

**BOROUGH OF WOODBINE
REGULAR MEETING**

**JANUARY 15, 2015
8:00 P.M.**

Mayor Pikolycky called the Regular Meeting to order and read the following statement, "Adequate notice of this meeting was provided in compliance with the Open Public Meetings Act by notifying the Press and The Herald on January 8, 2015 and posting a copy of said notice on the Clerk's bulletin board."

Those present were: Mayor Pikolycky; Councilpersons Ortiz, Murray, Bennett, Perez, Benson, and Cruz. Also present were: Richard Tonetta, Borough Solicitor; Bruce Graham, Borough Engineer; and Lisa Garrison, Borough Clerk.

Mayor Pikolycky called for approval of the minutes of December 18, 2014. On motion of Councilman Benson, seconded by Councilwoman Ortiz to approve the minutes of December 18, 2014 as presented, motion carried with two (2) abstentions by Councilmen Bennett and Cruz. Mayor Pikolycky next called for approval of the minutes of January 7, 2015. On motion of Councilman Ortiz, seconded by Councilwoman Perez to approve the minutes as presented, unanimously carried.

Mayor Pikolycky called for the following resolutions under a consent agenda and on motion of Councilman Ortiz, seconded by Councilwoman Perez to approve and adopt the following resolutions, unanimously carried.

RESOLUTION NO. 1-2-2015

SETTING MEETING DATES

WHEREAS, N.J.S.A. 40A:60-3 requires the Mayor and Council to set the meeting dates within the first seven days of January each year and to take certain action as required by law.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodbine, in the County of Cape May and the State of New Jersey that the Borough Council meeting days will be the first Thursday at 7:30 P.M. for the Workshop meeting and at 8:00 P.M. for the regular meetings and the third Thursday at 8:00 P.M. for a regular meeting with the following exceptions where only one meeting will be held. June, July and August there will be one meeting held on the third Thursday at 7:30 P.M. for a workshop meeting with the regular meeting immediately following at 8:00 P.M.; and the November meeting will be held on the first Thursday at 7:30 P.M. for a workshop meeting with the regular meeting immediately following at 8:00 P.M.

RESOLUTION NO. 1-3-2015

DESIGNATION OF LEGAL NEWSPAPERS

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodbine, in the County of Cape May and the State of New Jersey, as follows:

That the following newspapers of general circulation within the Borough of Woodbine be designated as the legal newspapers:

The Press of Atlantic City
The Herald Times
The Gazette

RESOLUTION NO 1-4-2015

RE: DESIGNATING OFFICIAL DEPOSITORIES FOR 2015

WHEREAS, it is necessary to designate official depositories for all funds of the Borough of Woodbine for the current calendar year.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodbine, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The official depositories of the Borough of Woodbine shall be;

(A) Sun National Bank

2201 Route 50
Tuckahoe, NJ 08250
Hse, NJ

(B) Bank of America

1 North Main St
Cape May Ct
08210

(C) Franklin Savings
Mulligan Dr & Shore Rd
Ocean View, NJ 08230

(D) First Bank of Sea Isle
4301 Landis Ave
Sea Isle City, NJ 08243

(E) Cape Savings Bank
225 N. Main St
Cape May Ct Hse, NJ 08210

(F) TD Bank
409 Route 9 North
Cape May Ct Hse, NJ 08210

(G) Ocean City Home Bank

(H) Sturdy Savings Bank

105 Roosevelt Blvd
Marmora, NJ 08223

1224 Route 47
Dennisville, NJ 08270

(I) Newfield National Bank
Seaville Office
2087 Shore Road
Seaville, NJ 08230

(J) State of New Jersey
Cash Management
Fund
Sun National Bank
Division of Investment
Dept of Treasury
State of New Jersey

(K) MBIA (Municipal Investors Service Corp)
120 Wood Avenue South, Suite 300, Iselin, NJ 08330

(L) NJ/ARM (Assessed & Rebate Management Program)
156 West State Street
Trenton, NJ 08608

(M) Minotola National Bank
2106 New Road
Linwood, NJ 08221

(N) Boardwalk Bank
Route 9 South & Shellbay Ave
Cape May Court House, NJ 08210

(O) Susquehanna Patriot Bank
PO Box 2000
Lititz, PA 17543-7030

(P) Crest Savings
4415 Landis Avenue
Sea Isle City, NJ 08243

3. All appropriate officers and employees of the Borough of Woodbine are empowered to take any action necessary to give effect to this Resolution.

