

SEPTEMBER 17, 2012

Regular Meeting of Mayor and Council was convened at 8:27 p.m. on September 4, 2012 in Council Chambers of Borough Hall with Mayor Dempsey presiding.

Mayor Dempsey stated that this meeting is being held in accordance with the Open Public Meetings Act of 1975 and that notice was given to the Coast Star and the Asbury Park Press on December 7, 2011.

Mayor Dempsey welcomed the audience and invited them to join in a moment of silent prayer and a salute to the Flag.

ROLL CALL: Present: Council Members Bossone, Connolly, Donovan, Jacobson, Mangan and McCarthy

Absent: None

Also present was Borough Attorney Mark Kitrick Borough Administrator/CFO Joseph Delorio, and Charles Rooney, Borough Engineer

#### **GLIMMER GLASS ADDITIONAL ASSESSMENT HEARING**

Mr. Delorio stated that this is the hearing for the assessments as related to the Glimmer Glass Project and that letters and assessments were sent out to the property owners.

Council Member Mangan made a motion to open the hearing to the public, seconded by Council Member McCarthy. Motion carried unanimously.

Joseph Strucich, 90 Minerva Ave., stated that he wants to be on the record stating the problems that have occurred since the re-grading and paving on Cowart. He stated that every time it rains the sewer on the corner floods and the whole street is flooded. He stated that the curb is cracking already and there was never flooding there before.

Mr. Rooney stated the area was re-profiled when the drain was put in. He stated that his understanding was that there was a flooding problem on the intersection and that is why it was added to the miscellaneous drainage projects. He explained the concept and work that was done and why it was done a certain way. He stated that there is no standing water for a significant period after a rain.

Mr. Delorio stated that there was an adjustment to Mr. Strucich's assessment of the curb.

Mr. Strucich stated that there was not flooding before the change in the roadway.

There was discussion on the amount that Mr. Strucich is paying on the assessment and a possible solution to the flooding after a rain.

Council Member Donovan made a motion to close the hearing, seconded by Council Member McCarthy. Motion carried unanimously.

Council Member Donovan made motion to confirm the assessments as presented to the council, seconded by Council Member McCarthy. Motion carried by the following vote; "Yes", Council Member Bossone, Connolly, Donovan, Jacobson, Mangan, and McCarthy, "No", none.

Borough Administrator Delorio asked that resolution 264-12 be carried over until the next meeting.

#### **CONSENT AGENDA**

#### **RESOLUTION 265-2012**

**A RESOLUTION OF THE BOROUGH OF MANASQUAN OF THE COUNTY OF MONMOUTH GRANTING CONSENT TO NEW JERSEY NATURAL GAS COMPANY TO LAY, MAINTAIN, AND OPERATE NATURAL GAS FACILITIES IN THE MUNICIPALITY.**

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**WHEREAS**, on May 22, 2007, the Borough of Manasquan ("Municipality") granted New Jersey Natural Gas Company ("NJNG") a franchise and consent for a period of five (5) years to lay, maintain and operate natural gas facilities in the Municipality for the purpose of furnishing natural gas in the Municipality, which franchise and consent expires on October 25, 2012; and

**WHEREAS**, NJNG has continued to serve natural gas to the Municipality's residents and now makes application to the Municipality to continue to exercise NJNG's franchise rights in the Municipality and to continue to maintain and operate its natural gas facilities in the Municipality;

**NOW THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Manasquan, Monmouth County, New Jersey, on this 17<sup>th</sup> day of September, 2012 that NJNG be and is hereby authorized to lay, maintain and operate its conductors, mains and pipes, together with appurtenances thereto, in all the public streets, alleys, squares and public places in the Municipality for the purposes of conducting natural gas or any mixture of gases of various types including natural gas for the purpose of transmitting and distributing such gas in the Municipality for a period of five (5) years from October 25, 2012 through October 25, 2017 upon the following terms and conditions:

NJNG shall:

- (a) first notify the Municipality in advance by application, in writing, of the streets, alleys, squares and public places to be opened for the laying or repairing of natural gas mains and pipes in the Municipality, together with a map or plan of such work;
- (b) secure a permit for such work; and
- (c) conduct the work of laying or repairing such facilities in a careful and prudent manner and no street shall remain open longer than absolutely necessary to lay or repair the work.

