



Mayor and Common Council Borough of Flemington

March 27, 2023

Council Meeting Room
Flemington Borough Hall, 38 Park Avenue, Flemington, NJ 08822

I. Call to Order

II. Flag Salute

III. OPMA Statement

This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting of March 27, 2023 was included in a list-of-meetings notice sent to the *Hunterdon County Democrat* and *Courier-News* on January 5, 2023, posted on the bulletin board at Borough Hall on that date, and has remained continuously posted as required. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Borough

IV. Roll Call

Marcia A. Karrow	Mayor
Susan Engelhardt	Council Member
Malik Johnston	Council Member
Jeremy Long	Council President
Tony Parker	Council Member
Elizabeth Rosetti	Council Member
Kimberly Tilly	Council Vice President

V. Presentations

1. Elizabethtown Gas to discuss Phase 2 work in Flemington Borough.

VI. Mayor's Report

VII. Council Member Reports

VIII. Administrator's Report

IX. Public Comments - Session I

X. Approval of Minutes

XI. Consent Agenda

XII. Regular Agenda

1. **Public Hearing:**

ORDINANCE 2023-12: AMENDING CHAPTER 4 (LICENSING – GENERAL), SECTION 4-3 (RETAIL FOOD ESTABLISHMENTS), SUBSECTION 4-3.2 (FEES) OF THE MUNICIPAL CODE OF THE BOROUGH OF FLEMINGTON TO AMEND THE FEES ASSESSED FOR TEMPORARY RETAIL FOOD ESTABLISHMENTS

2. **Introduction:**

ORDINANCE 2023-13: REPEALING AND REPLACING ORDINANCE NO. 2023-11, GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST OF CENTRAL NEW JERSEY II, LLC. TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE BOROUGH OF FLEMINGTON, HUNTERDON COUNTY, NEW JERSEY

3. RESOLUTION 2023-85: AMENDING A PORTION OF A CERTAIN EASEMENT BETWEEN STEPHEN STURGES, ET UX AND THE BOROUGH OF FLEMINGTON DATED NOVEMBER 12, 1949 AND RECORDED IN THE HUNTERDON COUNTY HALL OF RECORDS AT BOOK 482, PAGE 478.

4. RESOLUTION 2023-86: EXTENDING THE PROVISION OF CHAPTER 10 (STREETS AND SIDEWALKS), SECTION 10-7 (ESTABLISHMENT OF OPEN CONTAINER AREAS) OF THE MUNICIPAL CODE OF THE BOROUGH OF FLEMINGTON TO CERTAIN DATES TO CORRESPOND WITH THE FLEMINGTON COMMUNITY PARTNERSHIP'S "THIRD THURSDAY SIP & STROLL ON STANGL" EVENT SERIES

5. RESOLUTION 2023-87: APPROVING FIREWORKS ON JULY 3, 2023, WITH A RAIN DATE OF JULY 5, 2023, AUTHORIZING ROAD CLOSURES AND WAIVING THE PERMIT FEE

6. RESOLUTION 2023-88: AWARDING CONTRACT FOR FIREWORKS SERVICES FOR THE FLEMINGTON BOROUGH'S 2023 JULY 4TH CELEBRATION TO GARDEN STATE FIREWORKS, INC. FOR \$18,000.00

7. RESOLUTION 2023-89: DECLARING APRIL 28, 2023 AS ARBOR DAY IN THE BOROUGH OF FLEMINGTON

8. RESOLUTION 2023-90: APPOINTMENT OF MW FINANCIAL GROUP, AS A REDEVELOPMENT CONSULTANT, 2023

XIII. Work Session

1. Event Application Discussion with Chief Jerry Rotella and Cpl. Brian McNally

XIV. Public Comments - Session II

XV. Payment of the Bills

Authorization to pay the bills in the amount of \$1,273,484.72

XVI. Executive Session

for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

1. RESOLUTION 2023-91: EXECUTIVE SESSION TO DISCUSS POTENTIAL EMPLOYMENT MATTERS

XVII Adjournment

Item Cover Page

MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Work Session

AGENDA SECTION: Presentations

SUBJECT: Elizabethtown Gas to discuss Phase 2 work in Flemington Borough.