RESOLUTION NO. 1-5-2015

CASH MANAGEMENT PLAN

BE IT RESOLVED by the Borough Council of the Borough of Woodbine, County of Cape May, that for the year 2015, the following shall serve as the cash management plan of the Borough of Woodbine.

The Chief Financial Officer is directed to use this cash management plan as the guide in

depositing and investing the Borough of Woodbine's funds.

The following are suitable and authorized investments:

Interest-bearing bank accounts and certificates of deposit in authorized Banks, listed on Resolution #1-4-2015 Designating Depository for Municipal Funds, for deposit of local unit funds.

Government money market mutual funds as comply with N.J.S.A. 40A-5-15.1(e)

Local government investment pools which comply with N.J.S.A. 40A:5-15.1(c) and conditions set by the Division of Local Government Service

New Jersey Cash Management Fund

Repurchase agreements (repos) of fully collateralized securities which Comply with N.J.S.A. 40A5-15.1(a).

Each month, the Chief Financial Officer shall prepare a schedule of investments purchased and redeemed, investment earnings, fees incurred and market value of all investments.

The Government Unit Depository Protection act approved banks located in the State of New Jersey and possessing a current Government Unit Deposit Protection Act Eligibility Certificate issued by the New Jersey Department of Bank and Insurance are authorized depositories for the deposit of funds.

The CFO shall report to the governing body any account that does not earn interest.

RESOLUTION NO. 1-6-2015

AUTHORIZING TAX APPEALS TO THE CAPE MAY COUNTY BOARD OF TAXATION

WHEREAS, by directive of the Cape May County Board of Taxation under N.J.A.C. 18:13A-1.6(C) that any and all tax appeals for the increase or decrease of assessments submitted to this Board by the Tax Collector and/or Tax Assessor on behalf of the Borough of Woodbine for the year of 2015 are hereby authorized by this Governing Body of dispositions by the Cape May County Board of Taxation.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodbine, situate in the County of Cape May and State of New Jersey, that this resolution as heretofore stated shall be approved by this Governing Body.

BE IT FURTHER RESOLVED that the Borough Clerk be instructed to submit a certified copy of this resolution to the Borough Tax Assessor and Tax Collector and the Cape

May County Bd. of Taxation.

RESOLUTION NO. 1-7-2015

**AUTHORIZING THE CANCELLATION OF TAX OVERPAYMENTS OR
DELINQUENT AMOUNTS LESS THAN \$10.00**

WHEREAS, N.J.S.A. 40A:5-17 allows or the cancellation of property tax overpayments or delinquent amounts in the amounts of less than \$10.00; and

WHEREAS, the governing body may authorize the Tax Collector to process, without further action on their part, any cancellation of property tax overpayments or delinquencies of less than \$10.00.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Woodbine, County of Cape May, State of New Jersey, hereby authorize the Tax Collector to cancel said tax amounts as deemed necessary.

BE IT FURTHER RESOLVED, that a certified copy of the Resolution be forwarded to the Tax Collector, the Chief Financial Officer and the Municipal Auditor.

RESOLUTION NO. 1-8-2015

SETTING INTEREST AND PENALTY ON PROPERTY TAXES

WHEREAS, under the provisions of N.J.S.A. 54:4-67 the governing body is authorized to fix the rate of discount for prepayment of property taxes or assessments and to fix the rate of interest for non-payment of property taxes or assessments on or before the date when they would become delinquent; and

WHEREAS, the aforesaid statute was amended to provide for the assessing of a penalty to be charged to a taxpayer with a delinquency in excess of TEN THOUSAND (\$10,000.00) DOLLARS; and

WHEREAS, pursuant to N.J.S.A. 54:4-66, it is provided that property taxes shall be payable in quarterly annual installments with the first installment due on February 1st, the second installment on May 1st, the third installment on August 1st and the fourth installment due on November 1st, after which dates, if unpaid, they shall become delinquent, which statute also provides for the manner in which quarterly installments or property taxes shall be determined and received;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbine:

- A. That no discount be allowed for prepayment of property taxes or assessments.
- B. That the rate of interest to be charged for the non-payment of property taxes or

assessments on or before the date they would become delinquent, as fixed by statute, shall be Eight (8%) Percent per annum on the first ONE THOUSAND FIVE HUNDRED (\$1,500.00) of the delinquency, and Eighteen (18%) Percent per annum on any amount in excess of ONE THOUSAND FIVE HUNDRED (\$1,500.00) DOLLARS to be calculated from the date the tax was payable to the date of actual payment, provided no interest shall be charged if payment of any installments is made on the due date; provided, however, that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same become payable; and

C. In the event there is a delinquency in excess of TEN THOUSAND (\$10,000.00) DOLLARS at the end of the calendar year, then the Tax Collector is authorized to charge a penalty of Six (6%) Percent of the amount of the delinquency. The delinquency shall mean the sum of all taxes and municipal charges due on a given parcel of property covering any number of quarters of years.

