

Mayor and Council Newsletter

Borough of Island Heights
One Wanamaker Municipal Complex
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Official Council Meeting Minutes

December 9, 2025

MAYOR DOYLE CALLED THE MEETING TO ORDER AT 7 PM AND READ THE FOLLOWING:

This Regular Meeting of the Mayor and Council of the Borough of Island Heights is Hereby Called to Order. Notice of this Meeting was Provided in Accordance with the Open Public Meetings Act by Publication in the Asbury Park Press and the Newark Star Ledger and Notice was Also Posted on the Bulletin Board at the Municipal Building, on the Borough Television Channel and Website.

MAYOR DOYLE:

SALUTE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL OF THE MAYOR AND COUNCIL AND BOROUGH PROFESSIONALS:

Council Member Baxter	<u>Present</u>	Absent
Council Member Fumo	<u>Present</u>	Absent
Council Member Gabriel	<u>Present</u>	Absent
Council Member Healy	<u>Present</u>	Absent
Council Member Pendleton	Present	<u>Absent</u> (excused)
Council Member Weber	Present	<u>Absent</u> (excused)
Mayor Doyle	<u>Present</u>	Absent
Borough Attorney Mr. Zabarsky	<u>Present</u>	Absent

MAYOR DOYLE INTRODUCED:

ORDINANCE 2025-15 – Public Hearing – Proposed Adoption

AN ORDINANCE OF THE BOROUGH OF ISLAND HEIGHTS,
GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST
TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN
THE BOROUGH

The Public Hearing on Ordinance 2025-15 is now open, persons who wish
to comment, please ask to be recognized and state your name for the
record:

Public Comments:

No comments

Mayor Doyle entertained a:

Motion to Close Public Hearing:

Motion: Mr. Baxter
Second: Mr. Fumo

Voice Vote: Yes: Unanimous No:

Mayor Doyle entertained a:

Motion to Waive Reading and Adopt Ordinance
2025-15 as Introduced:

Motion: Mr. Fumo
Second: Mr. Baxter

Voting Record:

Mr. Baxter	Mr. Fumo	Mr. Gabriel	Ms. Healy	Ms. Pendleton	Mr. Weber	Mayor Doyle
<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	Yes/No	Yes/No	<u>Yes/No</u>
Abs.	Abs.	Abs.	Abs.	<u>Abs.</u>	<u>Abs.</u>	Abs.

**As Ordinance 2025-15 is voluminous it has been placed at the end of this
Agenda Document**

MAYOR DOYLE:

ORDINANCE 2025-16 – Public Hearing - Proposed Adoption

AN ORDINANCE OF THE BOROUGH OF ISLAND HEIGHTS,
REPEALING AND REPLACING CHAPTER 4-8 OF THE MUNICIPAL
CODE

The Public Hearing on Ordinance 2025-16 is now open, persons who wish
To comment, please ask to be recognized and state your name for the
Record:

Public Comments:

No comments

Mayor Doyle entertained a:

Motion to Close Public Hearing:

Motion: Mr. Baxter
Second: Mr. Gabriel

Voice Vote: Yes: Unanimous No:

Mayor Doyle entertained a:

Motion to Waive Reading Adopt Proposed
Ordinance 2025-16 as Introduced:

Motion: Mr. Baxter
Second: Mr. Gabriel

Voting Record:

Mr. Baxter	Mr. Fumo	Mr. Gabriel	Ms. Healy	Ms. Pendleton	Mr. Weber	Mayor Doyle
<u>Yes</u> /No	<u>Yes</u> /No	<u>Yes</u> /No	<u>Yes</u> /No	Yes/No	Yes/No	<u>Yes</u> /No
Abs.	Abs.	Abs.	Abs.	<u>Abs.</u>	<u>Abs.</u>	Abs.

ORDINANCE 2025-16

AN ORDINANCE OF THE BOROUGH OF ISLAND HEIGHTS, COUNTY OF OCEAN,
STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 4-8 OF THE
MUNICIPAL CODE

The following shall repeal and replace Chapter 4-8 of the Municipal Code of the Borough of Island Heights:

4-8 TRAILER PARKING ON BOROUGH STREETS

4-8.1 Definitions

As used in this section:

A. TRAILER

An unpowered vehicle designed to be towed by a motorized vehicle.