ATTACHMENTS:

ORDINANCE 2023-12

MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Ordinances

AGENDA SECTION: Regular Agenda

SUBJECT: **Public Hearing:**
ORDINANCE 2023-12: AMENDING CHAPTER 4 (LICENSING – GENERAL), SECTION 4-3 (RETAIL FOOD ESTABLISHMENTS), SUBSECTION 4-3.2 (FEES) OF THE MUNICIPAL CODE OF THE BOROUGH OF FLEMINGTON TO AMEND THE FEES ASSESSED FOR TEMPORARY RETAIL FOOD ESTABLISHMENTS

WHEREAS, the Borough Council wishes to amend Section 4-3.2 of the municipal code of the Borough of Flemington to change the current fee schedule for temporary retail food establishments;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the Borough Flemington, in the County of Hunterdon, State of New Jersey, that Chapter 4, Section 4-3, Subsection 4-3.2, is hereby amended as follows:

SECTION I.

Section 4-3.2(d) is hereby amended as follows (current language to be struck and replaced as follows):

d. Temporary retail food establishments shall be assessed fees as follows:

1. Vendors operating for three (3) consecutive days or fewer:
 - i. For-profit vendors - \$100
 - ii. Non-profit vendors (Flemington residents or business-owners) - \$25
 - iii. Non-profit vendors (not Flemington residents or business-owners) - \$75
2. Vendors operating for four (4) consecutive days up to fourteen (14) consecutive days shall pay \$135;

SECTION II. If any part of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

SECTION III. Should any section, paragraph, sentence, or clause of this ordinance be declared unconstitutional or invalid for any reasons, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect and, to this end, the provisions of this ordinance are hereby declared severable.

SECTION IV. This ordinance shall take effect upon adoption and publication in the manner required by New Jersey general law.

Introduced: March 13, 2023

Adopted: March 27, 2023

Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

Item Cover Page

MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Ordinances

AGENDA SECTION: Regular Agenda

SUBJECT: **Introduction:**
ORDINANCE 2023-13: REPEALING AND REPLACING
ORDINANCE NO. 2023-11, GRANTING RENEWAL OF
MUNICIPAL CONSENT TO COMCAST OF CENTRAL NEW
JERSEY II, LLC. TO CONSTRUCT, CONNECT, OPERATE AND
MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS
SYSTEM IN THE BOROUGH OF FLEMINGTON, HUNTERDON
COUNTY, NEW JERSEY

WHEREAS, in or about September 2019, Comcast of Central New Jersey II, LLC ("Comcast") filed an application for the renewal of municipal consent to construct and operate a cable television system within the Borough of Flemington; and

WHEREAS, pursuant to N.J.S.A. 48:5A-23, the Borough conducted a properly noticed public hearing to consider Comcast's application on October 15, 2019; and

WHEREAS, on March 13, 2023, an incorrect version of this within Ordinance was inadvertently adopted by the Borough governing body (Ordinance 2023-11); and

WHEREAS, the Borough governing body desires to repeal and replace Ordinance 2023-11.

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FLEMINGTON, HUNTERDON COUNTY, NEW JERSEY, AS FOLLOWS:

SECTION 1. PURPOSE OF THE ORDINANCE.

The Borough 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 Borough, 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 Borough 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 in 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:

1. "Borough" is the Borough of Flemington, County of Hunterdon, State of New Jersey.
2. "Company" or "Comcast" is the grantee of rights under this Ordinance and is known as Comcast of Central New Jersey II LLC.
3. "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.
4. "FCC" is the Federal Communications Commission.
5. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
6. "Office" or "OCTV" is the Office of Cable Television of the Board.
7. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
8. "Application" is the Company's Application for Renewal of Municipal Consent.
9. "Primary Service Area" or "PSA" consists of the area of the Borough currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.
10. "Government access" shall mean noncommercial use by the governing bodies for the purpose of showing the public local government at work.
11. "Educational access" shall mean noncommercial use by educational institutions such as public or private schools, but not "home schools," community colleges and/or universities.

SECTION 3. STATEMENT OF FINDINGS.

Public hearings conducted by the Borough, 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 Borough, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Borough 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 5 10 years from the date of expiration of the previous Certificate of Approval issued by the Board.