D. That the provision of this resolution shall remain in full force and effect until further action of the Borough Council.

E. That a certified copy of this Resolution be filed with the Collector of Taxes.

RESOLUTION NO. 1-9-2015

A RESOLUTION TO SUPPORT AND PARTICIPATE IN THE VOLUNTEER TUITION CREDIT PROGRAM (P.L. 1998, c. 145)

WHEREAS, the Mayor and Council of the Borough of Woodbine in the County of Cape May, deems it appropriate to enhance the recruitment and retention of volunteer firefighters and emergency medical volunteers in the Borough of Woodbine; and

WHEREAS, the State of New Jersey has enacted P.L. 1998, c. 145 which permits municipal governments to allow their firefighting and emergency volunteers to take advantage of the Volunteer Tuition Credit Program at no cost to the municipal government.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodbine in the County of Cape May that the Volunteer Tuition Credit Program as set forth in P.L. 1998, c.145 is herewith adopted for the volunteer firefighters and emergency medical volunteers in the municipality; and

BE IT FURTHER RESOLVED, that the Borough clerk is herewith delegated the responsibility to administer the program and is authorized to enter into all agreements and to maintain files of all documents as may be required under the P.L. 1998, c. 145, a copy of which is herewith made part of this resolution.

RESOLUTION NO. 1-10-2015

RISK MANAGEMENT CONSULTANT

ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND

WHEREAS, the Governing Body of the Borough of Woodbine has resolved to join Atlantic County Municipal Joint Insurance Fund, a self insurance pooling fund following a detailed analysis and;

WHEREAS, the Bylaws of said fund require that each municipality appoint a **RISK MANAGEMENT CONSULTANT** to perform various professional services as detailed in the Bylaw and;

WHEREAS, the Bylaws indicate a fee not to exceed six percent (6%) of the municipal assessment which expenditure represents reasonable compensation for the services required and was included in the cost considered by the Governing body and;

WHEREAS, the judgmental nature of the Risk Management Consultant's duties renders comparative bidding impractical;

NOW, THEREFORE, be it resolved that the governing body of the Borough of Woodbine does hereby appoint, Michael McLaughlin, of Marsh & McLennan Agency, LLC as its Risk Management Consultant in accordance with 40A:11-5 and;

BE IT FURTHER RESOLVED that the governing body is hereby authorized and directed to execute the Consultant's Agreement annexed hereto and to cause a notice of this decision to be published according to NJSA 40A:11-5 (1), (a),(i)

RESOLUTION NO. 1-11-2015

APPOINTMENT OF SPECIAL LEGAL COUNSEL FOR COUNTY AND STATE TAX APPEALS

WHEREAS, the Borough deems it necessary and appropriate to utilize the service of special legal counsel to represent its interests in connection with any County Tax Board and State Tax Court appeals; and

WHEREAS, the following nomination has been made by the Mayor for appointment of Special Legal Counsel subject to the advice and consent of Borough Council, **THOMAS G. SMITH** to serve as Special Legal Counsel; and

WHEREAS, the Chief Financial Officer has determined and certified in writing that the value of the contract will not exceed \$17,500.00; and

WHEREAS, funds are available for the purposes set forth above; and

WHEREAS, the Borough Council has duly considered the matter and wishes to express its advice and consent.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodbine in the County of Cape May and State of New Jersey as follows:

1. The statements of the preamble are incorporated herein by this reference.
2. That THOMAS G. SMITH is confirmed to the position of Special Legal Counsel for the term of one (1) year.
3. The aforesaid appointment shall be effective immediately and the individual shall hold said until his or her successor is duly appointed and qualified.
4. The Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough of Woodbine, a Professional Services Contract in accordance with the requirements of Local Public Contracts Law since the individual appointed practices in a recognized profession, whose members are licensed and regulated by the State of New Jersey and who possess a high degree of specialized training and the performance of the service required judgment and will likely create a fiduciary relationship between the appointing authority and the individual so appointed.
5. The Clerk of the Borough of Woodbine is hereby authorized and directed to publish a notice of the award of this contract in the official newspaper of the Borough of Woodbine, within the time prescribed by law and in accordance with the requirements of the Local Public Contracts Law of the State of New Jersey.