B. Commercial Use

Activity intended to produce a financial gain for the owner or user including but not limited to; the hauling of merchandise intended for sale; the hauling of equipment used in commercial activity and/or the display of advertisements promoting commercial activity.

C. Boat Trailer

A vehicle without motive power, designed for carrying a boat or vessel and for being drawn by a motorized vehicle.

D. Commercial Trailer

A trailer which is registered or used or intended to be used for a commercial purpose.

E. Recreational Trailer

A trailer which is registered or used or intended to be used for personal recreational purposes

F. Utility Trailer

A trailer which is registered or used or intended to be used for the personal and private hauling of debris, equipment, material or supplies for personal, private and non-commercial purpose(s)

4-8.2 PARKING

A. Commercial Trailers

No Commercial Trailer shall be parked overnight on a Borough Street between the hours of 10 PM and 6 AM unless the trailer owner has written permission to do so from the Borough Clerk or the Officer in Charge of the Island Heights Police Department. This prohibition shall apply regardless of whether the trailer is attached to a motorized vehicle.

B. Boat and Recreational and Utility Trailers

No Boat, Recreational or Utility Trailer shall be parked on a Borough Street for more than three (3) consecutive days. This restriction shall apply regardless of whether the trailer is attached to a motorized vehicle.

MAYOR DOYLE:

ORDINANCE 2025-17 – Public Hearing - Proposed Adoption

AN ORDINANCE OF THE BOROUGH OF ISLAND HEIGHTS,
AUTHORIZING BLOCK 25 – LOT 11 – 125 VAN SANT AVENUE TO
BE OFFERED FOR PRIVATE SALE BY THE BOROUGH TO
ADJOINING PROPERTY OWNERS AND SETTING THE MINIMUM
OFFER FOR SAID PROPERTY AT \$5,000.00

The Public Hearing on Ordinance 2025-17 is now open, persons who Wish to comment, please ask to be recognized and state your name for The record:

Public Comments:

No comments

Motion to Close Public Hearing:

Motion: Mr. Baxter

Second: Mr. Fumo

Voice Vote: Yes: Unanimous No:

Mayor Doyle entertained a:

Motion to Waive Reading and Adopt Ordinance 2025-17 as Introduced:

Motion: Mr. Baxter

Second: Ms. Healy

Voting Record:

Mr. Baxter	Mr. Fumo	Mr. Gabriel	Ms. Healy	Ms. Pendleton	Mr. Weber	Mayor Doyle
<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	Yes/No	Yes/No	<u>Yes/No</u>
Abs.	Abs.	Abs.	Abs.	<u>Abs.</u>	<u>Abs.</u>	Abs.

ORDINANCE 2025-17

AN ORDINANCE OF THE BOROUGH OF ISLAND HEIGHTS, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING BLOCK 25 – LOT 11 – 125 VAN SANT AVENUE TO BE OFFERED FOR PRIVATE SALE BY THE BOROUGH TO ADJOINING PROPERTY OWNERS AND SETTING THE MINIMUM OFFER FOR SAID PROPERTY AT \$5,000.00 IN KEEPING WITH N.J.S.A. 40A:12-13

WHEREAS, the Borough filed a foreclose action on Block 25 – Lot 11 – 125 Van Sant Avenue in 2023 due to non-payment of property taxes, and;

WHEREAS, the foreclosure on the aforementioned mentioned property was granted and the Property was deeded to the Borough on September 25, 2025 via an Order from the Superior Court of New Jersey, and;

WHEREAS, N.J.S.A. 40A:12-13, authorizes the Borough to adopt an Ordinance to Allow this property to be offered for sale to the adjacent property owners at fair market Value, and;

WHEREAS, the Mayor and Council wish to authorize the sale of this property to an adjacent property owner,

NOW, THEREFORE IT IS SO ORDERED, that upon the Final Adoption of this Ordinance, the Mayor and the Borough Clerk are hereby authorized and shall:

1. Provide notice to the adjacent property owners via certified mail of the Borough's intention to offer this property for sale at fair market value.
2. Provide notice to the adjacent property owners via certified mail that if they wish to purchase this property, they will have twenty (20) days from the date of advertisement to submit a sealed offer to purchase the property.
3. Provide notice to the adjacent property owners via certified mail that the minimum offer that will be accepted for this property is \$5,000.00.
4. Upon the expiration of the twenty (20) day period, the Borough Clerk shall open any offers submitted for the purchase of this property and report the results to the Mayor and Council at their next Regular Meeting.
5. A Resolution approved by a majority of the Governing Body shall be required to authorize a sale of this property.