In the event that the Borough shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Borough 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 Borough 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, and, except as where higher payment is otherwise required by the applicable law and regulations (including N.J.S.A. 48:5A-30), the Company shall, during each year of operation under the consent granted herein, pay to the Borough 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 Borough or any higher amount permitted by the Act or otherwise allowable by law.

SECTION 6. FRANCHISE TERRITORY.

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

SECTION 7. EXTENSION OF SERVICE.

The Company shall be required to proffer service to any residence 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, with a HPM ("homes-per-mile") of 35 25 dwellings per linear mile from the nearest active trunk or feeder line.

SECTION 8. CONSTRUCTION REQUIREMENTS.

1. 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.
2. Relocation: If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Borough, shall remove, re-lay or relocate its equipment, at the expense of the Company prior to approval of the board.
3. 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 Borough 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.
4. Temporary removal of cables: The Company shall, upon request of the Borough, at the

company's expense, temporarily raise, lower or remove its lines in order to facilitate the moving of buildings or machinery or in other like circumstances, subject to the prior approval of the board.

5. Installation of equipment: The Company shall install equipment in the same location and manner as existing public utilities whenever possible, in order to minimize the impact of same on surrounding property.

SECTION 9. CUSTOMER SERVICE.

1. 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 Borough upon written request of the Borough Administrator or Clerk.
2. 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.
3. 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.
4. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association ("NCTA").
5. Nothing herein shall impair the right of any subscriber or the Borough 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 Borough 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 Borough shall have the right to request copies of records and reports pertaining to complaints by Borough 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.

SECTION 12. PERFORMANCE BOND.

During the life of the franchise the Company shall give to the Borough a bond in the amount of Twenty-Five Thousand Dollars (\$25,000). 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; FREE SERVICE.

1. The Company shall continue to provide Expanded Basic or a similar tier of cable television service to one (1) outlet to each qualified existing and future school in the Borough, public and private, elementary, intermediate and secondary, provided the school building is within two hundred (200) feet of active cable distribution plant or through customer owned conduit. 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.
2. The Company shall continue to provide Expanded Basic or a similar tier of cable television service to one (1) outlet to every Borough building and each qualified existing and future municipal building, police, fire, emergency management facility and public library in the Borough, provided the facility is located within two hundred (200) feet of active cable distribution plant or through customer owned conduit. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Borough. Monthly service charges shall be waived on all additional outlets except for equipment.
3. Within six months of the issuance of a Renewal Certificate of Approval by the BPU, the Company shall provide to the Borough a one-time PEG Access Capital Grant in the amount of \$10,000 to meet the PEG Access capital needs of the community.
4. 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, education, 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.

SECTION 15. GOVERNMENTAL AND EDUCATIONAL ACCESS

1. The Company shall provide one shared channel for governmental and one shared channel for educational ("EG") access for use by the Borough on the most basic tier of service offered by the company in accordance with the Cable Act, Section 611 (47 U.S.C. § 531), and as further set forth below. Educational and governmental access video programming shall be provided by the governing body of the Borough and/or a designated educational institution. Unused capacity may be utilized by the Company subject to the provisions for "fallow time" below.
2. 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.

3. The Company shall not exercise editorial control over any educational or governmental use of channel capacity, except 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.
4. The governing body of the Borough shall be responsible for developing, implementing and enforcing rules for EG access channel use which shall ensure that the EG access channel and the EG access equipment, which shall be provided by the Borough, will be available on a first-come-first-served, nondiscriminatory basis.
5. Company use of fallow time. Because blank or underutilized EG channels are not in the public interest, in the event the Borough or other EG access users elect not to fully program their EG access channel, the Company may program unused time on those channels subject to reclamation by the Borough upon no less than 60 days' written notice. In times of a declared state of emergency (at the local, county, or state level) the Borough shall reclaim unused time immediately for the purpose of relaying information related to said emergency upon written notice to the Company.
6. Indemnification. The Borough shall indemnify company for any liability, loss, or damage it may suffer due to violation of the intellectual property rights of third parties on the EG channel and from claims arising out of the Borough's rules for or administration of access.

SECTION 16. EMERGENCY USES.

1. The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.
2. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the Borough 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 One Million Dollars (\$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 Five Million Dollars (\$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 application State or Federal law.

SECTION 19. COMPETITIVE EQUITY.