RESOLUTION NO 1-12-2015

APPOINTMENT OF MUNICIPAL ENGINEER

WHEREAS, every municipality is required by N.J.S.A. 40A:9-140 to appoint a Municipal Engineer; and

WHEREAS, pursuant to N.J.S.A. 40A:9-140 the following nomination has been made by the Mayor for appointment to the Municipal Engineer subject to the advice and consent of Borough Council **Bruce Graham, PE of Van Note-Harvey Associates** to serve as Municipal Engineer; and

WHEREAS, said appointment is being awarded through a Fair and Open process pursuant to the New Jersey Pay to Play, New Jersey Campaign Contributions and Expenditures Reporting Act; and

WHEREAS, fund are available for the purposes set forth above; and

WHEREAS, Borough Council has duly considered the matter and wishes to express its advice and consent.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough

of Woodbine, in the County of Cape May and State of New Jersey as follows:

The allegations of the preamble are incorporated herein by this reference.

That Bruce Graham is confirmed to the position of Municipal Engineer for a term of one year.

The aforesaid appointment shall be effective immediately and the individual so appointed shall hold said position until his successor is duly appointed and qualified.

The Mayor and Borough Clerk are authorized to execute on behalf of the Borough of Woodbine, a professional services contract with the requirements of Local Public Contracts Law since the individual appointed practices in a recognized profession, whose members are licensed and regulated by the State of New Jersey and who possess a high degree of specialized training and the performance of the service required judgment and will likely create a fiduciary relationship between the appointing authority and the individual so appointed.

The Clerk of the Borough of Woodbine is hereby authorized and directed to publish a notice of the award of this contract in the official newspaper of the Borough of Woodbine, within the time prescribed by law and in accordance with the requirements of the Local Public Contracts Law of the State of New Jersey.

RESOLUTION NO 1-12-2015

APPOINTMENT OF MUNICIPAL ENGINEER

WHEREAS, every municipality is required by N.J.S.A. 40A:9-140 to appoint a Municipal Engineer; and

WHEREAS, pursuant to N.J.S.A. 40A:9-140 the following nomination has been made by the Mayor for appointment to the Municipal Engineer subject to the advice and consent of Borough Council **Bruce Graham, PE of Van Note-Harvey Associates** to serve as Municipal Engineer; and

WHEREAS, said appointment is being awarded through a Fair and Open process pursuant to the New Jersey Pay to Play, New Jersey Campaign Contributions and Expenditures Reporting Act; and

WHEREAS, fund are available for the purposes set forth above; and

WHEREAS, Borough Council has duly considered the matter and wishes to express its advice and consent.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough

of Woodbine, in the County of Cape May and State of New Jersey as follows:

The allegations of the preamble are incorporated herein by this reference.

That Bruce Graham is confirmed to the position of Municipal Engineer for a term of one year.

The aforesaid appointment shall be effective immediately and the individual so appointed shall hold said position until his successor is duly appointed and qualified.

The Mayor and Borough Clerk are authorized to execute on behalf of the Borough of Woodbine, a professional services contract with the requirements of Local Public Contracts Law since the individual appointed practices in a recognized profession, whose members are licensed and regulated by the State of New Jersey and who possess a high degree of specialized training and the performance of the service required judgment and will likely create a fiduciary relationship between the appointing authority and the individual so appointed.

The Clerk of the Borough of Woodbine is hereby authorized and directed to publish a notice of the award of this contract in the official newspaper of the Borough of Woodbine, within the time prescribed by law and in accordance with the requirements of the Local Public Contracts Law of the State of New Jersey.

RESOLUTION NO. 1-14-2015

APPOINTMENT OF REGISTERED MUNICIPAL ACCOUNTANT

WHEREAS, every municipality is required by N.J.S.A. 40A:5-4 to appoint a Registered Municipal Accountant, who must be registered.

