

July 16, 2012
MEETING OF THE MAYOR AND COUNCIL
Agenda

1. Call To Order

2. Invocation and Flag Salute

3. Mayor's Opening Statement

Notice of this meeting of the Mayor and Council of the Borough of Mendham was published in the Observer Tribune and the Morris County Daily Record, and was posted on the Phoenix House bulletin board in accordance with the Open Public Meetings Act.

4. Roll Call: Mayor Neil Henry
Councilman Stanley Witzak
Council President John Andrus
Councilman David Sharkey
Councilwoman Veronica Daly
Councilman Louis Garubo
Councilman Brad Badal

5. Consent Agenda:

- Approval of the minutes of the Regular Meeting of 6/4/12
- Approval of the minutes of the Executive Session of 6/4/12
- Approval of the minutes of the Regular Meeting of 6/18/12
- Approval of the minutes of the Executive Session of 6/18/12
- Approval of Pastime Labor Day Carnival in the Borough-9/3/12
- Turn The Towns Teal-Approval to Tie Ribbons Only-September
(Signs are subject to the Permit Process)
- Appointment of Luke Engelhardt, Jr. Member Mendham Hose Company
- Approval of Raffle License-Home School Assoc.-Off Premise 50/50-Cash

6. Res. #86-12 Promotion-Brian Hostler and Joseph Pirillo to Police Sergeant MBPD

- Mayor Comments
- Oath of Office

7. Discussion:

- Boy Scout Matt Marino-Eagle Badge-Tranquility Garden
- JCP&L Sub-Station/John Anderson
- Amendment to Sign Ordinance-Update
- Regional High School Mayors' BOE Group-Update

8. Ordinance Introduction:

ORDINANCE #4-12
ORDINANCE AMENDING CHAPTER 168 OF THE CODE
OF THE BOROUGH OF MENDHAM

ORDINANCE #5-12
ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY GRANTING RENEWAL OF
MUNICIPAL CONSENT TO CONSTRUCT, OPERATE AND MAINTAIN
A CABLE TELEVISION AND COMMUNICATION SYSTEM WITHIN
THE BOROUGH OF MENDHAM, NEW JERSEY TO COMCAST

9. Ordinance Public Hearing/Adoption

10. Actions To Be Taken:

Res. #87-12 A RESOLUTION OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, AUTHORIZING THE ACCEPTANCE OF APPLICATIONS FOR RESERVED SEWER CAPACITY UNDER AND IN ACCORDANCE WITH CHAPTER 168, SECTION 168-47.1, OF THE CODE OF THE BOROUGH OF MENDHAM

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Actions To Be Taken: (Cont'd.)

Res. #88-12 Participate in Morris County First Responder-Identification Card Program

Res. #89-12 Appt. Michael Donovan-Part-time Summer Seasonal Laborer (\$10/Hr.)

Res. #90-12 Approval SS App-B2701/L5 C005B, 5 Cold Hill Road

Res. #91-12 Consenting to Proposed Water Quality Mgmt. Plan Amendment

ENTITLED:

FUTURE WASTEWATER SERVICE AREA MAP FOR MORRIS COUNTY PROPOSED AMENDMENT TO THE UPPER DELAWARE, UPPER RARITAN AND NORTHEAST WATER QUALITY MANAGEMENT PLAN (WQMP)

Res. #92-12 Authorizing Execution of Agreement-Passaic Valley Sewerage Commission- For Treatment and Disposal of Sludge

Res. #93-12 Approval of Fireworks Display-9/3/12 Labor Day-Pastime Club (Raindate 9/8/12)

Res. #94-12 Redemption of Lien/B1003, L107/Park Finance, LLC-Full Satisfaction

- 11. Administrators Report**
- 12. Council Reports, Old & New Business**
- 13. Attorney Items**
- 14. Mayor's Items**
- 15. Public Comment**
- 16. Approval of Vouchers**
- 17. Executive Session:** Res. #95-12 Executive Session-Contract Negotiations
- 18. Adjournment**

Items on the Consent Agenda are considered routine and will be acted upon by the Borough Council by a single vote unless a member of the public, the Borough Council or the Mayor request that an item be removed and considered separately.

Agendas are subject to revision.