Should the Borough grant municipal consent for 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. MEETINGS

Upon thirty (30) days written request by the Municipality, the Company shall make representatives available to meet with officials of the Municipality for the purpose of reviewing the Company's performance. The Company's representative shall respond to the reasonable requests for information made by the Municipality prior to such meeting.

SECTION 21. 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 22. 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 23. EFFECTIVE DATE.

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

Introduced: March 27, 2023

Adopted:

Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

Item Cover Page

MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Resolutions

AGENDA SECTION: Regular Agenda

SUBJECT: RESOLUTION 2023-85: AMENDING A PORTION OF A CERTAIN EASEMENT BETWEEN STEPHEN STURGES, ET UX AND THE BOROUGH OF FLEMINGTON DATED NOVEMBER 12, 1949 AND RECORDED IN THE HUNTERDON COUNTY HALL OF RECORDS AT BOOK 482, PAGE 478.

WHEREAS, the above grants to the Borough of Flemington a Forty-Two Foot (42') Easement for the purposes of sidewalk and roadway widening from the centerline of Main Street measured at a right angle on Block 18, Lots 10 and 11, and further described as AO-44 Main Street, Flemington, New Jersey; and,

WHEREAS, the Easement provides that "The parties of the first part covenant to remove the building and all parts thereof and materials therein from the property over which said easement is granted"; and,

WHEREAS, the current owners of the above-described property and the Borough of Flemington believe and agree that the above quote be removed from the Easement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that that provision of the existing Easement that provides "The parties of the first part covenant to remove the building and all parts thereof and materials therein from the property over which said easement is granted" be and the same is hereby removed from the Easement. The owner of the within-described block and lot shall not be burdened with the requirement, at any time, to remove the building and all parts thereof.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be recorded with the Hunterdon County Clerk.

Adopted: March 27, 2023
Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

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MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Resolutions

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WHEREAS, the municipal code of the Borough of Flemington permits the establishment of an "open container area" on Stangl Road between Church Street and Mine Street as delineated in Section 10-7 of the aforementioned code (Establishment of Open Container Areas) between the hours of 4:00 pm and 11:00 pm on Fridays, between 1:00 pm and 11:00 pm on Saturdays, and between the hours of 1:00 pm and 8:00 pm on Sundays; and

WHEREAS, the Flemington Community Partnership (FCP) has requested that special relief from Section 10-7 be granted for open container events on seven (7) Thursdays in the 2023 from the FCP's "Third Thursday Sip & Stroll" event; and

WHEREAS, the specific dates requested are as follows:

April 20, 2023
 May 18, 2023
 June 15, 2023
 July 7, 2023
 August 17, 2023
 September 21, 2023; and

WHEREAS, Chapter 5 of the municipal code of the Borough of Flemington (Alcoholic Beverage Control) permits the Borough Council, under the authority granted thereto pursuant to Section 5-6.3 (Permitted Exceptions) and by motion and upon application being made therefor and for good cause shown, to permit exceptions to the Borough's ABC code provisions for special functions or

social events; and

WHEREAS, the Borough Council does find that a valid application has been submitted by the FCP and good cause has been shown; and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the Borough of Flemington does hereby grant relief pursuant to Section 5-6.3 of the municipal code thereof to the Flemington Community Partnership to extend the Open Container Area so designated pursuant to Section 10-7 of the municipal code to the following dates between the hours of 5 pm and 9 pm:

April 20, 2023

May 18, 2023

June 15, 2023

July 7, 2023

August 17, 2023

September 21, 2023; and

BE IT FURTHER RESOLVED, that all other provisions related to the enforcement of alcoholic beverage consumption, including but not limited to those found in Chapters 5 and 10 of the Borough Code, remain in full force and effect.

