the estimate for doing this is much larger than it had been earlier. Construction is \$930,000 and that does not include cost of eminent domain for acquisition of certain properties. Engineer Sterbenz said there were two estimates prepared by the Board of Education's consultant prior to the Township being involved in the project and it did have money for right-of-way acquisition in it; about \$922,000. Engineer Sterbenz said we have an estimate that is about the same amount. It is not reflected because they think the right-of-way acquisition is very nominal. Roll call vote:
AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Piazza Tract History Report – Discuss Planner George Ritter’s Report on Block 116, Lots 26.01, 27, 27.02 and 28. Larken’s attorney indicated they had a presentation they would be able to put on. Council President Ciesla indicated notice should have been provided to the public. The report gives you a general overview of the history of the zoning. The report talks about the two proposals that the applicant provided in support of their request for rezoning. A discussion ensued with the Council, Planning Board Chairman and attorney for Larken Associates. Attorney Campbell stated that Larken is an intervener in our case but they have not sued us but are watching very carefully what happens in the Declaratory Judgment Action. Lopatcong currently has immunity and a Builder’s Remedy is not possible. Attorney Campbell thought Larken’s hope is to negotiate rezoning now because once COAH has come out saying we need 200 more units and you don’t have a plan to speak to this, your immunity will eventually run out. A joint meeting will be held in January between Council and the Planning Board. Larken has agreed to put on a presentation. Engineer Sterbenz said the applicant has been talking to the town over quite a bit of time this year. The town should make a decision whether they are in favor or not of this application. The Larken has acted in good faith and put up money for these studies. Mayor McKay said this will be at the January Planning Board Meeting and be advertised as a joint meeting.

Clymer Village – Request in regards to HUD application and PILOT Program. They don’t pay real estate taxes based upon an assessed value but rather based on some formula. Mayor McKay thought it was 15% based on gross rents. Clymer Village wants to refinance the facility to make certain improvements. Attorney Campbell provide Council with a copy of the Tax Abatement Agreement drawn up on 1986. The Pilot Program is for 50 years and 36 years have gone by and they want to refinance. Their lender has said they want them to be in a Pilot Program so they know exactly what the taxes are going to be. They want to extend their Pilot Program 14 more years into the future; past 2036. Attorney Campbell said the agreement actually says “in no event longer than 50 years”. Attorney Campbell will work with National Church Services to figure out just what it is they want and we can do for them. Motion by Mayor McKay, seconded by Council President Ciesla. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Council Reports:

Video Position: 2:07:25

Councilwoman Schneider – DPW – an ad was put out for a second full-time person instead of hiring for a part-time person. The position was offered to Todd Richards. Motion to hire Todd Richards, a full-time Laborer, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Mayor McKay

NAYS:

ABSTAIN: Council President Ciesla

Because of a December 10th tax hearing a temporary assessor Richard Motyka will work for one month for a salary \$4,000. Councilwoman Schneider made a motion to extend the offer for \$4,000 for one month approximately November 23rd to December 23rd. Motion by Council President Ciesla, seconded by Mayor McKay. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

CFO resumes were received and two applicants will be interviewed at the December 2nd meeting in Executive Session.

Eileen Apple in the Building Department is helping out John Fritts who has been appointed to Zoning Officer and she has been assisting him with phones and paperwork and will be offered \$30.00 per hour for two hours each week. Councilwoman Schneider made the motion to extend this to Eileen. Motion by Council President Ciesla, seconded by Mayor McKay. Roll call vote: AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.
NAYS: None

Councilman Belcaro – Reported that final demolition of the pump station. Dan Madden is finalizing the application to the USDA. Chapman is working along with Dan Madden on an issue on Stonehenge Drive.

Councilwoman McCabe – Bldgs. and Grounds – Building is winterized including the pool. The DPW is handling the leaves; bulk first due to safety issues. Updates to the insurance policies have been ongoing over the year. Complaints recently filed may affect our insurance. The good news is Statewide will be renewing our policies for next year. Councilwoman McCabe asked about the Redeveloper's Agreement.