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #86-12

**RESOLUTION OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS,
STATE OF NEW JERSEY APPOINTING BRIAN HOSTLER AND JOSEPH PIRILLO
TO THE POSITION OF SERGEANT IN THE BOROUGH IN ACCORDANCE WITH
SECTION 4-2 OF THE BOROUGH CODE**

WHEREAS, the Public Safety Committee has conducted a comprehensive testing and interview process of prospective candidates for these promotions; and

WHEREAS, the Public Safety Committee has recommended the appointment of Brian Hostler and Joseph Pirillo to the position of Sergeant in the Borough of Mendham; and

WHEREAS, Section 4-2 of the Code of the Borough of Mendham dictates that the Mayor of the Borough of Mendham shall nominate all officers for appointment and thereby seek the advice & consent of the Borough Council for such appointments; and

WHEREAS, Mayor Neil Henry, in consideration of the recommendation made by the Public Safety Committee, does hereby nominate Brian Hostler and Joseph Pirillo to the position of Sergeant.

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Mendham that they do hereby provide advice & consent to the Mayor's nomination of Brian Hostler and Joseph Pirillo to the position of Sergeant; and

BE IT FURTHER RESOLVED that Brian Hostler and Joseph Pirillo are hereby appointed Sergeant in the Borough of Mendham effective July 16, 2012; and

BE IT FURTHER RESOLVED that the Sergeants shall be compensated for their services in 2012 on a pro-rated basis at the rate of \$102,599.00 per annum effective August 1, 2012; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

DATED: July 16, 2012

Neil J. Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

ORDINANCE #4-12

**ORDINANCE AMENDING CHAPTER 168 OF
THE CODE OF THE BOROUGH OF MENDHAM**

WHEREAS, the Borough of Mendham imposed a sewer connection ban in November 1988 pursuant to state regulations limiting sewer connections when average daily flow reached 80% of the permitted discharge limit for the Mendham Borough Sewage Treatment Facility; and

WHEREAS, the Borough was also required by state regulation to establish a program of controls to ensure that the permitted capacity of the Sewage Treatment Facility would not be exceeded; and

WHEREAS, as part of the Borough's efforts to control treatment facility discharge levels, a program of sewer system pipe and manhole rehabilitation was undertaken that has led to a reduction in system-wide infiltration and the recapture of treatment facility capacity; and

WHEREAS, in compliance with applicable regulations the Borough is now able to, and desires to, modify the circumstances under which sewage connections and reservations of available connection capacity may be made available to applicants.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mendham, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 168, Sewers, Section 168-45, Findings and Purpose, is hereby amended and supplemented to read in its entirety as follows:

"168-45. **Findings and Purpose.**

A. In 1988 the Mendham Borough Sewage Treatment Facility was approaching its permitted discharge limit of 400,000 gallons per day monthly average. At the time that the average daily flow reached 80% of the permitted discharge limit, the Borough was required to impose a sewer connection ban and to establish a program of controls to ensure that the permitted capacity of the Sewage Treatment Facility is not exceeded. By adoption of Resolution No. 114-88 the Borough did impose a connection ban in November 1988 which was approved by the New Jersey Department of Environmental Protection.

B. In July of 1989 the New Jersey Department of Environmental Protection (NJDEP) imposed its own connection ban due to the inability of the then-existing treatment facility to meet revised effluent quality standards. The Borough was ordered to make additions and improvements to the treatment facilities to ensure compliance with the revised standards. Over the years from 1990 through 1993, the Borough made additions and improvements costing over \$4,000,000. As a result, the treatment facility met all applicable effluent quality standards, and on December 8, 1993, the NJDEP rescinded its sewer connection ban. Despite the rescission of the NJDEP sewer connection ban, the pre-existing sewer ban imposed by the Borough continued to be mandated by discharge limitations and the Sewage Treatment Facility has been closely monitored through the years to ensure that the allowed discharge limitations fall within applicable regulations.

C. As part of its on-going efforts to monitor and control the amount of treated effluent discharge, the Borough of Mendham has completed a program of sewer pipe and manhole rehabilitation financed through Bond Ordinance No. 9-09, entitled "Bond Ordinance Providing for the Improvement of the Sanitary Sewerage Collection System in and by the Borough of Mendham, in the County of Morris, New Jersey, Appropriating \$1,600,000 Therefor and Authorizing the Issuance of \$1,600,000 Bonds or Notes of the Borough for Financing such Appropriation." The rehabilitation work has resulted in a reduction of non-sewage infiltration averaging 100,000 gallons of flow per day, creating available sewage treatment capacity. A portion of the newly available capacity must be retained by the Borough for municipal projects, potential school expansions, and other possible uses of the Sewage Treatment Facility over which the Borough does not have regulatory jurisdiction, leaving 30,000 gallons per day potentially available for allocation

to new construction, the expansion of existing uses, and the like, subject to revision of such amount based on changing circumstances.