WHEREAS, pursuant to N.J.S.A. 40A:5-4 the following nomination has been made by the Mayor for appointment of the Municipal Auditor subject to the advice and consent of Borough Council, Kenneth Moore of Ford-Scott Associates, LLC to serve as Municipal Accountant.; and

WHEREAS, said appointment is being awarded through a Fair and Open process pursuant to the New Jersey Pay to Play, New Jersey Campaign Contributions and Expenditures Reporting Act; and

WHEREAS, funds are available for the purpose set forth above; and

WHEREAS, the Borough Council has duly considered the matter and wishes to express its advice and consent.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Woodbine, in the County of Cape May and State of New Jersey as follows:

The allegation of the preamble are incorporated herein by this reference.

That Kenneth Moore is confirmed to the position as Registered Municipal Accountant for a term of one (1) year.

The aforesaid appointment shall be effective immediately and the individual so appointed shall hold said position until his or her successor is duly appointed and qualified.

The Mayor and Borough Clerk are authorized to execute on behalf of the Borough of Woodbine, a Professional Services Contract with the aforesaid individual. Said contract is to be awarded without competitive bidding as a professional services contract in accordance with the requirements of the Local Public Contracts Law and since each of the individuals appointed practices in a recognized profession which members are licensed and regulated by the State of New Jersey and which possess a high degree of specialized training and the performance of the services requires judgment and will likely create a fiduciary relationship between the appointing authority and the individual so appointed.

The Clerk of the Borough of Woodbine is hereby authorized and directed to publish a notice of the award of this contract in the official newspaper of the Borough of Woodbine, within the time prescribed by law and in accordance with the requirements of the Local Public Contracts Law of the State of New Jersey.

RESOLUTION NO. 1-15-2015

AUTHORIZING PROFESSIONAL SERVICES AGREEMENT (GRANT SERVICES)

WHEREAS, the Borough of Woodbine desires to engage Triad Associates to provide general grant services for the year 2015 to assist in carrying out the planning and execution activities; and

WHEREAS, said appointment is being awarded through a “Fair and Open” process pursuant to the New Jersey Pay to Play, New Jersey Campaign Contributions and Expenditures Reporting Act; and

WHEREAS, funds are available for the purposes set forth above; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for professional services without competitive bids, and the contract itself, must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and council of the borough of Woodbine as follows:

1. The Mayor and Borough Clerk are hereby authorized and directed to execute an agreement with Triad Associates.

2. This contract is awarded through a “Fair and Open” process pursuant to the New Jersey Pay to Play, New Jersey Campaign Contributions and Expenditures Reporting Act.
3. A notice of this action shall be printed in The Herald.

Mayor Pikolycky called for the following additional proposed ordinances and resolutions:

PROPOSED ORDINANCE NO. 550-2015

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF WOODBINE, CHAPTER XXV, ENTITLED ‘DEVELOPMENT FEES’ TO PROVIDE FOR ADMINISTRATIVE FEES AND ESCROW FEES FOR ZONING AND PLANNING IN THE BOROUGH OF WOODBINE

WHEREAS, the Council of the Borough of Woodbine has received Resolution No. 5-12-14 from the Borough of Woodbine Planning/Zoning Board recommending that Chapter XXV of the Borough Code be amended so as to increase the administrative and zoning fees contained therein; and

WHEREAS, the Council has determined that the aforesaid fee and escrow increases are necessary to cover the Borough’s administrative costs as well as the fees charged by the Planning/Zoning Board’s consulting professionals;

NOW, THEREFORE BE IT, ORDAINED that Chapter XXV, Section 2 (“Schedule Fees”) is hereby amended as follows:

25-2 SCHEDULE OF FEES AND ESCROW DEPOSITS

25-2.1 Informal Review.

	Application Fee	Escrow Fee
	<u>\$275.00</u>	\$300.00

25-2.2 Minor Subdivisions and Sketch Plats.

	Application Fee	Escrow Fee
1. Minor Subdivision	<u>\$350.00</u>	\$1,000.00
2. Resubmission	\$ 50.00	\$ 250.00

- a. Application Fee: **\$400.00**
- b. Escrow Deposit. The actual costs incurred by the Board in review of the Conditional Use Permit application and any escrow deposits required by this Ordinance (site plan, etc.) with a minimum escrow of \$1,000.00 required.

25-2.6 Variance Application Fees and Escrow Fees (Per Lot).