Adopted: March 27, 2023

Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

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MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Resolutions

AGENDA SECTION: Regular Agenda

SUBJECT: RESOLUTION 2023-87: APPROVING FIREWORKS ON JULY 3, 2023, WITH A RAIN DATE OF JULY 5, 2023, AUTHORIZING ROAD CLOSURES AND WAIVING THE PERMIT FEE

WHEREAS, the Flemington Parks and Recreation Committee has requested permission to hold fireworks on July 3rd, 2023 with a rain date of July 5th, 2023 at the Reading Fleming Intermediate School (RFIS); and

WHEREAS, the fireworks organizers have requested the fee for the permit be waived; and

WHEREAS, the fireworks organizers have requested that the RFIS property be closed, along with Allen Street from Court Street to Youngs Drive, Capner Street from the Borough Line to Abbott Court, and Court Street from Allen Street to Park Avenue, from 6:00 PM to 10:00 PM; and

WHEREAS, the Flemington Borough Police Department has reviewed and approved the request for the street closures;

NOW THEREFORE BE IT RESOLVED by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that the request submitted by the fireworks organizers to hold the fireworks on July 3, 2023 with a rain date of July 5, 2023 at RFIS is hereby approved.

BE IT FURTHER RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that the permit fee is waived.

BE IT FURTHER RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that the RFIS property and street closures requested are approved.

BE IT FURTHER RESOLVED, that Borough officials and representatives as needed are authorized to sign documents to support the fireworks display described above.

Adopted: March 27, 2023

Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

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MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Resolutions

AGENDA SECTION: Regular Agenda

SUBJECT: RESOLUTION 2023-88: AWARDING CONTRACT FOR FIREWORKS SERVICES FOR THE FLEMINGTON BOROUGH'S 2023 JULY 4TH CELEBRATION TO GARDEN STATE FIREWAORKS, INC. FOR \$18,000.00

WHEREAS, the Borough of Flemington has celebrated our nation's Independence Day with a fireworks show in previous years; and

WHEREAS, the Borough intends produce a fireworks event on Monday, July 3, 2023, with a rain date of Wednesday, July 5, 2023; and

WHEREAS, the Borough has solicited vendors of fireworks services and has received two detailed and one non-detailed quote for this service as follows:

Garden State Fireworks, Inc.	\$18,000.00
Zambelli Fireworks	\$25,000.00
D&M Fireworks, LLC	no availability
Pyrotecnico Fireworks Inc	no availability

WHEREAS, the quote that is most advantageous to the Borough is that of Garden State Fireworks, Inc. for an amount of \$18,000.00; and

WHEREAS, the Borough CFO has certified that funds are available for this purpose.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, as follows:

1. The Mayor and Acting Borough Clerk are authorized to enter into a contract with Garden State Fireworks, Inc. for an amount not to exceed \$18,000.00 to provide fireworks services on Monday, July 3, 2023, with a rain date of Wednesday, July, 5, 2023, to be approved by the

Borough Attorney.

2. The Mayor and Acting Clerk are authorized to take all actions necessary to execute this agreement.
3. This Resolution shall take effect immediately.

Adopted: March 27, 2023

Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

[CONTRACT UNTIL 2023.doc](#)

THIS AGREEMENT is made on this **13 day of March, 2023**, between GARDEN STATE FIREWORKS, INC., hereinafter known and designated as The Party of the First Part; Flemington Borough hereinafter known as the designated Party of the Second Part.
WITNESSETH: For and in consideration of all mutual covenants and agreements hereinafter entered into, the Party and Parties hereinafter agree as follow:

- 1 The Party of the First Part agrees to furnish to the Party of the Second Part **on Intermediate School Grounds on July 3, 2023** in a location to be designated by the Party of the Second Part and approved by the Party of the First Part, an exhibition of fireworks.

- 2 The Party of the First Part agrees to pay all expenses for the freight and cartage for the said display, all necessary labor and equipment, and experienced Pyrotechnic Operators to discharge the said display. The Party of the First Part and The Party of the Second Part agree to a postponement of the said display in the event of inclement weather **July 5, 2023** additional cost of FIFTEEN PERCENT of the total contract amount. **Postponements will be allow prior 3:00PM the day of the event;** and may be scheduled only within **the period terminating January 1, 2024** after the original scheduled date of the display, thereafter the display will be considered to be cancelled. In the event of cancellation, the Party of the Second part agrees to additional payment of FIFTY PERCENT to bring the total of payments to ONE HUNDRED PERCENT of the total contract amount.

4. The Party of the First Part agrees to supply to the Party of the Second Part, insurance coverage in the amount of FIVE MILLION DOLLARS for public liability and/or property damage. The Party of the First Part agrees to hold harmless the Party of the Second Part. The Party of the Second Part agrees to hold harmless the Party of the First Part of all and any claims, legal fees incurred outside the operations or the control of the Party of the First Part.