By its acceptance of this Resolution, NJNG also agrees to save harmless the Municipality from all claims, demands or damages by reason of its negligence in the construction, maintenance or operation of said mains and pipes occupying the streets, alleys, squares and public places under the provisions of the consent granted by this resolution.

NJNG agrees that, in all cases in which street openings or excavations are made for the purposes aforesaid, the pavement and the surface of the streets, alleys, squares or roadways shall be restored to the condition as existed prior to the opening of such pavement or surface.

Nothing contained in this consent shall be construed to impose any obligation on the part of the Municipality to open any streets, roads, avenues or highways, or highways or parts of any street, road, avenue or highway, not previously dedicated or opened to the public use, and nothing therein contained shall be construed in any court or place as an acceptance of any unaccepted street, road, avenue or highway or any part of an unaccepted street, road, avenue or highway.

NJNG, its successors and assigns, shall at all times during the term of the franchise, furnish safe, adequate and proper service to the Municipality and keep and maintain its property and equipment in such conditions as to enable it to do so.

Nothing in this Resolution shall be construed to grant NJNG, its successors and assigns, an exclusive right, or to prevent the granting of permission and consent to other companies for like purposes, on any streets, roads, avenues or highways of the Municipality.

NJNG shall conduct the work of laying or repairing gas mains and pipelines in a careful and prudent manner.

NJNG shall file with the Municipal Clerk, within sixty (60) days from the date of this Resolution, its acceptance of the terms and provisions of this franchise consent

This Resolution shall not become effective until it is approved by the New Jersey Board of Public Utilities.

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**RESOLUTION  
266-2012**

**BE IT RESOLVED** by the Council of the Borough of Manasquan, County of Monmouth, State of New Jersey that:

**WHEREAS**, a refund of monies are due to the following:

NAME: ON YOUR MARK PRODUCTIONS  
8709 ABBEY GLEN WAY  
WILMINGTON, NC 28411

AMOUNT OF REFUND DUE: \$50.00

REASON FOR REFUND: Beach Use Security

**NOW, THEREFORE, BE IT RESOLVED** that the Chief Financial Officer is hereby authorized and directed to draw a warrant in the said amount to  
the above listed refunds with said warrant to be charged against the General Ledger.

**RESOLUTION  
267-2012**

**CHANGE ORDER NO. 6**

Be it resolved by the Mayor and Council of the Borough of Manasquan of Monmouth County, New Jersey upon recommendation of the Borough Municipal Clerk and Administrator that the Change Order for the Contract listed below be and is hereby approved.

TITLE OF JOB: Avaya IP Office Phone System

COMPANY: Hunter Technologies  
38 Corbett Way  
Eatontown, NJ 07724

**AGREEMENT MODIFICATION NO. 6**

Additional equipment and labor for the Avaya Office Phones are needed in the Department of Public Works (\$131,74). The original contract was signed on October 7, 2011.

AMOUNT OF CHANGE THIS RESOLUTION: \$131,74

TOTAL AMOUNT OF CHANGE: +\$8911.22

**RESOLUTION  
268-2012**

**A RESOLUTION OPPOSING THE PROPOSED  
“COMMUTER TAX” ON NEW JERSEY  
RESIDENTS WHO WORK IN NEW YORK CITY**

**WHEREAS**, the Borough of Manasquan, in the County of Monmouth is in receipt of information regarding a proposed Commuter Tax on anyone who works in New York City, but does not reside in New York City;

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**WHEREAS**, the Borough of Manasquan understands that many residents of the Borough of Manasquan are commuters who travel to New York City for work every day and they would be adversely affected financially by this proposed Commuter Tax; and

**WHEREAS**, the 301,702 residents of the State of New Jersey who commute daily to New York City for employment would be forced to endure yet another tax during these difficult economic times.