	Application Fee	Escrow Fee
a. Use "D" Variances	<u>\$400.00</u>	\$850.00
b. All "C" Variances	<u>\$375.00</u>	
c. Appeals/Request for Interpretations	<u>\$300.00</u>	\$600.00

25-2.7 Resubmission of Subsection 25-2.6a. through c.

One-half (½) of the amount of the original administrative fee, plus one hundred (100%) percent of the actual costs incurred for review by the Board and all required escrow deposits. (Ord. No. 510-2009 § VII)

25-2.8 Engineering Costs; Inspections Costs; Attorney Review Costs; and Other Professional Review Costs.

- a. Review Costs. The applicant shall be responsible for payment of all actual costs incurred by the Planning/Zoning Board as submitted to it by the Board Engineer or Board Planner, the Board Attorney or any other professional retained by the Board.

25-2.9 Transcripts of Proceedings and Duplication of Documents.

- a. Duplication of transcripts, recordings, mailings, etc. \$0.50 per page plus the actual cost of transcription of the testimony if transcripts are requested.

25-2.10 Special Meetings Requested by Applicant.

- a. Application Fee: **\$550.00**
- b. Escrow Fee: Actual costs incurred by the Board, **with a minimum fee of \$1,500.00. The Applicant shall be responsible for payment of all actual costs incurred by the Planning/Zoning Board as submitted to it by the Board**

engineer, Board Planner, the Board Attorney or any other professional retained by the Board.

25-2.11 Pinelands Local Review. (Review fee for streamlined local review of permits are requested and issued).

- a. Application Fee \$100.00
- b. Escrow Fee \$600.00 plus additional actual costs incurred by the Borough in the review process, to be billed, if necessary.

25-2.12 Zoning Permit Fees. (Paid to Zoning Officer at the time zoning permits are requested and issued).

- a. Zoning Permit Fee.
 - 1. Permit Fee \$50.00
- b. Resubmission Fee.
 - 1. Permit Fee \$40.00

25-2.13 Tax Map Maintenance Fees. Prior to final approval, an applicant for the below listed applications shall pay a Tax Map Maintenance Fee to the Borough of Woodbine for each newly described lot, each newly created lot, revised right-of-way, easement to be created or altered, lot consolidation, or street vacation.

- | | |
|--|---|
| 1. <u>Minor subdivision</u> | <u>\$100 per lot</u> |
| 2. <u>Major subdivision</u> | <u>\$100 per lot</u> |
| 3. <u>Minor Site Plan</u> | <u>\$100.00 per easement or revised right-of-way</u> |
| 4. <u>Major Site Plan</u> | <u>\$100.00 per easement or revised right-of-way</u> |
| 5. <u>Easement to be created or altered</u> | <u>\$100.00 per effected lot</u> |
| 6. <u>Lot Consolidation</u> | <u>\$100.00 per altered lot</u> |
| 7. <u>Street Vacation</u> | <u>\$100.00 per altered lot</u> |

SECTION 2

All ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3

Should any provision of this ordinance be deemed invalid for any reason that invalidity shall not affect the remaining provisions of the ordinance, and the provisions and sections of the ordinance are hereby declared to be severable with respect to their validity.

SECTION 4

After introduction and passage upon first reading, this ordinance shall be referred to the Planning Board of the Borough of Woodbine for review and comment in accordance with the Municipal Land Use Law.

SECTION 5

This ordinance shall take effect twenty (20) days after final passage, according to law.

On motion of Councilman Benson, seconded by Councilman Bennett to approve the introduction of the foregoing proposed ordinance, unanimously carried upon roll call vote. Ayes: Ortiz, Murray, Bennett, Perez, Benson, Cruz Nays: None Abstain: None Absent: None

On motion of Councilwoman Perez, seconded by Councilman Cruz to approve the introduction of the following proposed ordinance, unanimously carried upon roll call vote. Ayes: Ortiz, Murray, Bennett, Perez, Benson, Cruz Nays: None Abstain: None Absent: None

PROPOSED ORDINANCE NO. 551-2015

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST OF SOUTH JERSEY, LLC TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN WOODBINE BOROUGH, NEW JERSEY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF WOODBINE BOROUGH, CAPE MAY COUNTY, NEW JERSEY, AS FOLLOWS:

SECTION 1. PURPOSE OF THE ORDINANCE

The municipality hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the municipality, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the Municipality of a cable television and communications system.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- a. "Borough" or "Municipality" is the Borough of Woodbine, County of Cape May, State of New Jersey.

- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of South Jersey, LLC.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS

Public hearings conducted by the municipality, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the municipality, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Municipality 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.

SECTION 4. DURATION OF FRANCHISE

The non-exclusive Municipal Consent granted herein shall expire 15 years from the date of expiration of the previous Certificate of Approval issued by the Board with a 10-year automatic renewal as provided by N.J.S.A. 48:5A-19 and 25, and N.J.A.C. 14:18-13.6.

In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE

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 percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance for the renewal of the franchise shall apply to the entirety of the Municipality and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy, as set forth in the Company's Application.

SECTION 8. CONSTRUCTION REQUIREMENTS

- a. Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.
- b. Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.
- c. Removal or Trimming of Trees: 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 or other public places of the Municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

SECTION 9. CUSTOMER SERVICE

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service

and shall be prepared to report on it to the Municipality upon written request of the Municipality Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- c. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- d. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

SECTION 10. MUNICIPAL COMPLAINT OFFICER

The Office of Cable Television is hereby designated as the Complaint Officer for the Municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Municipality shall have the right to request copies of records and reports pertaining to complaints by Municipality customers from the OCTV.

SECTION 11. LOCAL OFFICE

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters.

SECTION 12. PERFORMANCE BONDS

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY

- a. The Company shall provide Expanded Basic or a similar tier of cable television service on one (1) outlet at no cost to each qualified existing and future school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service.
- b. The Company shall provide Expanded Basic or a similar tier of cable television service at no cost on one (1) outlet to each qualified existing and future police, fire, emergency management facility and public library in the Municipality, provided the facility is located within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Municipality.
- c. Within six months of the issuance of a Renewal Certificate of Approval by the BPU, the Company shall provide to the Municipality a one-time Technology Grant in the amount of ten thousand dollars (\$10,000) to meet the technology and/or cable related needs of the community.
- d. The Communications Act of 1934, as amended [47 U.S.C. §543 (b)], allows the Company to itemize and/or identify: (1.) the amount on the subscriber bill assessed as a franchise fee and the identity of the governmental authority to which the fee is paid; (2.) the amount on the bill assessed to satisfy any requirements imposed on the Company by the cable franchise to support public, educational, and/or governmental access channels or the use of such channels; and (3.) any grants or other fees on the bill or any tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. The Company reserves these external cost pass-through rights to the extent permitted by law.

SECTION 15. EDUCATIONAL AND GOVERNMENTAL ACCESS

- a. Within (12) months of receipt of a Renewal Certificate of Approval (COA) by the OCTV, the Company shall provide one (1) channel for Educational and Governmental (“EG”) access for the shared use by Woodbine Borough and Dennis Township (collectively, “Municipalities”) on the most basic tier of service offered by the Company in accordance with Section 611 of the federal Cable Act, and as further set forth below. Educational access message board content shall be provided by the governing bodies of the Municipalities or other designated educational institution. Government access bulletin board content shall be provided by the Municipalities. Unused capacity may be utilized by the Company subject to the provisions for “fallow time” below.
- b. The Company will provide the initial Webus hardware and other equipment necessary to broadcast EG bulletin board slides. The Company will not be responsible for the maintenance of any equipment, computers, or Internet service used by Woodbine Borough and its designated EG administrators to access the web based Webus platform.

- c. The Company does not relinquish its ownership of or ultimate right of control over a channel by designating it for EG use. An EG access user – whether an educational or government user – acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use.
- d. The Company shall not exercise editorial control over any educational or governmental use of channel capacity, except in accordance with federal law the Company may refuse to transmit any educational or governmental access program or portion of an educational or governmental access program that contains obscenity, indecency, or nudity.
- e. The governing bodies of the Municipalities shall be responsible for developing, implementing, and enforcing rules for EG Access programming.
- f. Educational Access. “Educational Access” shall mean non-commercial use for educational purposes that is managed, scheduled, and programmed by local educational institutions such as public or private schools, but not “home schools,” community colleges, and universities.
- g. Government Access. “Government Access” shall mean noncommercial use by the governing bodies of the Municipalities, for the purpose of showing the public local government at work.
- h. Company Use of Fallow Time. Because blank or under-utilized EG channels are not in the public interest, in the event the Municipalities or other EG access users elect not to fully program their EG access channel, Company may program unused time on those channels subject to reclamation by the Municipality upon no less than 60 days written notice.