D. In determining to release the new sewage treatment allocation of 30,000 gallons per day, the Borough remains mindful that the consequences of exceeding the Sewage Treatment Facility discharge limits could result in mandatory water quality studies, an increase in the size of the Facility and modifications to the Facility to provide improvements in the quality of the effluent. The cost of such actions could be prohibitive to the present users of the system. It is therefore determined, and will remain, the purpose and intent of the Borough to impose such controls on future connections to the sanitary sewer system as are deemed reasonably necessary to comply with the mandate(s) of the NJDEP.”

Section 2. Chapter 168, Sewers, Section 168-47, Limitations on Connections to the System, is hereby amended and supplemented to read in its entirety as follows:

“168-47. **Limitations on Connections to the System.**

A. No future connections to the Mendham Borough sanitary sewer system shall be made except with specific approval of the Borough Council through the adoption of a resolution approved by an affirmative vote of a majority of said governing body.

B. The Borough Council of the Borough of Mendham shall not approve an application for connection to the existing sanitary sewer system unless said application for connection shall meet one of the following criteria and all rules and regulations on file with the Borough are complied with relative to sewer connection applications:

- (1) The facility to be served by the proposed connection is located upon a lot presently served by the existing sanitary sewer system, and the sewage flow therefrom will not exceed:
 - (a) One tenth gallon per square foot of floor area per day in the case of a new commercial, professional or business use; or
 - (b) In the case of a new use in an existing structure, the anticipated sewage flow from the new use will not exceed the sewage flow from the prior use which existed at the time of the imposition of the sewer connection ban (November 7, 1988) or one-tenth gallon per square foot of floor area per day, whichever is greater. The preexisting and proposed design flows shall be determined pursuant to the New Jersey Department of Environmental Protection's design flows designated pursuant to N.J.A.C. 7:14A-23.3 for the particular use. If at the time of imposition of the Borough's sewer connection ban an existing structure was vacant and produced no sewage flow, that structure shall be subject to the limitation set forth under Subsection B(1)(a) above. The purpose of these regulations is to prevent an increase in the flow from an existing structure. The permitted flow may be reallocated among various uses in an existing structure, provided that no area of the structure is allocated less than .10 gallon per square foot of floor area per day. The transfer of flow from one structure to another structure on the same lot is expressly forbidden;
- (2) The facility to be served is a dwelling located on or to be located on an existing lot presently serviced by the existing sanitary sewer system;
- (3) The facility to be served is a dwelling to be located on a lot legally established through normal subdivision channels, which lot meets all of the requirements of Chapter 215, Zoning, for the residential zone in which it is located and if said lot so established can be serviced by the existing sanitary sewage collection system without the necessity of a sewer extension;
- (4) The facility to be served is presently served by an individual, on-site, septic system which has failed to function and which is certified to be irreparable and not able to be relocated upon the premises served and, upon the findings of the Borough Health Officer and the Borough Engineer, based upon proofs required by § 168-48 below, there is no alternative but to allow the connection to the existing sewer plant; or
- (5) The facility to be served has been allocated reserved sewage capacity in accordance in §§ 168-47.1 herein.

C. Notwithstanding any of the foregoing, the Borough Council retains the right to listen to or consider applications for connections to the existing sanitary sewer collection system if an applicant can demonstrate that such consideration is in the best interest of the Borough of Mendham. If such application does deviate from the standards of this chapter, the applicant shall request a waiver from the Borough Council. Such waiver application shall be accompanied by an escrow deposit in an amount as set forth under Chapter 102, Fees.

D. Also notwithstanding any of the foregoing, the Borough Council shall deny any application if it finds that approval of the application would unduly threaten the remaining reserve treatment capacity or applicable regulation.

E. Any and all approvals of connections to the system granted pursuant to this section shall automatically expire at the end of one year from the date of adoption of the resolution of approval, unless within such one-year period either of the following shall have occurred:

(1) Construction of the facility to be connected has commenced in accordance with permits duly issued; or

(2) Renewal or extension of the approval has been granted by further resolution of the Borough Council.