**NOW, THEREFORE, BE IT RESOLVED**, that the Borough Council of the Borough of Manasquan strongly opposes the proposed "Commuter Tax" which would be imposed on anyone who works in New York City, but resides elsewhere.

**BE IT FURTHER RESOLVED**, that the Borough of Manasquan feels that the proposed "Commuter Tax" would pose an unfair financial burden on residents of the Borough of Manasquan and Monmouth County and other Counties through the State of New Jersey and surrounding tri-state area who travel to New York City every day for employment.

**BE IT FURTHER RESOLVED**, that the Borough Council of the Borough of Manasquan urges Manhattan Borough President Scott Stinger and New York City Mayor Michael Bloomberg to reconsider the imposition of this unfair tax.

**BE IT FURTHER RESOLVED**, that the Borough Clerk forward a certified true copy of this resolution to Manhattan Borough President Scott Stinger, New York City Mayor Michael Bloomberg, New Jersey Governor Chris Christie, New Jersey Lieutenant Governor Kim Guadagno, Senator Robert W. Singer, Assemblyman Sean T. Kean, Assemblyman David P. Rible, all State Congressional Legislators representing Monmouth County, the local governing bodies for the municipalities of Monmouth County and the Monmouth County Board of Chosen Freeholders and that they asked to join in opposition to the proposed Commuter Tax.

### **RESOLUTION 269-2012**

**BE IT RESOLVED** by the Council of the Borough of Manasquan that:

**WHEREAS**, refunds for Tax Title Lien Redemptions for the following properties are due on the below described property in the amount designated as follows:

**BLOCK: 73 LOT: 78**

**NAME:** Kearny Federal Savings (Former Owner Stuart, Lynn)

**PROPERTY LOCATION:** 142 Morris Ave

**AMOUNT:** \$7,172.65

**REASON FOR REFUND:** Redemption of TTL #10-00155

**REFUND CHECK TO BE MADE PAYABLE TO:**

CULMAC INVESTORS, LLC  
PO BOX 251  
MONMOUTH BEACH NJ 07750-0251

**WHEREAS**, the Tax Collector has certified that the current lien holder is entitled to the refund.

**NOW, THEREFORE, BE IT RESOLVED**, that the Borough Chief Financial Officer is hereby authorized and directed to draw a warrant in the said amount to the above listed property with said warrant to be charged against the General Ledger.

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**RESOLUTION  
270-2012**

**BE IT RESOLVED** by the Council of the Borough of Manasquan that:

**WHEREAS**, refunds for Tax Title Lien Redemptions for the following properties are due on the below described property in the amount designated as follows:

**BLOCK: 73 LOT: 78**

**NAME:** Kearny Federal Savings (Former Owner Stuart, Lynn)

**PROPERTY LOCATION:** 142 Morris Ave

**AMOUNT:** \$400.00

**REASON FOR REFUND:** Return of Premium Paid at Tax Sale  
Re: Redemption of TTL #10-00155

**REFUND CHECK TO BE MADE PAYABLE TO:**

CULMAC INVESTORS, LLC  
PO BOX 251  
MONMOUTH BEACH NJ 07750-0251

**WHEREAS**, the Tax Collector has certified that the current lien holder is entitled to the refund.

**NOW, THEREFORE, BE IT RESOLVED**, that the Borough Chief Financial Officer is hereby authorized and directed to draw a warrant in the said amount to the above listed property with said warrant to be charged against the General Ledger.