Attorney Campbell informed everyone that George Ritter is working on the Redevelopment Plan as part of the Redevelopment Agreement. They wanted to be clear that they were authorized to do it. Motion by Councilwoman McCabe made the motion, seconded by Council President Ciesla. Roll call vote:
AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.
NAYS: None

Councilwoman McCabe also asked about the Service Electric discounts for senior citizens. She wanted to know if there was a specific form that needs to be in place. There are qualifications for this discount also.

Attorney Campbell - Thought the cable company has the form but she would confirm this.

Council President Ciesla – Shade Tree Commission – She was told that Lisa Correa also resigned but did not know if she sent in a letter. Shade Tree right now does not have enough members to have a quorum. A complaint was sent over but no action could be taken. Matt Herzer sent in a Volunteer Form to be a member of the Commission.

Recreation Committee – Will be holding a meeting on December 14th to discuss a dog park. Planning an Eats and Beats activity to showcase the local restaurants. It will be held at the Delaware Fire Company. Exact price and who will participate is being worked on but will be held in January.

The Board of Education has a new member; Steven Ruane and sworn in to finish out through December 15 and then he will be sworn in again to fulfill his term. Reminded everyone that the school's breakfast for seniors is December 12th from 9:00 to 10:30 am. A book fair at the school will take place on November 17th from 6:00 to 8:00 pm. Mrs. Dutt is doing another Operation Shoebox where you can donate toiletries and other supply items for the troops overseas.

Four Soccer teams went to the playoffs. Congratulated the Intermediate Lopatcong B Team for winning their championship. Football is hosting the playoffs because the Midgets are first seed and the Biddies also are in the championship games.

A resident in Delaware Crossing sent an email concerning the assessments of their area. A spreadsheet was put together and after verifying the numbers, it will be sent on to either Rich or the new assessor.

Congratulated Councilman Belcaro for winning reelection and Joe Pryor too – wished them both the Best of Luck next year.

Mayor McKay – Put together an AdHoc Committee to deal with the high school situation but is disbanding this because all is moving along as it should.

Engineer Sterbenz – No report.

Department Reports – Motion to approve by Council President Ciesla, seconded by Councilwoman McCabe. All in favor.

Payment of Bills: \$2,747,719.84 – Motion to approve Council President Ciesla, seconded by Councilwoman Schneider. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay

NAYS: None

Audience Participation:

Bob Spagna – Sundance Way – With regards to the Piazza Tract – lack of public information. Because of his experience in real estate he suggested a HUD representative to attend the meeting because of the influx of all the units could have an adverse impact – owner occupancy rate. There is a county representative can be requested to appear at the meeting.

Ed Schuster – Edwards Street – Thanked all the candidates and thanked them for taking down their signs.

Yvette Day – Meadowview Drive – Wanted to be crystal clear on what was passed. This was put together by Lori and not reviewed by the counsel for the first reading. Second, can someone produce the Treasurer's Report released to the LAA?

Marla Endick – 10 Byron Drive – New litigation – why was it issued this way on the agenda. Numerous incidents – harassment – criminal actions – issues rose time and again and ignored over and over again. Although this is alleged she said but the clerk filed a complaint last May which council supported and called for an investigation. Is there going to be an investigation with regard to this situation. Attorney Campbell said the lawsuit has been sent to the insurance company and are awaiting a response from the insurance company. Council President Ciesla stated no complaint was filed for the township to investigate. The investigation was regarding a current employee in a situation that was currently happening. In this case, it is filed by a former employee so it is not still happening because she is not here. If the insurance company (their attorney) recommends that be done – in litigation is done all on its own and it is called Discovery; so the insurance company will advise Council.

Matt Herzer – 8 Overlook Drive – Question about the access road to Overlook. There is currently no funds to complete this. Mayor McKay wanted to authorize Engineer Sterbenz to look into this matter. Motion by Councilwoman Schneider, seconded by Mayor McKay. Roll call vote:

AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.

NAYS: None

Olschewski – Highlands Way – Vote on the LAA stuff that there is no information about which included \$10,000 not knowing what it is for. COAH misappropriated or misallocated money he is made aware that some are being rented out to other towns. Some COAH units in our town are being used by other towns as there is that a correct statement he asked.

Motion to adjourn the meeting by Councilman Belcaro, seconded by Councilwoman Schneider.
All in favor.

Respectfully submitted,

Margaret B. Dilts
Clerk/Administrator

Thomas M. McKay
Mayor