5. The Party of the Second Part agrees to furnish ample security or police protection and barricades to prevent any persons from coming into the safety zone area designated for discharging said fireworks display. With the exception of conditions stated in paragraph 4 above, the Party of the Second Part also agrees to assume sole responsibility for spectator safety, including seating, lighting, and ground surfaces, and agrees to conduct an inspection of the site approximately 24 hours in advance of the display to ensure a safe spectator environment.

6. The Party of the Second Part agrees to produce any and all permits which may be required by municipal authorities for the discharging of the said fireworks display at their own expense.

7. The Party of the Second Part agrees that any and all publicity, media coverage, announcements, and advertising shall name GARDEN STATE FIREWORKS, INC. as the primary contractor for the said display.

8. Upon signing of this document, a deposit of FIFTY PERCENT of the total contract price shall be paid to the Party of the First Party

9. Upon delivery of the said display, the full balance for the contracted amount shall be paid to the Pyrotechnic Operator in a sealed envelope before of immediately following the discharging of the display.

10. Total amount **\$18,000.00** *United* State dollar **(excluding permit fees)**

WITNESS: GARDEN STATE FIREWORKS, INC.

BY _____
August N. Santore – Vice President

WITNESS

Flemington Borough

Item Cover Page

MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Resolutions

AGENDA SECTION: Regular Agenda

SUBJECT: RESOLUTION 2023-89: DECLARING APRIL 28, 2023 AS ARBOR DAY IN THE BOROUGH OF FLEMINGTON

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our borough increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington declare Friday, April 28, 2023 as Arbor Day in the Borough of Flemington; and

BE IT FURTHER RESOLVED that the Mayor and Council encourage all residents to celebrate Arbor Day and to support efforts to protect our trees and woodlands.

Adopted: March 27, 2023

Attest:

Marcia A Karrow

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

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MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Resolutions

AGENDA SECTION: Regular Agenda

SUBJECT: RESOLUTION 2023-90: APPOINTMENT OF MW FINANCIAL GROUP, AS A REDEVELOPMENT CONSULTANT, 2023

WHEREAS, the Borough of Flemington has a need for professional redevelopment consulting services to provide economic advice for redevelopment projects; and

WHEREAS, the Borough of Flemington will engage such consulting services on an as needed basis; and

WHEREAS, the proposal by MW Financial Group, LLC is advantageous to Borough of Flemington; and

WHEREAS, MW Financial has quoted an hourly rate as \$225; and

WHEREAS, the agreement will end on December 31, 2023;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington in the County of Hunterdon, State of New Jersey, hereby retain MW Financial Group LLC for professional redevelopment consulting services at an hourly rate of \$225.00 per hour for a term ending on December 31, 2023; and

IT IS FURTHER RESOLVED that the Chief Financial Officer has certified that funds are available in various escrow accounts.

IT IS FURTHER RESOLVED that the Mayor of the Borough of Flemington is hereby authorized to enter into said agreement with MW Financial, LLC; and

Adopted: March 27, 2023

Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

CERTIFICATION

I, Michael Humphrey, Acting Borough Clerk of the Borough of Flemington, County of Hunterdon, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the governing body on March 27, 2023.

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS:

[Flemington Engagement Letter.pdf](#)



March 22, 2023

Borough of Flemington
38 Park Avenue
Flemington, NJ 08822

Re: 2023 Redevelopment Consulting Engagement Letter

This Agreement made and entered into this 1st day of March 2023 by and between the Borough of Flemington having its principal place of business at and NW Financial Group, LLC .

NW Financial Group ("NW") will provide redevelopment consulting services (unless otherwise directed by the Borough} as described below. NW, at the direction of the Borough, will assist with providing general economic advice relating to redevelopment projects including but not limited to creating, formulating, calculating, and negotiating Payment in Lieu of Taxes ("PILOT") agreements; and appearing before and/or providing periodic reports and recommendations to the Mayor, Council and Administrator as necessary and appropriate.

Providing financial assistance and analysis on Client matters including developing financial strategies for optimal use of the Client's financial resources, review and analysis of bond refunding opportunities, project loan refinancing reviews, and such other financial analysis as the Client may require.