F. A fee as set forth in Chapter 102, Fees, shall be payable for each application to connect to the existing sanitary sewer system.”

Section 3. Chapter 168, Sewers, is hereby amended and supplemented by the establishment of a new Section 168-47.1, to read in its entirety as follows:

“§168-47.1

- A. In the event the Borough Council determines by Resolution that a specific quantity of sewage capacity has become available and may be released in particular cases without adversely impacting the Borough’s on-going efforts to monitor and control the amount and quality of treated effluent discharged by the Borough Sewage Treatment Facility, the Borough will accept applications from property owners to reserve allocations of such capacity in connection with a proposed development project. If an application for reservation of allocated sewage capacity is approved by the Borough Council, the reserved allocation of sewage capacity shall be subtracted from the available sewage capacity identified and established in such Resolution.
- B. If an application for reservation of allocated sewage capacity is approved by the Borough Council a reservation fee shall be established and paid as follows:
- (1) There shall be a reservation fee in an amount equal to the Borough's cost in obtaining the allocated capacity. For example, if the cost of obtaining or recapturing the available sewage capacity is \$1,600,000 per 100,000 gallons of capacity, the charge for reserved capacity shall be \$16.00 per each gallon of allocated capacity on a daily basis. If an applicant proposes the future conversion of an office use to a restaurant, for example, an additional 200 gpd of capacity will be needed for the new use, resulting in a reservation fee of \$3,200.00 calculated as follows: 200 gpd X \$16.00 per gallon.
- (2) Upon approval of the application for reserved capacity, 20% of the reservation fee shall be due. An additional 20% of the fee shall be due each year thereafter on the anniversary date of the approval until it is paid in full; provided, however, that if the applicant applies for a construction permit for the proposed project, the entire reservation fee shall be paid in full before such permit shall issue.
- (3) In the event the applicant fails to connect the proposed project to the sanitary sewer system within five (5) years after approval of the reservation of capacity, the reservation shall revert to the Borough and the reservation fee paid to the Borough shall be forfeited.
- C. Notwithstanding the provisions of Paragraphs A and B of this §168-47.1, the Borough reserves the right to by Resolution suspend the receipt of applications and/or the approval of pending applications for reservation of allocated sewage capacity upon determination that the operations of the Sewage Treatment Facility may result in

measured discharge parameters that compromise the ability of the Sewage Treatment Facility to meet its permit requirements.”

Section 4. Chapter 168, Sewers, Section 168-4, Connection Required as Service Becomes Available, is hereby amended and supplemented to read in its entirety as follows:

“168.4. Connection Required as Service Becomes Available.

A. As sewers become available to serve buildings on any properties in the Borough, the Borough shall order each owner of property along the line of said sewer to connect each building on such property with said sewer in accordance with the terms of this chapter.

B. In the event a construction permit or zoning application is filed in connection with property located in a sewer service area which is (i) a vacant lot, (ii) currently served by a septic system, or (iii) an expansion or alteration of the existing use, the owner shall be required to connect to the sewer system; provided, however, that if none of the criteria established in Section 168-47(B)(2), (3), or (4) are applicable, the property owner shall instead be required to obtain a reservation of capacity under Section 168-47.1.”

Section 5. If any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion, and such holding shall not affect the validity of the remaining portions hereof.

Section 6. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 7. This Ordinance shall take effect immediately upon final passage and publication in the manner according to law.

Introduction: July 16, 2012

Public Hearing/Adoption: August 20, 2012

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

ORDINANCE #5-12

**ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS,
STATE OF NEW JERSEY GRANTING RENEWAL OF MUNICIPAL CONSENT
TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION AND
COMMUNICATION SYSTEM WITHIN THE BOROUGH OF MENDHAM,
NEW JERSEY TO COMCAST**

WHEREAS, the governing body of the Borough of Mendham (hereinafter referred to as the "Borough") determined that Comcast, (hereinafter referred to as "the Company" or "Comcast") had the technical competence and general fitness to operate a cable television system in the Borough, and by prior ordinance granted its municipal consent for Comcast to obtain a non-exclusive franchise (the "Franchise") for the placement of facilities and the establishment of a cable television system in the Borough; and

WHEREAS, by application for renewal consent filed with the Borough and the Office of Cable Television, Comcast has sought a renewal of the Franchise; and

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

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

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

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

SECTION 1. 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. "Town", "Municipality" or "Borough" is the Borough of Mendham, County of Morris, State of New Jersey.
- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of Central New Jersey II.
- 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 2. 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 3. GRANT OF AUTHORITY

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

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.

