

MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL - CITY OF RAHWAY, NEW JERSEY
JANUARY 13, 2014
7 P.M.

1. Council President Brown called the meeting to order at 7 p.m. and asked for a Roll Call.

PRESENT: Councilmembers Baker, Bresenhan, Cox, Giacobbe, Mione, Saliga, Wenson Maier, Brown

ABSENT: Councilmember Farrar

City Clerk Jeffrey J. Jotz announced the meeting had been advertised and posted in accordance with the Open Public Meetings Act of the State of New Jersey.

This meeting of January 13, 2014 was included in a list of meetings notice sent to the *Star-Ledger*, *Home News Tribune* and the *Union County Local Source*, posted on the bulletin board in the Municipal Building on January 2, 2014 and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk.

2. PLEDGE OF ALLEGIANCE

Councilmember Farrar arrived at 7:01 p.m.

The Rev. Guy Ewings offered an invocation.

3. APPROVAL OF MINUTES

December 3, 2013	7 p.m.	Pre-Meeting Conference
December 9, 2013	7 p.m.	Regular Meeting

Motion was made by Councilmember Wenson Maier and seconded by Councilmember Cox to accept and approve the above listed minutes.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

4. PRESENTATIONS

5. COMMUNICATIONS FROM MAYOR, REPORTS OF CITY OFFICERS AND LIST OF PAYMENT OF BILLS FOR DECEMBER

6. REPORTS OF COUNCIL COMMITTEES

Councilmember Brown moved to place O-1-14 on the Agenda.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

7. HEARING OF CITIZENS Items on Agenda, Except Ordinances on Second Reading

With no one appearing, Council President Brown closed the Public Hearing.

Council President Brown removed AR-16-14 from the Consent Agenda.

8. CONSENT AGENDA

Motion made by Councilmember Farrar seconded by Councilmember Saliga to adopt the Consent Agenda, and was adopted by the following vote:

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

9. ORDINANCES - First Reading

O-1-14 City Clerk Jotz read AN ORDINANCE AMENDING CHAPTER 401 OF THE CODE OF THE CITY OF RAHWAY (VEHICLES AND TRAFFIC) - HANDICAPPED PARKING.

Motion to introduce the above Ordinance on first reading was made by Councilmember Brown, seconded by Councilmember Cox and adopted by the following vote:

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown: This Ordinance is declared adopted on first reading and the City Clerk is hereby authorized and directed to advertise said notice of its introduction and passage according to law. This Ordinance will come up for Public Hearing and further action at a Council Meeting at Monday, February 10, 2014 at 7 p.m.

10. RESOLUTIONS

- *AR-12-14** Councilmember Baker presented and moved A RESOLUTION AUTHORIZING THE TEMPORARY BUDGET FOR CY 2014.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-13-14** Councilmember Giacobbe presented and moved A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF RAHWAY AND THE BOARD OF EDUCATION OF THE CITY OF RAHWAY FOR NURSING SERVICES FOR NONPUBLIC SCHOOL PUPILS.

The motion was seconded by Councilmember Baker.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-14-14** Councilmember Farrar presented and moved A RESOLUTION REJECTING BIDS RECEIVED FOR THE PURCHASE OF REFUSE COLLECTION VEHICLES.

The motion was seconded by Councilmember Bresenhan.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-15-14** Councilmember Farrar presented and moved A RESOLUTION AUTHORIZING THE RELEASE OF RIGHTOF WAY CONSTRUCTION BOND FEE TO CRISTINA GONZALEZ FOR PERMIT# 011-11-548 DATED 11/16/11 FOR DRIVEWAY APRON AND CURB AT 1975 RUTHERFORD STREET.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

AR-16-14 Councilmember Giacobbe presented and moved A RESOLUTION AUTHORIZING THE REFUND OF BUILDING FEES TO THE RAHWAY COMMUNITY ACTION ORGANIZATION.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier

ABSTAN: Councilmember Brown

Council President Brown declared the motion carried.

***AR-17-14** Councilmember Mione presented and moved A RESOLUTION AUTHORIZING REFUND OF PARKS & RECREATION FEES.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-18-14** Councilmember Bresenhan presented and moved A RESOLUTION AUTHORIZING THE FILING OF LIENS AGAINST CERTAIN PROPERTIES TO RECOVER CLEANUP COSTS INCURRED BY THE CITY IN ACCORDANCE WITH THE PROVISIONS OF SECTION 151-4 OF THE CODE OF THE CITY OF RAHWAY AND N.J.S.A. 40:48-2.14.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-19-14** Councilmember Giacobbe presented and moved A RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF TAX SALE CERTIFICATES.

The motion was seconded by Councilmember Bresenhan.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-20-14** Councilmember Brown presented and moved A RESOLUTION AUTHORIZING THE REFUND OF OVERPAYMENT OF TAXES FOR THE 2013 CALENDAR YEAR.

The motion was seconded by Councilmember Bresenhan.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-21-14** Councilmember Wenson Maier presented and moved A RESOLUTION AUTHORIZING THE TAX COLLECTOR TO CREDIT OVERPAYMENT OF TAXES DUE TO A JUDGMENT OF THE TAX COURT OF NEW JERSEY.

The motion was seconded by Councilmember Bresenhan.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-22-14** Councilmember Giacobbe presented and moved A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENTS TO THE BOARD OF ALCOHOLIC BEVERAGE CONTROL (MATTHEW J. DOBROWOLSKI III), BOARD OF ADJUSTMENT (JAMES PELLETTIERE, EGON BERHMANN, PAULA BRAXTON AND RICHARD WILLIS) AND REDEVELOPMENT AGENCY (PAUL SEFRANKA AND TIMOTHY NASH).

The motion was seconded by Councilmember Mione.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-23-14** Councilmember Saliga presented and moved A RESOLUTION AUTHORIZING REFUND OF OVERPAYMENT OF WATER BILLS.

The motion was seconded by Councilmember Wenson Maier.

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione,
Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.

11. ORDINANCES – SECOND READING

O-50-13 Council President Brown: The following Ordinance was adopted on first reading, advertised according to law, and is now before you for a public hearing and final adoption:

A BOND ORDINANCE PROVIDING FOR ACQUISITION OF TRAFFIC MAINTENANCE PICKUP TRUCK AND ACQUISITION AND INSTALLATION OF AM RADIO, VOIP PHONE AND DESKTOP COMPUTER EQUIPMENT, BY AND IN CITY OF RAHWAY, IN COUNTY OF UNION, STATE OF NEW JERSEY; APPROPRIATING \$155,000 THEREFOR AND AUTHORIZING ISSUANCE OF \$147,250 BONDS OR NOTES OF CITY TO FINANCE PART OF COST THEREOF

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the City of Rahway, in the County of Union, State of New Jersey (the "City"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$155,000,"), which is inclusive of \$7,750 as the amount of down payment for said improvement or purpose required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). Said cash down payment is now available by virtue of a provision or provisions in a previously adopted budget or budgets of the City for down payment or for capital improvement purposes, and by permitted emergency appropriation.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said \$155,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the City are hereby authorized to be issued in the principal amount of \$147,250 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the City in a principal amount not exceeding \$147,250 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. (a) The improvement hereby authorized and purpose for the financing of which said bonds or notes are to be issued is the acquisition of a traffic

maintenance pickup truck, and the acquisition and installation of an AM Radio station antenna and related equipment and software, VIOP phone equipment and related computer server and software, and desktop computer equipment and related operating software, and also including, as and if applicable, all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto, all in accordance with the plans therefor on file in the office of the City Clerk and available for public inspection and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$147,250.

(c) The estimated cost of said improvement or purpose is \$155,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the down payment in the amount of \$7,750 for said improvement or purpose.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Union make a contribution or grant in aid to the City, for the improvement and purpose authorized hereby and the same shall be received by the City prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey and/or the County of Union. Except for the Grants, in the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Union, shall be received by the City after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the City as a result of using funds from this bond ordinance as “matching local funds” to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the City, provided that no note shall mature later than one (1) year from its date or otherwise authorized by the Local Bond Law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond

ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the City may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 7 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the City and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$147,250 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$15,500 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the City for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The City reasonably expects to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 hereof and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. This Section 9 is intended to be and hereby is a declaration of the City's official intent to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 hereof to be

incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 150-2 . No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized by this bond ordinance used to reimburse the City for costs of the improvement or purpose described in Section 3 hereof, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of any bonds or notes authorized by this bond ordinance or another issue of debt obligations of the City, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1). The bonds or notes authorized herein to reimburse the City for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will be issued in an amount not to exceed \$147,250. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section 150 of the Code. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized by this bond ordinance is paid, or (ii) the date the improvement or purpose described in Section 3 hereof is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

SECTION 10. The City covenants to maintain the exclusion from gross income under section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 11. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council President Brown opened the Public Hearing on this matter and asked if any citizen wished to be heard, to approach the rail, give his/her name and address and be heard.

With no one appearing, Council President Brown closed the Public Hearing.

Roll Call for O-50-13:

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown: This Ordinance having been read on two separate days and having achieved the vote required by law is declared adopted. The City Clerk is directed to deliver same to the Mayor for his approval or disapproval.

O-51-13 Council President Brown: The following Ordinance was adopted on first reading, advertised according to law, and is now before you for a public hearing and final adoption:

AN ORDINANCE AUTHORIZING AN AMENDMENT TO AN EXISTING LEASE BETWEEN THE CITY OF RAHWAY AND AT&T WIRELESS FOR USE OF PROPERTY LOCATED AT THE WESTFIELD AVENUE WATER TOWER, BLOCK 201, LOT 2 IN THE CITY OF RAHWAY FOR THE SITING OF WIRELESS COMMUNICATIONS EQUIPMENT

WHEREAS, pursuant to The Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq., the City has the power to lease real property or interests therein; and

WHEREAS, by Resolution No. AR-151-04, dated July 12, 2004, the City authorized the execution of a certain lease between the City of Rahway (“City”) and Cellular Telephone Company, d/b/a AT&T Wireless (“AT&T”), whereby AT&T leased a portion of property owned by the City at 1045 Westfield Avenue, in the City of Rahway, consisting of approximately 250 square feet of land for the placement of an equipment shed and space on the City’s existing water tower together with such easements as were necessary for AT&T’s antennae and initial installation (the “Original Lease”); and

WHEREAS, New Cingular Wireless, PCS, LLC, a Delaware limited liability company, is the successor in interest to Cellular Telephone Company, and also does business as AT&T Wireless, and is also referred to herein as “AT&T;” and

WHEREAS, AT&T has requested an amendment to the Original Lease, increasing the size of the premises leased to AT&T to permit AT&T to install an emergency backup generator on the site to power the cell site during periods of power outage; and

WHEREAS, AT&T has also requested the right to connect to the natural gas supply on the property, with AT&T to pay for all natural gas consumed by AT&T on the site; and

WHEREAS, the City and AT&T have agreed that in exchange for permission to increase the size of the leased premises and access to the natural gas supply to permit the installation and maintenance of the backup generator, AT&T will pay the City an additional four hundred dollars (\$400) per month in rent, subject to all further adjustments and increases provided in the Original Lease; and

WHEREAS, the City and AT&T have incorporated the above terms into a document entitled, “First Amendment to N.J. Structure Lease Agreement,” (the

“Amendment”) a copy of which is annexed hereto as Exhibit “A,” the terms of which are hereby incorporated as if set forth at length herein;

WHEREAS, the City has determined that it would benefit the citizens of the City of Rahway, County of Union and State of New Jersey to execute the Amendment.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Rahway, County of Union and State of New Jersey that:

1. The Original Lease, approved by Resolution No. AR-151-04, dated July 12, 2004, is hereby ratified and approved.
2. The amendment of the Original Lease is hereby authorized in accordance with the terms of the Amendment.
3. The Mayor and Municipal Clerk are hereby authorized and directed execute the Amendment in substantially the same form as that attached hereto and made a part hereof as Exhibit “A” and any other documents which may be required to effectuate the Amendment.

BE IT FURTHER ORDAINED, that this ordinance shall take effect following adoption and approval in the time and manner prescribed by law.

Council President Brown opened the Public Hearing on this matter and asked if any citizen wished to be heard, to approach the rail, give his/her name and address and be heard.

With no one appearing, Council President Brown closed the Public Hearing.

Roll Call for O-51-13:

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown: This Ordinance having been read on two separate days and having achieved the vote required by law is declared adopted. The City Clerk is directed to deliver same to the Mayor for his approval or disapproval.

***12. MISCELLANEOUS**

13. COMMUNICATIONS - Hearing of Citizens

With no one appearing, Council President Brown closed the Public Hearing.

14. COUNCIL COMMENT

Councilmember Farrar: Spoke on upcoming events for the Martin Luther King Jr. weekend.

Councilmember Bresenhan: Said that Food for Friends is continuing its food drive Residents may drop off food Monday-Thursday between 9 a.m.-3:30 p.m. at 1st Presbyterian Church or on Sundays during church services. There will be a community-wide service in memory of Dr. King on Jan 19 at Ebenezer AME Church.

Councilmember Mione: Spoke on upcoming events for the Martin Luther King Jr. weekend.

Councilmember Baker: Emphasized his desire to see increased recycling from City residents and that recycling saves the City money.

Councilmember Giacobbe: Spoke on upcoming events for the Martin Luther King Jr. weekend. Congratulated Councilmembers Brown and Wenson Maier for their respective elections as Council President and Vice-President.

Council President Brown: Thanked Rahway Branch NAACP for its work in arranging the upcoming MLK events. Urged Councilmembers to return their Council Committee preferences to the City Clerk.

15. ADJOURNMENT

Motion to adjourn the meeting at 7:20 p.m. was made by Councilmember Baker and seconded by Councilmember Cox:

YES: Councilmembers Baker, Bresenhan, Cox, Farrar, Giacobbe, Mione, Saliga, Wenson Maier, Brown

Council President Brown declared the motion carried.