SECTION 16. EMERGENCY USES

- a. The Company will comply with the Emergency Alert System (“EAS”) rules in accordance with applicable state and federal statutes and regulations.
- b. The Company shall in no way be held liable for any injury 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 system as contemplated herein.

SECTION 17. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

SECTION 18. INCORPORATION OF THE APPLICATION

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

SECTION 19. COMPETITIVE EQUITY

Should the Municipality grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

SECTION 20. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 21. THIRD PARTY BENEFICIARIES

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 22. EFFECTIVE DATE

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

RESOLUTION NO. 1-16-2015

A RESOLUTION OF THE BOROUGH OF WOODBINE AUTHORIZING THE TAX COLLECTOR TO CANCEL TAX CERTIFICATE OF SALE NO. 15-00018 TO CORRECT CLERICAL ERROR OF PROPERTY OWNER.

WHEREAS, due to a tax delinquency on certain property known as Block 58, Lot 6.02 (“Property”), the Tax Collector caused a sale on January 2, 2015, in accordance with NJSA 54:5-1, et seq, of Certificate of Sale No. 15-00018 to the Borough of Woodbine subject to redemption or repayment of the amount of sale; and

WHEREAS, prior to the sale of the Property, the owner of Block 58, Lot 6.02, provided payment to the Tax Collector in an amount sufficient to satisfy the unpaid taxes, interest and penalties but the payment instructions by the owner inadvertently were to apply the payment to Block 58, Lot 9, and, therefore, the Tax Collector took the appropriate action; and

WHEREAS, after the owner learned of the error, the Tax Collector was advised of the same and applied the payments made to Block 58, Lot 6.02 thereby satisfying the amount due to the Borough; and

WHEREAS, Borough Council finds it to be in the best interest of the Borough of Woodbine to cancel Tax Sale Certificate No. 15-00018.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF BOROUGH OF WOODBINE, that the Tax Sale Certificate No. 15-00018 to the Borough of Woodbine be and is hereby canceled and of no further force and effect.

On motion of Councilwoman Perez, seconded by Councilman Ortiz to approve and adopt the foregoing resolution, unanimously carried.

Mayor Pikolycky announced the following appointments and Standing Committees:

Planning Board Class I – Mayor’s Designee – David Bennett
Planning Board Class II – Jeff Doran
Planning Board Class IV – Tom Player
Planning Board Class IV – Lisa Fisher
Planning Board Class IV - Michael Gaines
Planning Board Alternate I – George Sherby
Planning Board Alternate II – Greg Hudgins
Planning Board Alternate IV – Vacant

Standing Committees for 2015

Public Works/Buildings & Grounds:	David Bennett, Chairman Mary Helen Perez Hector Cruz
Health, Education & Human Services:	Michael Benson, Chairman Hector Cruz Louis Murray
Public Safety & Courts:	Hector Cruz, Chairman Eduardo Ortiz Louis Murray
Community Affairs & Grants:	Eduardo Ortiz, Chairman Michael Benson David Bennett

Property & Small Business:

Louis Murray, Chairman
Mary Helen Perez
Eduardo Ortiz

Revenue & Finance:

Mary Helen Perez, Chairwoman
Michael Benson
David Bennett

Mayor Pikolycky called for the Nomination of Council President. Councilwoman Perez nominated Councilman Ortiz as Council President. Said nomination was seconded by Councilman Benson and unanimously carried to approve Councilman Ortiz as Council President.

Mayor Pikolycky called for the Nomination for Appointment of Council Representative on the Woodbine Planning/Zoning Board. Councilman Bennett nominated Councilman Benson. Said nomination was seconded by Councilman Cruz and unanimously carried to approve Councilman Benson as Council Representative on the Woodbine Planning/Zoning Board.

Unfinished Business: None

New Business: None

Engineer's Report: Mr. Graham reported the Borough of Woodbine will remain as a Tier B in regards to the Municipal Stormwater Management regulations.

Solicitor's Report: Mr. Tonetta updated Council on the Rutkowski bankruptcy.

At this time, Mr. Zumpino, of Triad Associates, reviewed the history and status of the Open Space Grant.

Payment of Bills: On motion of Councilwoman Perez, seconded by Councilman Cruz to approve the bills for payment, unanimously carried.

Public Comment: None

Adjournment: On motion of Councilwoman Perez, seconded by Councilman Ortiz to adjourn, unanimously carried.

Respectfully submitted,

Lisa Garrison
Borough Clerk