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 required by the Act or otherwise allowable by law, whichever is greater. The current franchise fee amount for the borough is three and one half percent (3.5%) pursuant to N.J.S.A. 48:5A-3(d).

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to 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. The Company's Line Extension Policy, as set forth in the Company's Application, shall govern any extension of plant beyond the Primary Service Area. For purposes of the Line Extension Policy, the minimum density shall be 15 homes-per-mile (15 HPM).

SECTION 8. **CONSTRUCTION REQUIREMENTS**

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.

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.

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 designed 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. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours, and in no event (excepting emergent circumstances) less than 9:00 A.M. to 5:00 P.M., Monday through Friday.

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 (\$25,000.00) dollars. 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. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

a. The Company shall continue to provide residents with a system-wide public access channel maintained by the Company. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Company's published public access rules.

b. The Company shall continue to provide a system-wide leased access channel maintained by the Company for the purpose of cablecasting commercial access programming in conformance with the Company's guideline and applicable state and federal statutes and regulations.

c. The Company shall continue to provide two local access channels and existing return lines maintained by the Company for the purpose of cablecasting non-commercial access programming in conformance with the Company's guideline and applicable state and federal statutes and regulations. All local access channels shall become digital channels in concurrence with the system's channel line-up converting to digital cable format.

d. The Company shall take any steps that are necessary to ensure that the signals originated on the access channels are carried without material degradation, and with a signal whose quality is equal to that of the other standard channels that the Company transmits.

SECTION 15. COMMITMENTS BY THE COMPANY

a. The Company shall provide standard installation and basic cable television service and equipment on one (1) outlet at no cost to each school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 200 feet of active cable distribution plant. Except that the Company shall build the necessary plant extension to service Mendham High School at no cost to the Borough. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets, except for equipment.

b. The Company shall provide standard installation and basic cable television service and equipment at no cost on one (1) outlet to each police, fire, first aid facility, the municipal building, the Department of Public Works facility and the municipal public library, provided each facility is located within 200 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. Monthly service charges shall be waived on all additional outlets, except for equipment.

c. The Company shall provide, free of charge, one (1) non-networked cable modem and monthly Internet service to each school in the Municipality, public and private, elementary, intermediate and secondary and to the public library. The Internet service provided for herein must be available to student and patron use and cannot be limited to administrative uses. All facilities must be located with 200 feet of active cable distribution plant. The Company shall also continue to provide free of charge one non-networked internet connection via cable modem in the Municipal Building (Phoenix House) and the Department of Public Works facility located at 37 Ironia Road.

d. Within 12 months of the issuance of a renewal Certificate of Approval by the OCTV, the Company shall provide to the municipality a one-time grant in the amount of \$25,000 for access related needs.

SECTION 16. EMERGENCY USES

The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.

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.

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

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY
RESOLUTION #87-12**

**A RESOLUTION OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF
MORRIS AND STATE OF NEW JERSEY, AUTHORIZING THE ACCEPTANCE
OF APPLICATIONS FOR RESERVED SEWER CAPACITY UNDER AND IN
ACCORDANCE WITH CHAPTER 168, SECTION 168-47.1, OF THE CODE
OF THE BOROUGH OF MENDHAM**

WHEREAS, §168-47.1 of the Mendham Code authorizes the Borough Council to determine by Resolution whether sufficient sewage capacity is available for release to property owners in particular cases without adversely impacting the Borough's on-going efforts to monitor and control the amount and quality of treated effluent discharged by the Borough Sewage Treatment Facility; and

WHEREAS, upon determining that such sewage capacity is available, the Borough Council may authorize the acceptance of applications from property owners for reserved allocations of capacity in connection with proposed development projects; and

WHEREAS, the Borough's program of sewer pipe and manhole rehabilitation financed through Bond Ordinance No. 9-09 resulted in a reduction of non-sewage infiltration averaging 100,000 gallons of flow per day, creating available sewage treatment capacity; and

WHEREAS, the Borough Council desires to retain a portion of the newly available capacity for municipal projects, potential school expansions, and other possible uses of the Sewage Treatment Facility over which the Borough does not have regulatory jurisdiction; and