**RESOLUTION  
271-2012**

**Whereas** on September 4, 2012, the Borough of Manasquan received a letter from Verizon Communications stating that they would no longer be required to file a Return of Tangible Personal Property Used in Business by Local Exchange Companies For PT-10 because the utility no longer provides dial tone and access to at least 51% of the local telephone exchange(s); and

**Whereas**, Verizon Communications stated that this provision is governed by the Revised Statutes of New Jersey Section 54:4-1; and

**Whereas**, as a result Verizon Communications would no longer be paying property taxes for 2013; and

**Whereas** in 2012, Verizon Communications was levied \$17,478.25 in property taxes and the loss of taxes in 2013 would have a detrimental effect to the taxpayers of the Borough of Manasquan for future years to come and,

**Whereas** in the recent case of *Verizon New Jersey, Inc. vs. Hopewell Borough*, the Court ruled that Verizon was not required to pay the property tax; and

**Whereas**, Hopewell Township has filed an appeal to this decision; and

**Whereas**, the New Jersey State of Municipalities has filed an Amicus Brief to assist Hopewell Township; and

**Whereas**, Hopewell Township has requested financial assistance from other municipalities faced with the same situation in the amount of \$220 to assist with the appeal and,

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**Whereas**, nearly 200 municipalities across the state have received similar notices from Verizon Communications; and

**Now Therefore Be It Resolved** that the Governing Body of the Borough of Manasquan wishes to join in the efforts of Hopewell Township and approves the appropriation of \$220 toward legal expenses in the appeal.

**RESOLUTION  
272-2012**

**RESOLUTION AWARDING A CONTRACT FOR THE SOIL  
REMEDIATION PROJECT AT THE WATER TREATMENT PLANT  
IN THE BOROUGH OF MANASQUAN, COUNTY OF MONMOUTH  
STATE OF NEW JERSEY**

**WHEREAS**, quotes were requested and received pursuant to the Local Public Contracts Law

(N.J.S.A. 40A: 11-1 et seq.) for the Soil Remediation Project at the Water Treatment Plant; and

**WHEREAS**, three for this project were received:

Aurora Environmental	\$19,200.00
TTI Environmental	\$22,428.00
ERN Contract	\$21,190.00

**WHEREAS**, Aurora Environmental submitted a monetary quote in the amount of \$19,200.00; and

**WHEREAS**, the bid by Aurora Environmental complies with the quote specifications and includes all required documentation; and

**WHEREAS**, the Borough Council is desirous of awarding a contract to Aurora Environmental in the amount of \$19,200 for the project;

**NOW, THEREFORE BE IT RESOLVED** on the 17<sup>th</sup> day of September 2012, by the Mayor and

Council of the Borough of Manasquan, in the County of Monmouth and State of New Jersey, as follows:

1. This award is subject to the review and approval of the Manasquan Borough attorney
2. Subject to the above conditions, a contract in the amount of \$19,200 is awarded to Aurora Environmental for this project.
3. The Mayor and Municipal Clerk are authorized and directed to execute all necessary documents to effectuate a contract with Aurora Environmental.
4. A certified copy of this resolution shall be sent to:

Aurora Environmental  
1102 Union Avenue  
Union Beach, NJ 07735

**RESOLUTION  
273-2012**

**BE IT RESOLVED** BY THE BOROUGH COUNCIL OF THE BOROUGH OF MANASQUAN, IN THE County of Monmouth, New Jersey (not less than three (3) members thereof affirmatively concurring) as follows:

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1. All bills or claims as reviewed and approved by the Administration & Finance Committee and as set forth in this Resolution are hereby approved for payment.
2. The Mayor, Municipal Clerk and Chief Financial Officer are hereby authorized and directed to sign checks in payment of bills and claims which are hereby approved.

The computer print-out of the list of checks will be on file in the Clerk's Office.

Current Fund	\$	81,763.96
Water/Sewer Fund	\$	222,428.15
Beach Fund	\$	15,727.11
General Capital Fund	\$	
Water/Sewer Capital Fund	\$	593.75
Beach Capital Fund	\$	1,049.50

Council Member Bossone made a motion to approve the Consent Agenda, seconded by Council Member Mangan. Motion carried by the following vote "yes" Council Member Bossone, Connolly, Donovan, Jacobson, Mangan, and McCarthy, "no" none.

## ORDINANCES

The Borough Attorney read the title of ordinance 2121-12 for second reading and final hearing.

### ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 5 (ANIMAL CONTROL) BY CREATING SECTION 5-12 (SALE OF DOGS AND CATS) PROHIBITING THE RETAIL SALE OF DOGS AND CATS IN PET SHOPS IN THE BOROUGH OF MANASQUAN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY.

Council Member Bossone made a motion to open the hearing to the public, seconded by Council Member Connolly. Motion carried unanimously.

Janis Fisher, 58 Morris Avenue, stated that she was proud to see Manasquan on CBS News and the residents that were interviewed in support and she thanked the Mayor and Council for considering the ordinance.

Council Member Bossone made a motion to close the public portion, seconded by Council Member Mangan. Motion carried unanimously.

Council Member Bossone made a motion to pass and publish ordinance 2121-12 according to law, seconded by Council Member McCarthy. Motion carried by the following vote: "yes" Council Member Bossone, Connolly, Donovan, Jacobson, Mangan, and McCarthy, "no" none.

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The Borough Attorney read the title of ordinance 2119-12 for second reading and final hearing.

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 35 (ZONING) SECTION 35-12 (NONCONFORMING BUILDINGS AND LOTS) BY CREATING SECTION 35-12.4 TO PERMIT STRUCTURAL ALTERATIONS TO THE INTERIOR OF NONCONFORMING STRUCTURES PROVIDED THAT THE STRUCTURAL ALTERATIONS DO NOT EXPAND OR EXTEND THE FOOTPRINT OR HEIGHT OF THE NONCONFORMING STRUCTURE.**

Council Member Mangan made a motion to open the hearing to the public, seconded by Council Member Connolly. Motion carried unanimously.

There was no public comment.

Council Member Mangan made a motion to close the public portion, seconded by Council Member Bossone. Motion carried unanimously.

Council Member Mangan made a motion to pass and publish ordinance 2119-12 according to law, seconded by Council Member Bossone. Motion failed by the following vote: "yes" none; "no" Council Member Bossone, Connolly, Donovan, Jacobson, Mangan, and McCarthy.

The Borough Attorney read the title of ordinance 2122-12 (2) for introduction.

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 35 (ZONING) SECTION 35-12 (NONCONFORMING BUILDINGS AND LOTS) BY CREATING SECTION 35-26.2 TO PERMIT STRUCTURAL ALTERATIONS TO THE INTERIOR OF NONCONFORMING USES PROVIDED THAT THE STRUCTURAL ALTERATIONS DO NOT EXPAND OR EXTEND THE FOOTPRINT OR HEIGHT OF THE NONCONFORMING STRUCTURE AND CREATING A DEFINITION FOR ABANDONMENT WITHIN SECTION 35-3.1.**

Council Member McCarthy made a motion to introduce ordinance 2122-12(2), seconded by Council Member Mangan. Motion carried by the following vote: "yes" Council Member Bossone, Connolly, Donovan, Jacobson, Mangan, and McCarthy; "no" none.

The Borough Attorney read the title of ordinance 2123-12 for introduction.

**ORDINANCE TO AMEND SECTION 7-10 (THROUGH STREETS) AND SECTION 7-11 (STOP INTERSECTIONS) OF CHAPTER 7 (TRAFFIC) OF THE BOROUGH OF MANASQUAN TO ESTABLISH THROUGH STREETS AND ESTABLISH STOP INTERSECTIONS AT VARIOUS LOCATIONS IN THE BOROUGH OF MANASQUAN, MONMOUTH COUNTY, NEW JERSEY.**

Council Member Donovan made a motion to introduce ordinance 2123-12, seconded by Council Member McCarthy. Motion carried by the following vote: "yes" Council Member Bossone, Connolly, Donovan, Jacobson, Mangan, and McCarthy; "no" none.

## **APPROVAL OF MINUTES**

Regular and Work Session Minutes – August 6, 2012

Absent None

Council Member Mangan made a motion to approve the minutes, seconded by Council Member Donovan. Motion carried unanimously.

## **COMMITTEE REPORTS**

Beach Committee – Council Member Bossone reported that dogs are not allowed on the beach until November 1 and must be on a leash and that the bathrooms will be open until September 30, 2012. He



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reported that there are no more lifeguards on duty during the weekends. He reported that the beach headquarters lot will be cleared out by the latest on Monday and the contractor should be starting soon on the site. He asked Mr. Delorio to update the council on the construction manager.

Mr. Delorio reported that requests for proposals were advertised and interested individuals should see the Clerk's office to receive a packet and it can also be e-mailed to interested parties and are due back in on Friday at 2:00 p.m.

Council Member Bossone stated that the Tourism Commission is requesting use of a lifeguard rowboat on a trailer to be used during the parade this coming weekend.

Council Member Bossone made a motion to allow the Tourism Commission the use of a row boat on a trailer for the upcoming parade, seconded by Council Member McCarthy. Motion carried unanimously.

Council Member Bossone continued with his report and went over the weekend events for the 125<sup>th</sup> Anniversary Celebration.

Administration and Finance – Council Member Connolly reported that the Cable Advisory Committee will be showing various videos on Cablevision channel 77 and Verizon channel 28 and will start tonight and run through Thursday from 7-9 p.m. and will be repeated in the morning at 9 a.m. She congratulated the officers and trustees of the Squan Beach Life Saving Station on their first program on September 8 and over 75 people attended on a program about the Morrow Castle.

Public Works Committee – Council Member Donovan reported that he along with the Borough Engineer, Administrator and DPW Superintendent met with the Monmouth County Mosquito Commission and went over Judah Creek to find out what can be done with de-snagging the creek and cleaning out the area from Old Squan Plaza to Route 71. He reported that leaf pick up begins on the east side of the tracks on October 1, 2012 and it will alternate east and west of the tracks per week and to check the website for more details. He reported that the Environmental Commission has a beach sweep on October 20, 2012 from 9 to 12:30 at Main Beach and a paper shredding event in conjunction with the Monmouth County Recycling Office on November 4, 2012 from 9 to 1 at the Fourth Avenue Parking Lot. He reported that the recycling of the fishing line endeavor has been a success and will continue to have receptacles around the town where people fish.

Law and Code Committee – Council Member Jacobson stated that she has nothing further to report.

Public Property & Parks Committee – Council Member Mangan reported that he is working on a funding plan for the municipal boat docks and the bulk heading and has yet to find a secure area of where and how the money will be forthcoming. He reported that the committee has recommended the purchase of a generator for the Borough Hall to make sure that the emergency operations are up and running during an emergency. He reported that he will have a report at the next meeting regarding his recommendations for the Chapter Two re-organization committees for 2013.

Public Safety & Recycling Committee – Council Member McCarthy reported that Fire Company #1 will be having a celebration after the parade on Saturday in conjunction with the 125<sup>th</sup> Anniversary Celebration. He reported that the new SUV for the detective bureau has arrived and the Durango is no longer in working condition. He reported that there has been vandalism throughout the Borough and there is an ongoing investigation and if anyone has any additional information to notify the police department and all information is confidential. He reported that the Brielle Road drawbridge will be closed by the County for 2 weeks starting October 1 for repairs.

## AUDIENCE PARTICIPATION

Council Member Connolly made a motion to open meeting to the public, seconded by Council Member Donovan. Motion carried unanimously.

Borough Engineer Charlie Rooney advised the public that there are 43 trees in the Squan Plaza Bid not 15 as mentioned earlier.

Council Member Connolly made a motion to close the public portion, seconded by Council Member Bossone. Motion carried unanimously.

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Council Member Donovan made a motion to adjourn the regular meeting at 9:06 p.m., seconded by Council Member Mangan. Motion carried unanimously.

Mayor Dempsey stated that the council will be going into closed session and after closed session is over there will be no action taken.

Council Member Connolly made a motion to close the regular meeting at 10:04, seconded by Council Member Bossone. Motion carried unanimously.

Respectfully submitted,



Barbara J. Ilaria  
Municipal Clerk

**DATE APPROVED** 12-17-12