This Ordinance shall be effective upon Final Adoption by the Mayor and Council and Publication as required by law.

MAYOR DOYLE INTRODUCED THE:

APPROVAL OF PRIOR MEETING MINUTES

Resolution 2025-150 Approving the Proposed Minutes for the Regular Meeting of the Mayor and Council Conducted on November 18, 2025 (By Title)

Motion: Mr. Fumo
Second: Ms. Healy

Comments/Discussion: None

Voting Record:

Mr. Baxter	Mr. Fumo	Mr. Gabriel	Ms. Healy	Ms. Pendleton	Mr. Weber	Mayor Doyle
<u>Yes</u> /No	<u>Yes</u> /No	<u>Yes</u> /No	<u>Yes</u> /No	Yes/No	Yes/No	<u>Yes</u> /No
Abs.	Abs.	Abs.	Abs.	<u>Abs.</u>	<u>Abs.</u>	Abs.

MAYOR DOYLE INTRODUCED THE RESOLUTIONS ON THE CONSENT AGENDA:

Resolution 2025-151 Urging the State Legislature to Defeat Proposed Bill S-4736 and any Similar Legislation that Denies Local Autonomy in Land Use Planning and Ignores the Master Plan of the Borough

Motion: Mr. Baxter
Second: Mr. Fumo

Resolution 2025-152 Approving the Appointment of Keturah Coronato as Administrator of the Island Heights Municipal Court for a Term of Four Years with an Effective Date of December 1, 2025 at an Annual Salary of \$10,000.00

Motion: Mr. Baxter
Second: Mr. Fumo

Resolution 2025-153

Approving the Use of the Camp Meeting Grounds by the Island Heights Methodist Church for a Holiday Concert and Food Drive on December 14, 2025, Between the Hours of 2 PM and 5 PM (By Title)

Motion: Mr. Fumo
Second: Mr. Baxter

Resolution 2025-154

Authorizing the Execution and Delivery of Loan and Escrow Agreements for the Water Meter Replacement Project

Motion: Mr. Gabriel
Second: Mr. Baxter

Resolution 2025-155

Approving the Form and Other Details of the Issuance of Bonds Totaling not more than \$1,200,000.00 for the Borough by the New Jersey Infrastructure Bank for Funding of the Water Meter Replacement Project

Motion: Mr. Baxter
Second: Mr. Fumo

Resolution 2025-156

Authorizing the Mayor and the Borough Clerk to enter into a "Schedule C" Agreement with the County of Ocean for Calendar Year 2026

Motion: Mr. Gabriel
Second: Mr. Baxter

Comments/Discussion by Council Members of Items on the Consent Agenda:

No comments

Comments/Discussion from the Floor on Items on the Consent Agenda:

No comments

Mayor Doyle entertained a:

Motion for Adoption of all of the Resolutions on the Consent Agenda:

Motion: Mr. Baxter

Second: Mr. Fumo

Voting Record:

Mr. Baxter	Mr. Fumo	Mr. Gabriel	Ms. Healy	Ms. Pendleton	Mr. Weber	Mayor Doyle
<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	Yes/No	Yes/No	<u>Yes/No</u>
Abs.	Abs.	Abs.	Abs.	<u>Abs.</u>	<u>Abs.</u>	Abs.

MAYOR DOYLE INTRODUCED THE BILL LIST:

Resolution 2025-157

Approving Payment of all of the Items on the Bill List Submitted by the Purchasing Agent (By Title)

Motion: Mr. Fumo

Second: Ms. Healy

Discussion/Comments: None

Voting Record:

Mr. Baxter	Mr. Fumo	Mr. Gabriel	Ms. Healy	Ms. Pendleton	Mr. Weber	Mayor Doyle
<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	<u>Yes/No</u>	Yes/No	Yes/No	<u>Yes/No</u>
Abs.	Abs.	Abs.	Abs.	<u>Abs.</u>	<u>Abs.</u>	Abs.

MAYOR DOYLE INTRODUCED THE COUNCIL MEMBER REPORTS:

Mayor Doyle: As we all begin to reflect back on the year that was, please allow me to share with you some of the accomplishments and improvements around our Borough in 2025:

Public Works:

Our Department of Public Works and our Water and Sewer Utility under the capable leadership of Jon Brodbeck has dealt with multiple issues around water meter installations and hook ups for new houses.

Completed the Holly Avenue and Lake Drive road drainage and infrastructure improvements as well as the Boy Scout Island and Boat Ramp improvements. Both roads were paved and new curbing was put in place.

Paving and curbing were completed on Garden, Maple and Garfield Avenues.

Worked with the County to complete the Simpson Avenue paving alongside our School and it was ready when the students arrived in September.

Painted the Central Avenue Pavilion to keep the structure in good repair.

Repaired Well Number Two of our potable water system with no interruption to our water services.

Installed new water meters in ninety percent of our commercial and residential properties. Our water utility will be switching over to the new potable water metering and billing system on January 1st. Customers who do not have a new meter installed by the deadline will no longer receive free installation and will have additional quarterly charges for not replacing the water meter.

New soft sand was placed on Wanamaker Beach at Summit Avenue helping to maintain a jewel of a beach for our families.

The Groin (bulkhead) at the bottom of Simpson Avenue is being restored. The original groin dated back to the 1920s. This new structure will protect the Pavilion from the eastern wave action.

The Groin installed at Long Point has regrown ten feet of sand and has eased the erosion on that end of the Island.

Significant boardwalk restoration took place this year bringing our boardwalk up to a standard we can enjoy and be proud of.

New fencing was installed at Memorial Field for the tennis and basketball courts using grant funds from the State. Our Pickleball Court will be resurfaced in 2026.

More than fifteen new shade trees were planted on Borough Property including a new holiday tree at Memorial Field.

An Eagle Scout Project was completed at our Library with the installation of a bike rack, our thanks to Roman Fumo.

Engineering is in process for the restoration and paving of Chestnut, Park and Westray Avenues in the spring. In 2026 we will be working to restore and pave Cedar and Laurel Avenues and Ensor Place. Next up will be Oak Avenue and the last section of Maple Avenue by the River.

Drainage improvements are being studied for the corner of Lake Avenue and Siddons Court.

New flooring was installed at our Post Office. Emergency HVAC repairs were complete during the summer and the project will be completed in the spring of 2026.

Police Department:

Under the Leadership of Lt. Rutledge and Sgt. Caruso our Police Department has:

Received renewal of their Accreditation from the NJ Chiefs of Police. This is a notable achievement and one highly unusual for a town our size. Accreditation is process which assures our officers are well trained on proper police procedures. Really, I think about it as they are doing their job and this ensures that they do it right!

Hired new Full Time Officer Sergio DePinto.

Appointed Officer Dominique D'Amico-Violante to the position of Detective.

Responded to 7,990 calls for service.

Issued 780 summons year to date.

Detective D'Amico-Violante and Officer DePinto received recognition for subduing a dangerous individual armed with a knife.

Officer Zappola scored 1st place in the Iron Sight Rifle Division at the Ocean County Chiefs of Police Pistol Match.

Specialized training for our Officers included the Alcotest System, defensive tactics and rifle instructor certification.

Fire Company:

Our all Volunteer Fire Company gave us another tremendous year of service with a one hundred percent response rate. Our volunteers participate in numerous community activities throughout the year while raising the funds necessary to operate at a high level.

The Company and the Borough worked together last year to fund and order a new fire truck that we hope to see it delivered in the next twenty four months.

First Aid Squad:

We sat with our First Aid Squad over two years ago to establish a strategy for them to grow and successfully serve the Borough. We have limited EMS mutual aid options to provide critical services to our residents with the anticipation of county wide EMS system.

The property which was deeded to our Squad in 1974 was sold and they reinvested the funds in a new lease and construction of an upgraded facility with resting and shower facilities and a social area with a television for watching sports or playing video games with the strategy of getting younger members to serve and answer our calls.

After being publicly available for sale for over six months in 2023/24 the squad received offers and sold at the end of 2024, moving into their new facility this year.

From their new Headquarters, our Squad has responded to dozens of calls for service from our residents this year. They are one of only a few all volunteer First Aid Squads still operating in Ocean County. No resident is ever billed for their services.

If you want to volunteer, please contact them. We all need you to help them!

Environmental Committee:

Our Environmental Committee achieved Bronze Recertification this year from Sustainable Jersey while they focused on several nice projects in our community including the maintenance of the bioswale at the Wanamaker Complex and Earth Day educational activities and a sapling tree giveaway.

Another wooded property was added to the County Open Space Preservation Trust. The property across from police station which was a favorite of town children will now stand the test of time as green space.

Property Taxes:

We try to manage projects with grants and we have been working hard to find them. During my time as Mayor, we have received over seven million dollars in grants including County, State and Federal funding. A terrific track record to supplement our municipal tax dollars.

Foreclosures were completed on several delinquent properties in the Borough. The property owners had not paid taxes on these properties in some cases back to the 1980s!

Our fiscal discipline has maintained a modest increase in our municipal tax rate. Since 2018 just 2.3 cents increase which is among lowest in the County at the municipal level. Since 2018, the accumulated inflation rate has been twenty nine percent. We have managed your tax dollars on less than a five percent increase!

Administration

Our Borough Clerk (Sean Asay) and Deputy Clerk (Penny Hagan) work with a dedicated staff to perform a myriad of tasks for our Residents and the Governing Body.

Accomplishments of note this year:

Completed the automation of our code enforcement, construction and zoning permitting and tracking so that all permits and open violations are recorded and tracked in the SDL system.

Provided our construction and zoning customers with a list of frequently asked questions and upgraded our construction public portal to allow customers to request inspections and perform detailed searches on Borough properties.

Updated our website "forms" page so that customers can find and fill out commonly used Borough Forms and email them to the Office.

Upgraded our television channel and website systems, our television channel now appears on comcast cable, Verizon Fios television and can be streamed from anywhere via the link on our website.

Completed a financial rating review that resulted in our credit rating being increased by the rating agencies (a rare event indeed).

Year End Message

The projects I have listed for all areas of the Borough are the big things we do each year beyond the normal day to day of collecting taxes, answering calls and helping residents with everything from A-Z. From picking up an old sofa to answering an emergency police call. From helping with a water issue to responding to a vehicle accident.

Our employees work hard in each of our departments and lead great teams that care about the residents. You can see that in their smiles when they greet you!

Our committees and volunteers including recreation, planning board and environmental give of their time to make a difference every day.

Our volunteer first responders fire, first aid and emergency management are people we should be grateful for every day.

Our Borough Council works hard, with Rolf Weber Council President, Brian Gabriel, Lynn Pendleton, Bob Baxter, Alan Fumo and Sandi Healy. A great team that truly cares about our town.

I am concluding seven years as your Mayor. Thank you for your confidence and support. I look forward to a great 2026 and the Celebration of the 250th Birthday of the United States of America!

May the new year bring peace to the world and health to your house. We can only pray.

Ms. Healy – The feasibility study related to regionalization of elementary level schools is now in a draft form and representatives from Rowan University will be meeting with representatives from each affected Municipality to go over the draft before the report is finalized.

The Middle and High School Holiday Concerts will take place on December 9th and 16th.

Central Regional is upgrading their solar energy grid and they expect to save over three million dollars in electricity costs over the life of the new equipment.

Our Elementary School will be accepting applications for their pre-kindergarten program after the start of the New Year.

Mr. Fumo – Our First Aid Squad has responded to 232 calls for service year to date. They have three candidates now in EMT training and they are always seeking new volunteers.

Our Fire Company has conducted their elections for officers for 2026 and the new officers will be sworn in on January 1st. The company responded to eleven calls for service over the past month and attended the Holiday Tree Lighting at Memorial Field. They will be escorting Santa around the Borough on December 21st.

Mr. Baxter – Our Municipal Court Administrator (Elizabeth Boettger) is retiring at the end of the year and we wish her the best and thank her for many years of service to the Borough and our residents. Keturah Coronato will be taking over as our Court Administrator on January 1st. She has been performing these tasks for Toms River for several years and she will be a strong addition to our Court staff.

Our Planning Board will meet next on January 8th with two matters on their agenda.

Merry Christmas to all and Happy New Year.

Mr. Gabriel – Our Police Department continues to seek Class II Officer applicants. Our Officers issued thirty two summons during November and 825 year to date.

Mr. Zabarsky – My thanks to the Mayor and Council for affording me the privilege of representing the Borough through 2025. I look forward to continuing to work with all of you in the New Year, Best Wishes for the Holidays.

MAYOR DOYLE INTRODUCED THE PRIVILEGE OF THE FLOOR (PUBLIC COMMENT):

No comments

MAYOR DOYLE ENTERTAINED A MOTION FOR ADJOURNMENT:

Motion to Adjourn

Motion: Mr. Fumo
Second: Mr. Gabriel

Voice Vote: Yes: Unanimous No:

The Meeting was adjourned at 7:25 PM.

ORDINANCE 2025-15

AN ORDINANCE OF THE BOROUGH OF ISLAND HEIGHTS, COUNTY OF OCEAN, STATE OF NEW JERSEY, GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST OF CENTRAL NEW JERSEY, LLC TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE BOROUGH OF ISLAND HEIGHTS, OCEAN COUNTY, NEW JERSEY

The following shall repeal and replace Chapter 24 of the Borough Code:

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF ISLAND HEIGHTS 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:

- a. “Borough” is the Borough of Island Heights, County of Ocean, State of New Jersey.
- b. “Company” or “Comcast” is the grantee of rights under this Ordinance and is known as Comcast of New Jersey LLC.
- c. “Act” or “Cable Television Act” is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. § 48:5A-1, et seq.
- d. “FCC” is the Federal Communications Commission.
- e. “Board” or “BPU” is the Board of Public Utilities, State of New Jersey.
- f. “Office” or “OCTV” is the Office of Cable Television of the Board of Public Utilities.
- 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 Borough currently served with existing plant as set forth in the map annexed to the Company’s Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS.

Public hearings conducted by the 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 ten (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 3.5% 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 twenty five (25) dwellings per linear mile from the nearest active trunk or feeder line.

SECTION 8. CONSTRUCTION REQUIREMENTS.

- a. Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.
- b. Relocation: If at any time during the period of this consent, the 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.
- c. Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the 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.
- d. 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.
- e. 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.

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.

- 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 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 Borough Cable Television Officer 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 Cable Television Officer 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 (\$25,000.00). Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES.

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

SECTION 14. COMMITMENTS BY THE COMPANY.

- a. The Company shall provide Expanded Basic or a similar tier of cable television service at no cost to one (1) outlet to each municipal building 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.
- b. The Company shall provide Expanded Basic or a similar tier of cable television service at no cost to one (1) outlet to each school 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.
- c. 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

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. EDUCATION AND GOVERNMENTAL ACCESS

- a. The Company shall continue to make available to the Borough one channel for the purpose of a Government Access Channel.
- b. The Company does not relinquish its ownership of or ultimate right of control over a channel by designating it for Government Access use.
- c. A PEG access user – whether a public, educational or government user - acquires no property or other interest by virtue of the use of a channel so designated and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use.
- d. The Company will maintain the cable, modulators, and equipment necessary for the Borough to send a signal to the Company, and to receive the return feed of the signal.
- e. The Company shall not exercise editorial control over any use of channel capacity, except the Company may refuse to transmit any educational or governmental access program or portion of any educational or governmental access program that contains obscenity, indecency, or nudity.
- f. Because blank or underutilized E/G channels are not in the public interest, in the event the Borough or other qualified E/G access users elect not to fully program their E/G access channel, the Company may program unused time on those channels subject to reclamation by the Borough upon no less than sixty (60) days written notice.
- g. The Borough shall indemnify the 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 rules for or administration of E/G access channel and its programming. The Company shall defend, indemnify, and hold harmless the Borough and its officers, employees, professionals, agents, and elected officials from any and all claims arising in any way out of the subject matter of this contract which result solely from the negligence or intentional conduct of the Company.

- h. 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 E/G Access Capital Grant in the amount of \$10,000.00 to meet the E/G Access capital needs of the community.
- i. 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
 - 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.
 - 4. The Company reserves its external cost, pass-through rights to the full extent permitted by law.

SECTION 16. EMERGENCY USES.

- a. The Company will comply with the Emergency Alert System (“EAS”) rules in accordance with applicable state and federal statutes and regulations.
- b. The Company shall in no way be held liable for any injury suffered by the 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 (\$1,000,000.00) 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 (\$5,000,000.00). Upon adoption of this Ordinance a copy of the aforementioned policies shall be provided to the Borough.

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. 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.

Respectfully Submitted,

**Sean Asay
Borough Clerk**