WHEREAS, the Borough Council therefore determines that 30,000 gallons of flow per day are available for reserved allocation to new construction, the expansion of existing uses, and the like, with 7500 gpd to be reserved strictly for single-family residential uses and the remainder of 22,500 gpd to be available for reservation without regard to the nature of the proposed development; and

WHEREAS, the Borough Council further determines to authorize the receipt of applications for reserved allocations of sewer capacity in accordance with and subject to Chapter 168 of the Borough Code.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Mendham, County of Morris and State of New Jersey as follows:

1. The Borough Council hereby authorizes the acceptance of applications for reservation of up to 30,000 gallons per day of sewer capacity, provided that 7,500 gallons per day of the total available capacity shall be reserved strictly for proposed single-family residential development and the balance of 22,500 gallons per day may be reserved without restriction as to the nature of the proposed use.

2. Applications for reserved allocations of sewer capacity shall be approved or disapproved by the Borough Council under and in accordance with the standards and requirements of Chapter 168 of the Borough Code, upon payment of the appropriate reservation fee as established in §168-47.1(B).

3. The Borough Council specifically reserves the right, in accordance with §168-47.1, to suspend the receipt of applications and/or the approval of pending applications for reservation of allocated sewage capacity upon its determination that any circumstances exist that could compromise the ability of the Sewage Treatment Facility to meet its permit requirements.

This Resolution shall take effect immediately.

Dated: July 16, 2012

Neil Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #88-12

**A RESOLUTION OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS
AND STATE OF NEW JERSEY TO PARTICIPATE IN THE MORRIS COUNTY
FIRST RESPONDER IDENTIFICATION CARD PROGRAM**

WHEREAS, the County of Morris was a designated recipient of United States Homeland Security Funding in Federal Fiscal years 2007 and 2008; and

WHEREAS, the Federal funding is administered through the New Jersey Office of Homeland Security and Preparedness to the Morris County Office of Emergency Management; and

WHEREAS, the Morris County Office of Emergency Management under the direction of the County Board of Chosen Freeholders formulates and approves a spending plan for the Homeland Security Funds directed to the County of Morris that is consistent with the rules and parameters of the specific grant and submits the spending plan to the New Jersey Office of Homeland Security and Preparedness for approval; and

WHEREAS, the Morris County Office of Emergency Management recognized that there is no current standardized identification card for first responders within the County of Morris; and

WHEREAS, the Borough of Mendham wishes to participate in this program for a secure, easily recognizable identification card for first responders, that conforms to the Office of the Attorney General's June 2011 guidance for New Jersey Credentialing Standards; and

WHEREAS, the Morris County First Responder Identification Card will display the Borough of Mendham emergency services' symbol and the emergency services' name; and

WHEREAS, participation in this program is at no cost to the Borough of Mendham; and

WHEREAS, this body supports a secure, easy-to-read identification card for our emergency services to employ.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Mendham, County of Morris and State of New Jersey that the Borough of Mendham be and is hereby authorized to participate in this program; and

BE IT FURTHER RESOLVED that the Borough of Mendham be and is hereby authorized and directed to undertake the necessary municipal requirements and provide the necessary data and information to the County of Morris to insure participation in this program.

This Resolution shall take effect immediately.

Dated: July 16, 2012

Neil Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #89-12

BE IT RESOLVED by the Mayor and Council of the Borough of Mendham, County of Morris, and State of New Jersey, that the following part-time Summer Seasonal appointment is made as follows:

CLASS 2 PUBLIC WORKS:

Part-Time Laborer:

Michael Donovan

\$10.00 per hour

This resolution is retroactive to July 2, 2012 and is effective immediately.

DATED: July 16, 2012

Neil J. Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #90-12

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS AND STATE OF NEW JERSEY, APPROVING THE SANITARY SEWER CONNECTION APPLICATION OF DEBRA DURYEYEA REGARDING THE PROPERTY LOCATED AT BLOCK 2701, LOT 5, COO5B, WHICH IS ALSO KNOWN AS 5 COLD HILL ROAD, UNIT 5B

WHEREAS, Debra Duryea has applied for a sewer connection permit in connection with her application to the Mendham Borough Planning Board for a waiver of site plan approval to relocate her dental office from its current location to the proposed location at 5 Cold Hill Road, which was previously occupied by a financial office; and

WHEREAS, the requested use of the space complies with the flow restrictions contained in the Borough Ordinance and thus will not result in an increase in the allowed sewerage flow generated by the subject property; and

WHEREAS, the Borough Engineer, Paul Ferriero, P.E., has reviewed the application, and has recommended the approval of the connection; and

WHEREAS, based upon the information submitted by the applicant under date of June 14, 2012, the application meets the requirements of Chapter 168 of the Borough Code.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mendham, in the County of Morris and State of New Jersey, that the aforesaid application be approved, subject to the following: compliance with all applicable subsections of Chapter 168 of the Borough Code and Planning Board approval, if required; and

BE IT FURTHER RESOLVED that the approval of the sanitary sewer connection application is based upon the representations made by the applicant as well as the information contained in the sanitary sewer connection application; and

BE IT FURTHER RESOLVED that the approval is conditioned upon all plumbing on the premises to comply with current provisions of the Plumbing Code; and

BE IT FURTHER RESOLVED that prior to any occupancy of the facility for the proposed use, the applicant must contact the Borough Plumbing Official to schedule an inspection within sixty (60) days hereof to verify that the compliant fixtures are in place.

This Resolution shall take effect immediately, but the approval hereby granted shall be subject to revocation if the flow standard as projected is exceeded in actual use.

DATED: July 16, 2012

Neil J. Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #91-12

**A RESOLUTION CONSENTING TO THE PROPOSED WATER
QUALITY MANAGEMENT (WQM) PLAN AMENDMENT
ENTITLED:
FUTURE WASTEWATER SERVICE AREA MAP FOR MORRIS COUNTY
PROPOSED AMENDMENT TO THE UPPER DELAWARE, UPPER RARITAN AND
NORTHEAST WATER QUALITY MANAGEMENT PLAN (WQMP)**

WHEREAS, the County of Morris desires to provide for the orderly development of wastewater facilities within Morris County, New Jersey; and

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) requires that proposed wastewater treatment and conveyance facilities and wastewater treatment service areas, as well as related subjects, be in conformance with an approved WQM plan; and

WHEREAS, the NJDEP has established the WQM plan amendment procedure as the method of incorporating changes to the delineation of future wastewater service areas into a WQM plan; and

WHEREAS, a proposed WQM plan amendment noticed in the New Jersey Register on June 18, 2012 for the Upper Delaware, Upper Raritan and Northeast WQM plan has been prepared by the County of Morris with the New Jersey Department of Environmental Protection and;

NOW, THEREFORE, BE IT RESOLVED on this 16th day of July, 2012, by the governing body of the Borough of Mendham, that:

1. The Borough of Mendham hereby consents to the amendment entitled Future Wastewater Service Area Map for Morris County, Proposed Amendment to the Upper Delaware, Upper Raritan and Northeast Water Quality Management Plan (WQMP), and publicly noticed on June 18, 2012, prepared by the County of Morris with the New Jersey Department of Environmental Protection, for the purpose of its incorporation into the applicable WQM plan(s).
2. This consent shall be submitted to the NJDEP in accordance with N.J.A.C. 7:15-3.4.
3. Copies of the consent shall also be sent to the Morris County Department of Planning & Development, PO Box 900, Morristown, NJ 07963-0900 and/or faxed 973-326-0925.

DATED: July 16, 2012

Neil J. Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #92-12

**A RESOLUTION OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF
MORRIS AND STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION
OF AN AGREEMENT WITH THE PASSAIC VALLEY SEWERAGE
COMMISSION FOR THE TREATMENT AND DISPOSAL OF SLUDGE**

WHEREAS, in accordance with the New Jersey and Morris County Solid Waste Management Plans, waste generated by the Mendham Borough Sewage Treatment Facility is transported to and treated by the Passaic Valley Sewerage Commission at its treatment facility in Newark, New Jersey; and

WHEREAS, the Borough has submitted an application for and been offered a renewal contract with the Passaic Valley Sewerage Commission for the acceptance and treatment of sewage sludge generated by the Mendham Borough Sewage Treatment Facility (the "Municipal Agreement"); and

WHEREAS, the Borough wishes to enter into the Municipal Contract with the Passaic Valley Sewerage Commission; and

WHEREAS, pursuant to N.J.S.A. 58:14-2, the Passaic Valley Sewerage Commission is a public entity; and

WHEREAS, the Municipal Contract is thereby excepted from the bidding requirements of the Local Public Contracts Law under N.J.S.A. 40A:11-5(2); and

WHEREAS, funds are available for the purposes of the Municipal Contract.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Mendham, County of Morris and State of New Jersey as follows:

1. The Borough of Mendham hereby authorizes the Mayor and Borough Clerk to execute the Municipal Contract with the Passaic Valley Sewerage Commission for the acceptance and treatment of sewage sludge generated by the Mendham Borough Sewage Treatment Facility.
2. This contract is awarded without competitive bidding in accordance with the provisions of the Local Public Contracts Law because the Passaic Valley Sewerage Commission is a public entity.

This Resolution shall take effect immediately.

DATED: July 16, 2012

Neil J. Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #93-12

WHEREAS, Pastime Club has contracted with Garden State Fireworks Inc. to provide a fireworks display at the Borough Park on Monday, September 3, 2012, rain date of Saturday, September 8, 2012.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Mendham, that authorization is hereby granted to the Pastime Club to conduct a Fireworks Display on the night of September 3, 2012 with a rain date of September 8, 2012, subject to the following conditions:

1. The persons conducting the fireworks display and all other persons involved shall hold the Borough of Mendham harmless from any liability in connection with said display and shall execute and deliver to the Borough Clerk a Hold Harmless agreement in the form to be provided by the Borough.

2. Pursuant to N.J.S.A. 21:3-5, a certificate of insurance evidencing public liability insurance of not less than \$1,000,000/\$2,000,000 with a \$2,000,000 umbrella liability policy limit and listing the Borough of Mendham as a named insured shall be supplied to the Borough Clerk prior to issuance of this consent.

3. Approval from the Police Chief and the Fire Chief as to the locations of the place for storing and displaying the fireworks is required.

4. Receipt and approval of the aforesaid certificate of insurance, approvals and Hold Harmless Agreement by the Borough Attorney is received.

DATED: July 16, 2012

Neil J. Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #94-12

WHEREAS, the property at 56 Pembroke Drive, Block 1003, Lot 107, owned by Donald T and Mona R. Thomas, was subject to Tax Sale for delinquent 2008 property taxes and sewer fees; and

WHEREAS, a lien on the property was sold to Park Finance, LLC at the Mendham Borough Tax Sale on September 22, 2009 as Tax Sale Certificate #2009-1; and

WHEREAS, the current property owner, David B. Thomas, son of Donald T. and Mona R. Thomas, has requested to redeem the Tax Sale Certificate; and

WHEREAS, the Tax Collector has calculated and the lien holder agrees that the amount necessary to redeem the lien is \$34,990.28; and

WHEREAS, the property owner has paid \$34,990.28 to the Borough of Mendham; and

WHEREAS, the lien purchaser also bid a premium of \$6,600.00 that has been deposited by the Borough of Mendham.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mendham, County of Morris, and State of New Jersey, that the Treasurer be authorized to issue a check in the amount of \$41,590.28 to Park Finance, LLC in full satisfaction of the redemption of the lien on Block 1003, Lot 107.

Park Finance, LLC
PO Box 109
Cedar Knolls, NJ 07927

I hereby certify that the above amount is correct.

Donna M. Cummins, Tax Collector

DATED: July 16, 2012

Neil J. Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

RESOLUTION #95-12

BE IT RESOLVED by the Mayor and Council of the Borough of Mendham, in the County of Morris and State of New Jersey as follows:

WHEREAS, it is necessary for the Mayor and Council of the Borough of Mendham to discuss matter(s) relating to **Contract Negotiations** which matter(s) are(is) permitted by Section 7.b. of the Open Public Meetings Act (Chapter 231 of the Public Laws of the State of New Jersey for 1975) to be discussed in closed session in the absence of the public; and

WHEREAS, the Mayor and Council of the Borough of Mendham has determined that it is necessary in the public interest that the matter(s) in fact be discussed in closed session, and has estimated that, as nearly as can now be ascertained, the results of the discussion can be disclosed to the public at the following time and under the following circumstances: when the matters are resolved.

NOW, THEREFORE IT IS RESOLVED that the public be excluded from the ensuing portion of this meeting, during which only the aforestated matter(s) will be discussed.

Council may or may not take action after returning to open session.

Dated: July 16, 2012

Neil Henry, Mayor

ATTEST:

Maureen Massey, RMC, CMC
Borough Clerk