Our scope of services and compensation under this agreement are listed as follows:

GENERAL SCOPE OF SERVICES:

NW Financial shall use its best professional judgment to make every good faith effort to safeguard the interest of the Borough in providing the Borough with the following services as to redevelopment consulting engagements:

A. Redevelopment/Consulting Services:

- 1) Advise you in developing a strategy for the implementation of the structure and timetable for the Financing
- 2) Provide advisory services directly related to the Financing to help the Borough negotiate an optimal Payment in Lieu of Taxes agreement for the Project that will benefit the Community, including the following:

➤ **Cost-Benefit Analysis**

- Analysis of the Project & Plan
- Analysis of area demographics
- Analysis of Municipal Service Costs
- Analysis of School District Costs
- Projection of Annual Revenue
- Attend meetings with municipal officials, redeveloper, state officials, others.
- Prepare reports for municipal officials and others on redevelopment projects.

➤ **Analysis of Need**

- Analyze the project to determine that “but for” a PILOT the project cannot be developed.
- Review all financial pro-formas related to the redevelopment.
- Review professional reports and feasibility studies associated with the redevelopment.
- Provide capital markets advice as it related to Redevelopment Area Bonds.
- Analyze need for payment in lieu of taxes and other municipal incentives.
- Analysis of redevelopment financial stability as it relates to municipal risks.
- Analysis of redeveloper financial stability as it relates to municipal risks.
- Attend meetings with municipal officials, redeveloper, state officials, others.
- Prepare reports for municipal officials and others on redevelopment projects.
- Evaluate other forms of financial assistance related to the redevelopment such as New Market Tax Credits, Historic Tax Credits, Economic Redevelopment & Growth Grant, etc.

➤ **Negotiations and Document Review**

- Assist in the negotiation of Redevelopment Agreements and Financial Agreements.
- Attend meetings with municipal officials and/or Council to discuss agreements.
- Work in conjunction with other professionals to assure the most favorable outcomes

COMPENSATION:

For redevelopment consulting services provided on projects other than the sale of bonds or notes, NW Financial’s compensation will be based upon the following hourly rates. Invoices will be forwarded monthly with a compilation of hours expended and tasks.

<u>Position Hourly</u>	<u>Rate (\$/hour)</u>
Principal	\$225
Managing Director	\$205
Senior Vice President	\$195
Vice President	\$190
Associate	\$185

TIME OF PERFORMANCE:


It is understood and agreed by both parties hereto, that this Contract shall be for a period of twelve (12) months beginning March 1, 2023 to December 31, 2023 as the fees set forth in the Agreement.

In witness whereof, and intending to be legally bound hereby, the parties cause this Agreement to be executed and attested to by their respective authorized officials each having affixed their corporate seals hereto on the dates indicated below:

BOROUGH OF FLEMINGTON

NW FINANCIAL GROUP, LLC

BY: _____
 Name:
 Title:
 Date:

BY: 
 Name: Michael I. Hanley
 Title: Principal
 Date: 3/22/2023

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MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Work Session

AGENDA SECTION: Work Session

SUBJECT: Event Application Discussion with Chief Jerry Rotella and Cpl. Brian McNally

ATTACHMENTS:

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MAYOR AND COMMON COUNCIL AGENDA ITEM REPORT

DATE: March 27, 2023

SUBMITTED BY: Michael Humphrey, Clerk/Administration

ITEM TYPE: Resolutions

AGENDA SECTION: **Executive Session**
for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

SUBJECT: RESOLUTION 2023-91: EXECUTIVE SESSION TO DISCUSS
POTENTIAL EMPLOYMENT MATTERS

WHEREAS, the Common Council of the Borough of Flemington desires to discuss and obtain attorney advice regarding employment matters and potential employment positions, and potential litigation regarding a liquor license; and

WHEREAS, an executive session for this discussion is justified under N.J.S.A. 10:4-12 b(8), which cites:

Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting;

and

WHEREAS, a date cannot yet be given for when the minutes from the executive session may be made public;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the Borough of Flemington go into executive session for the above-started purpose.

Adopted: March 13, 2023

Attest:

Marcia A. Karrow, Mayor

Michael Humphrey, Acting Borough Clerk

ATTACHMENTS: