

MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL - CITY OF RAHWAY, NEW JERSEY
SEPTEMBER 9, 2013
7 P.M.

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

PRESENT: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

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 September 9, 2013 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, 2013 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

In the absence of a member of the Clergy, Councilmember Brown offered an invocation.

3. APPROVAL OF MINUTES

August 12, 2013	7 p.m.	Combined Meeting
August 28, 2013	7 p.m.	Special Meeting

Motion was made by Councilmember Steinman and seconded by Councilmember Brown to accept and approve the above listed minutes.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

4. PRESENTATIONS

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

6. REPORTS OF COUNCIL COMMITTEES

Council President Steinman removed AR-202-13 from the Agenda.

Council President Steinman moved to place AR-204-13 on the Agenda.

The motion was seconded by Councilmember Brown.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

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

8. CONSENT AGENDA

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

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

9. ORDINANCES - First Reading

O-40-13 City Clerk Jotz read AN ORDINANCE AMENDING CHAPTER 125, "ALARM SYSTEMS," OF THE CODE OF THE CITY OF RAHWAY.

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

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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 Combined Council Meeting at Tuesday, October 15, 2013 at 7 p.m.

O-41-13 City Clerk Jotz read AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RAHWAY GRANTING AND AUTHORIZING THE EXECUTION OF AN EASEMENT ON CITY PROPERTY (TAX BLOCK 305, LOT 8.31) TO ALLOW FOR AN ENCROACHMENT OF A STRUCTURE, ACCESS TO THE STRUCTURE AND IMPROVEMENTS REQUIRED BY STATE (NJDEP) PERMIT TO FACILITATE THE DEVELOPMENT OF THE MERIDIA, WATERS EDGE RESIDENTIAL REDEVELOPMENT PROJECT ON TAX BLOCK 305, LOT 5.04.

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

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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 Combined Council Meeting at Tuesday, October 15, 2013 at 7 p.m.

10. RESOLUTIONS

***AR-190-13** Councilmember Bresenhan presented and moved A RESOLUTION OF MUNICIPAL COUNCIL CONCERNING THE AUDIT REPORT FOR CALENDAR YEAR 2012 AND TRANSITIONAL YEAR 2011.

The motion was seconded by Councilmember Brown.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

- *AR-191-13** Councilmember Brown 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 Steinman.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

- *AR-192-13** Councilmember Steinman presented and moved A RESOLUTION AWARDDING THE ACCEPTANCE OF BID FOR THE PROJECT ENTITLED "RAHWAY RECREATION CENTER GYMNASIUM FLOOR REPLACEMENT" FOR THE CITY OF RAHWAY TO ADVANTAGE SPORT USA, INC..

The motion was seconded by Councilmember Baker.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

- *AR-193-13** Councilmember Baker presented and moved A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF FURNITURE FOR THE 911 DISPATCH COMMUNICATIONS CENTER VIA STATE CONTRACT.

The motion was seconded by Councilmember Mione.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

***AR-194-13** Councilmember Mione 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 Baker.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

***AR-195-13** Councilmember Baker presented and moved A RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF TAX SALE CERTIFICATES.

The motion was seconded by Councilmember Steinman.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

***AR-196-13** Councilmember Steinman presented and moved A RESOLUTION AUTHORIZING THE REFUND OF OVERPAYMENT OF TAXES FOR 2013.

The motion was seconded by Councilmember Brown.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

***AR-197-13** Councilmember Brown presented and moved A RESOLUTION AUTHORIZING THE RELEASE OF RIGHTOF WAY CONSTRUCTION BOND FEE TO WHITMAN COMPANY FOR PERMIT# 07-12-636 DATED 07/16/12 FOR 6 (SIX) SOIL BORING HOLES/TEMPORARY WELLS.

The motion was seconded by Councilmember Bresenhan.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

***AR-198-13** Councilmember Bresenhan presented and moved A RESOLUTION AUTHORIZING REFUND OF PARKS & RECREATION FEES.

The motion was seconded by Councilmember Mione.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

***AR-199-13** Councilmember Mione presented and moved A RESOLUTION TEMPORARILY SUSPENDING PROVISIONS OF 365-1 THROUGH 365-3 (SIDEWALK ENCUMBRANCES) AND 365-50 THROUGH 365-51 (CLOSING OF STREETS) OF THE CODE OF THE CITY OF RAHWAY.

The motion was seconded by Councilmember Farrar.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

***AR-200-13** Councilmember Farrar presented and moved A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AND HOLD HARMLESS AGREEMENT FOR THE USE OF THE UNION COUNTY LEAF COMPOSTING FACILITY.

The motion was seconded by Councilmember Mione.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

AR-201-13 Councilmember Bresenhan presented and moved A RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES AND DETERMINING THE FORM AND OTHER DETAILS OF THE OFFERING OF \$7,425,000 GENERAL OBLIGATION BONDS, SERIES 2013 OF THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY AND PROVIDING FOR THE SALE OF SUCH BONDS AND DETERMINING CERTAIN MATTERS WITH RESPECT TO THE SALE AND ISSUANCE OF \$3,470,620 BOND ANTICIPATION NOTES.

The motion was seconded by Councilmember Mione.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

AR-203-13 Councilmember Steinman presented and moved A RESOLUTION TO AWARD A PROFESSIONAL SERVICES CONTRACT FOR ENGINEERING CONSULTING SERVICES RELATIVE TO THE PREPARATION OF A NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST (NJEIT) LOAN APPLICATION FOR THE WATER TREATMENT PLANT UPGRADE PROJECT.

The motion was seconded by Councilmember Brown.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

AR-204-13 Councilmember Steinman presented and moved A RESOLUTION AUTHORIZING THE SALE OF ABANDONED MOTOR VEHICLES BY THE POLICE DEPARTMENT IN ACCORDANCE WITH N.J.S.A. 39:10A-1.

The motion was seconded by Councilmember Brown.

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.

11. ORDINANCES – SECOND READING

O-32-13 Council President Steinman: 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 AMENDING ORDINANCE-27-12 AUTHORIZING AN OPEN PUBLIC SALE TO ADJACENT LAND OWNERS FOR THE SALE OF CITY OWNED PROPERTY LOCATED OFF OF EAST MILTON AVE., NOT CURRENTLY NEEDED FOR PUBLIC USE KNOWN AS LOT 6 IN BLOCK 335 ON THE OFFICIAL TAX MAP OF THE CITY OF RAHWAY

WHEREAS, pursuant to N.J.S.A. 40A:12-13(a) a municipality may sell any real property not needed for public use by open public sale at auction to the highest bidder after advertisement in a newspaper circulating within the municipality in which the lands to be sold are situated; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13(b)5 a municipality may sell such property at private sale to the owner of the real property contiguous to the real property being sold provided that the property being sold is less than the minimum size required for development under the zoning ordinance and is without any capital improvement thereon except that when there is more than one owner with real property contiguous thereto said property shall be sold to the highest bidder from among all such owners; and

WHEREAS, N.J.S.A. 40A:12-13(a)(1) further provides that a municipality may sell such property subject to conditions or restrictions imposed

by the municipality, or subject to the municipality's retaining an interest or estate thereof, such restrictions to be noticed in the advertisements for such sale therefore; and

WHEREAS, N.J.S.A. 40A:12-13(a) further provides that a municipality may reserve the right to reject all bids when the highest bid is not accepted, such reservation to be noticed in the advertisements for such sale therefore; and

WHEREAS, Block 335, Lot 6, comprising approximately three hundred (300) square feet (2 feet by 150 feet)(the "Subject Property"), located off of East Milton Ave., is City owned property not currently used for a public purpose and the City is desirous of selling the Subject Property to the highest bidder among the adjacent land owners at public auction; and

WHEREAS, the minimum bid price to be accepted by the City shall be no less than four hundred thirty five Dollars and 00/100 (\$435.00); and

WHEREAS, the City held a public auction on May 1, 2013 and there were no bidders for the Subject Property; and

WHEREAS, there were only two (2) owners of the real property contiguous to the Subject Property that were eligible to bid on the Subject Property; and

WHEREAS, one of the owners of the real property contiguous to the Subject Property subsequently contacted the City and offered to purchase the Subject Property for One Hundred Dollars and 00/100 (\$100.00).

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

1. The minimum price for Block 335, Lot 6 to be accepted by the City for sale of the Subject Property to an adjacent or contiguous land owner shall be One Hundred Dollars and 00/100 (\$100).
2. The Mayor and City Clerk are hereby authorized and directed to execute the necessary Deed and other documents required to transfer ownership of the Subject Property as described herein.

BE IT FURTHER ORDAINED, if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, this Ordinance shall take effect upon passage and publication in accordance with applicable law.

Council President Steinman 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 Steinman closed the Public Hearing.

Roll Call for O-32-13:

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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-33-13 Council President Steinman: 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 REPEALING CHAPTER 357 “SOLID WASTE” AND REPLACING IT WITH A NEW CHAPTER 357 “SOLID WASTE” OF THE CODE OF THE CITY OF RAHWAY

BE IT ORDAINED BY THE MAYOR AND THE MUNICIPAL COUNCIL OF THE CITY OF RAHWAY, THE FOLLOWING CHAPTER BE AMENDED AS FOLLOWS:

S 357.1 Definitions

As used in this article, the following terms shall have the meanings indicated:

DAY OF COLLECTION – Whatever day or days of collection is publicly announced by the Department of Public Works.

COLLECTOR – The person, department, firm or corporation having a contract or agreement for collection, removal and/or disposal of solid waste, vegetative waste or designated recyclable material.

OCCUPANT – The owner, agent, tenant, lessee, caretaker or any other person in charge of any premises affected by this article, whichever classification may be appropriate and effective for the enforcement of this chapter.

PERSON – Includes any individual, partnership or corporation.

SOLID WASTE – Garbage, refuse and other non-recyclable discarded materials.

HAZARDOUS WASTE / SPECIAL WASTE – Any substances required to be reported to the Department of Environmental Protection on the special waste manifest pursuant to N.J.A.C. 7:26-8. Materials requiring special handling such as paints, pool chemicals, pesticides, acids, etc. are also included in this category.

SOLID WASTE COLLECTION – The activity related to collection and transportation of solid waste from its source location to the designated disposal site.

SOLID WASTE DISPOSAL – the storage, treatment, utilization, processing or final disposal of solid waste.

VEGETATIVE WASTE – Shall mean grass, leaves, branches, plants, Christmas Trees and other like vegetative material that does not exceed five inches in diameter.

SUITABLE CONTAINER – A strong, plastic bag or plastic container that is sufficient to enclose the garbage or other waste.

SUITABLE RECEPTACLE – A container of metal, wood, plastic or other material of sufficient strength and durability to hold the garbage, ashes and other refuse matter deposited therein as hereinafter provided without leakage or spillage and equipped with a detachable cover or other means of closing the same securely. The weight of such receptacle, together with its contents, shall not exceed 50 pounds.

S 357-2 Supervisory Authority

The removal of garbage, ashes and refuse matter shall be performed in such manner, either by the city or by contract, as the Mayor and Council shall, by resolution, determine and shall be under the supervision of the Department of Public Works.

S 357-3 Storage Regulations

- A. It shall be unlawful for the occupant of any dwelling house store or other building to place or cause or suffer to be placed on any public street or other place any garbage or other waste containing water, unless such garbage or other waste has been thoroughly and securely wrapped up in a suitable container and deposited in a suitable receptacle as hereinafter provided.
- B. All wastepaper, excelsior, rags, old clothes, bedding, rubbish or refuse of like nature, or hedge or brush trimmings, which will scatter if not secure, shall not be placed in any street or public place for collection unless same has been securely fastened together.
- C. All items such as, bricks, stones, asphalt, etc. or other refuse which are not easily placed in a suitable container or suitable receptacle must follow Department of Public Works instructions for proper disposal.
- D. Placement of receptacles; collection in Special Improvement District.
 - (1) Said receptacles and aforementioned refuse shall be placed by the occupant of said dwelling house, store or other building within four feet of the property side of the curblin not earlier than 4:30 p.m. on the day preceding the day of collection and shall be removed by said householder or occupant within 24 hours after collection, except that no receptacle will be within four feet of the property side of the curblin between the hours of 8:00 a.m. and 4:30 p.m. on Sundays.
 - (2) Solid waste collections on the following roadways in the Special Improvement District will be made on Mondays, Tuesdays, Thursdays and Fridays, and receptacles shall be placed at curbside no earlier than 10:00 p.m. on the day preceding the collection and shall be removed by 12:00 noon on the day of collection.

SPECIAL IMPROVEMENT DISTRICT

- (a) East Milton Avenue between Main Street and Irving Street
- (b) Main Street between East Milton Avenue and Central Avenue
- (c) Irving Street between Grand Avenue and East Milton Avenue
- (d) Those portions of Coach Street, Elizabeth Avenue, Elm Street, Poplar Street, Cherry Street and Lewis Street which are located between Main Street and Irving Street.

S 357-4 Disturbance of Containers and Contents

It shall be unlawful for any person, other than the tenants or occupants of the premises on which refuse containers are stored or the regularly authorized agents, employees or licensees of the City, to disturb any refuse containers or to remove their covers or any of the contents thereof or to cause such refuse containers or their contents to be strewn or scattered on lawns, sidewalks or streets.

S 357-5 Responsibility of Occupants of Property

- (1) The occupant of each property in the City of Rahway shall provide suitable receptacles as herein described, in which the occupant shall place and keep solid waste in not more than four containers per each dwelling unit, business or commercial establishment.
- (2) The occupant of the property shall place solid waste in each receptacle in a suitable container to prevent spillage.
- (3) All receptacles for solid waste shall be prepared, covered, handled and placed by the occupant or designated person for collection without spilling.
- (4) Solid waste shall not be stored in the front of any residential, business or commercial building. All storage of solid waste will be in the rear or side yard of each location.
- (5) Homeowners may include for municipal collection, small amounts of non-hazardous materials such as; insulation, lumber, siding, shingles, etc, resulting from their own personal repairs, providing that the material is in suitable containers and permits were not required.

S 357-6 Receptacle Specifications, Placement for Collection

Receptacles for placement at the curb, containing solid waste, shall be containers of heavy gauge metal, rubber or plastic. Rigid containers shall be 32 gallon capacity of smaller, equipped with two carrying handles and a detachable lid / cover. The container shall not weigh more than fifty pounds including its contents. Plastic bags must be a minimum of (3) mil in thickness, to be considered acceptable for collection. Plastic bags should be securely fastened and also weigh less than fifty pounds each.

The occupant shall keep all receptacles clean and in proper condition for safe handling. Oversized Containers, containers without handles, broken or unsteady containers cannot be used.

Immediately after receptacles are properly emptied, the agents shall return them to the point of collection, and the owners of said receptacles will remove containers from the curbside no later than 8:00 PM on the day of collection.

S 357-7 Excluded Wastes

The following wastes will be excluded from municipal collections;

- (1) Hazardous materials requiring special handling techniques due to potential dangers caused by their inherent toxicity, breakage, consumption and or illegal use, i.e., paints, chemicals, etc.
- (2) Waste resulting from the contracted, permitted work of a skilled tradesman such as a mason, carpenter, plumber, roofer or excavator.
- (3) Waste resulting from the contracted work performed by a tree service, including branches, logs and stumps.

S 357-8 Violations and Penalties

Any person who violates any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$500 or imprisonment for a period not exceeding 90 days, or both.

ARTICLE II Private Dumping

S 357-9 Dumping of Garbage / Refuse Prohibited

No person shall place or dump or cause to be placed or dumped on any property within the City limits, whether privately or publicly owned, any garbage, swill, offal or dead animals.

S 357-10 Consent Required to Dump Rubbish

No person shall place or dump or cause to be placed or dumped on any property within the City limits, whether privately or publicly owned, any ashes or rubbish except by written consent of the Department of Health, Welfare and Building.

S 357-11 Consent Required for Private Collection.

No person shall collect or convey through the streets of the City any garbage, swill, offal, dead animals, ashes, rubbish, excrement, excremental matter, human excrement or material containing human excrement, wastewater or sewage or permit any automobile, wagon or other vehicle to be used for the collection or removal of any garbage, swill, offal, dead animals, ashes, rubbish, excrement, excremental matter, human excrement, or material containing human excrement, wastewater or sewage, without first obtaining a written consent for such collection or conveyance from the Department of Health, Welfare and Building.

S 357-12 Exemptions

This article shall not apply to any person who shall have entered into a contract with the City for the purpose of collecting, conveying and disposing of any garbage, swill, offal, dead animals or rubbish.

S 357-13 Violations and Penalties

Any person who violates any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$500 or imprisonment for a period not exceeding 90 days; or both.

ARTICLE III
Recycling

S 357-14 Definitions

S 357-15 Source Separation: Exemption from Source Separation Requirements

S 357-16 Collection of Recyclable Materials

S 357-17 Residential Dwelling Compliance Requirements

S 357-18 Commercial & Institutional Establishment Compliance Requirements

S 357-19 Compliance Requirements for Fairs, Parks, Concerts, Streets, and other Outdoor Events

S 357-20 New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties

S 357-21 Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials

S 357-22 Enforcement

S 357-23 Violations and Penalties

S 357-24 Severability, Effective Date

S 357 -14 Definitions

Commercial and institutional establishments- means retail, wholesale, restaurants, taverns, schools, institutions - including government, warehouses, construction sites, factories, offices, etc., but specifically excludes Fairs, Parks, Concerts, and other Outdoor Events;

Commingled - means a combining of non-putrescible source-separated recyclable materials for the purpose of recycling;

Covered electronic device- shall constitute a subset of electronic waste which shall include only the following: a computer central processing unit of a laptop computer or desktop computer, a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards, including a television, and cell phones;

Designated recyclable materials - means those materials designated below that shall be source separated for the purpose of recycling. These materials include:

A. Designated Materials for Residential Waste Generators:

- Aluminum, tin, steel
- Corrugated cardboard;
- Glass Containers
- Grass, Brush, Leaves
- Household Batteries
- Leaves
- Mixed Paper
- Motor Oil
- Motor Oil Filters
- Newspaper
- Office Paper
- Plastic Containers (#1, #2 and #3)
- Tires
- Vehicle Batteries
- White Goods (air conditioners, refrigerators)
- Wood
- Concrete
- Asphalt
- Electronic Waste (Covered electronic device)
- Universal waste

B. Source Separation And Recycling Requirements For Commercial, Institutional and Industrial Waste Generators

- Aluminum, tin, & steel
- Computers and Peripherals
- Corrugated Cardboard
- Fluorescent bulbs
- Glass Containers
- Grass, Brush, Leaves
- Household Batteries
- Leaves
- Mixed Paper
- Masonry (asphalt, brick, block, concrete)
- Motor Oil
- Motor Oil Filters
- Newspaper
- Office Paper
- Plastic Containers (#1 ,#2)
- Tires

- Vehicle Batteries
- White Goods (air conditioners, refrigerators)
- Wood
- Electronic Waste (Covered electronic device)
- Universal Waste

Electronic waste- shall mean a computer central processing unit and associated hardware including keyboards, modems, printers scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards, including a television, and cell phones;

Multifamily dwelling- means any building or structure, or complex of buildings in which five or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see NJSA 13:1E- 99.13a.) and shall include hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the “Hotel and Multiple Dwelling Law,” P.L. 1967, c. 76 (C.55: 13A-1 et seq.);

Municipal Recycling Coordinator- means the person or persons appointed by the municipal governing body and who shall be authorized to, among other things, enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder;

Municipal solid waste (MSW) stream- means all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the municipality of the City of Rahway;

Recyclable material- means those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products in accordance with the current municipal recycling program;

Source-separated recyclable materials- are recyclable materials, which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

Source separation- means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

Universal waste- shall mean a specific hazardous waste stream that has been designated by EPA or those waste streams identified in the New Jersey Universal Waste Rule (N.J.A.C. 7:26A-7). Only the following materials may be managed as universal waste:

- Rechargeable batteries and button cell batteries;
- Mercury containing equipment, including thermometers and thermostats;
- Pesticides;
- Fluorescent lamps (light bulbs);
- Electronic waste; and
- Oil-based paints and finishes.

S 357 – 15 Source Separation: Exemption from Source Separation Requirements

A. Mandatory source separation: It shall be mandatory for all persons who are owners, tenants, or occupants of residential and non-residential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the City of Rahway, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises and shall be placed separately at the curb or other location(s) in a manner and on such days and times as may be hereinafter established by regulations promulgated by the City of Rahway.

B. Exemptions: Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of a municipality may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of the ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this Chapter, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal recycling coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

S 357 – 16 Collections of Recyclable Materials

The collection of recyclable material for non-multifamily residences shall be in the manner prescribed as follows:

- A. All containers and brown paper bags containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above anytime after 4:30 PM of the day immediately preceding the day of collection, but no later than 6:00 AM of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00 PM of the day of collection.
- B. All receptacles or dumpsters shall be maintained in accordance with the Health Code of the municipality of the City of Rahway. All receptacles, containers must be clean and kept in good condition. Residential use containers shall not be more than (32 gallon) capacity and when filled cannot weigh more than sixty pounds.
- C. When programs exist for the collection of Universal Waste, all waste types under this category must be recycled or disposed per rules and preparation requirements of current program whether implemented by the City of Rahway or County of Union.

S 357 – 17 Residential Dwelling Compliance Requirements

- A. The owner of any residential property shall be responsible for compliance with this Ordinance. Citizens are responsible for source separating mandated items according to this municipal ordinance and delivering them to the municipal collection system (whether curbside collection, bulk center or drop-off center). These items must be source separated; no mandated recyclables are permitted in the garbage put out for collection; no garbage is permitted in recyclables placed in the municipality's collection system.
- B. For multifamily units, the owner or manager is responsible for the following:
 - The property owner/management is responsible for ensuring that a recycling System is established and that it is operated in compliance with the Requirements of this municipal ordinance. The property owner/management is responsible for setting up and maintaining the recycling system. The property owner/management is responsible for receiving and responding to:

Warnings, Notices of Violation, and Penalty Assessments and for correcting

violations. The property owner/management will be expected to correct violations promptly and to make necessary notifications to residents.

1. Drop-off centers (bulk centers), if in use, must be established and maintained so that they are conveniently accessible to residents. Curbside collection may be made available in place of, or in conjunction with, these drop-off centers. The recycling system must provide for all designated recyclables in the residential waste stream. The recycling system may utilize separate containers for each recyclable material or it may provide for two or more materials to be placed in one container provided the recycling hauler can take the materials commingled. Containers must be clearly marked and the area neatly maintained. Container capacity must be adequate to hold the amount of materials generated between pick-ups. It must be clear to an inspector that the system is being serviced.
2. It must be clear that the system is being used properly by employees and tenants. There must not be garbage in the recycling containers or recyclables in the garbage containers. The property owner/management is responsible for resolving problems which may arise from the improper use of containers and for training employees and tenants to properly understand and use the recycling system.
3. Notification and collection rules shall be issued by the management to new tenants when they arrive and to all residents every three (3) months. Copies of these notices, or other proof of distribution of the notices, must be sent to the municipal recycling coordinator at the time of each mailing or distribution.
4. The property owner/management is responsible for arranging to have recyclables picked up and for resolving any problems with the transporter of recyclables.
5. The property owner/management must arrange to obtain documentation in order to report the tonnages of materials recycled at least once per year but not later than March 1 or else he/she must arrange to have the collector provide that documentation directly to the municipality. Arrangements with recycling companies or with haulers handling recyclables should include provisions for obtaining this information. Documentation must be maintained by the management. When the municipality provides recyclables collection service, reporting and proof are not needed.
6. Single/Dual Stream Recycling: Multi-family locations may opt to collect their recyclables in a single stream or dual stream (fiber, commingled) provided the Material Recovery Facility (MRF) that receives the material has certified that they have the ability to separate and maximize the capture rate of the designated recyclables. The UCUA Division of Solid Waste Management will compile and maintain an updated list of those facilities.

S 357 – 18 Commercial & Institutional Establishment Compliance Requirements

- A. The owner/operator (or in case of construction, the contractor), is responsible for ensuring that a recycling system is established and that it is operated in compliance with the requirements of this municipal ordinance. The owner/operator/contractor is responsible for setting up and maintaining the recycling system. The owner/operator/contractor is responsible for receiving and responding to Warnings, Notices of Violation, and Penalty Assessments and for correcting violations promptly.
- B. The recycling system must be established and maintained so that it is conveniently accessible to users. The recycling system must provide for all designated recyclables in the commercial/institutional waste stream. The recycling system may utilize separate containers for each recyclable material or it may provide for two or more materials to be placed in one container provided the recycling hauler can take the materials commingled. Containers must be clearly marked and the area neatly maintained. Container capacity must be adequate to hold the amount of materials generated between pick-ups. It must be clear to the inspector that the system is being serviced.
- C. The owner/operator/contractor must ensure that the system is being used properly by employees, customers or tenants. There must not be garbage in the recycling containers or recyclables in the garbage containers. The owner/operator/contractor is responsible for resolving problems which may arise from the improper use of containers and for instructing employees, tenants, and customers to understand and use the recycling system.
- D. If patrons, customers or employees are involved in the waste disposal process (i.e. fast food stores or company cafeteria), the recycling system must allow for this and include notice to customers as to their responsibilities.
- E. The owner/operator/contractor is responsible for arranging for recyclables to be removed from the premises and for assuring that they go into the recyclables market. The owner/operator/contractor may make arrangements to deliver the recyclables to the municipal collection system (drop-off center or curbside collection) if permitted by the municipality. Otherwise, the owner/operator/contractor is responsible for arranging to have recyclables picked up and for resolving any problems with the transporter of recyclables.
- F. The owner/operator/contractor must arrange to obtain documentation in order to report the tonnages of materials recycled at least once per year but not later than March 1 or else he/she must arrange to have the collector provide that documentation directly to the municipality.

- G. Single/Dual Stream Recycling: Commercial and Institutional establishments may opt to collect their recyclables in a single stream or dual stream (fiber, commingled) provided the Material Recovery Facility (MRF) that receives the material has certified that they have the ability to separate out and maximize the capture rate of the mandated recyclables. The UCUA Division of Solid Waste Management will compile and maintain an updated list of those facilities.
- H. Recycling Containers: Commercial and Institutional establishments that have outdoor garbage containers for their customers must also have outdoor recycling containers. There must be sufficient recycling containers for any mandated recyclables in the commercial/institutional waste stream.
- I. All schools must provide written notice at the beginning of each school year, to all students, teachers, and other staff on the recycling requirements. The notice must contain a contact number to call if they observe any problems associated with recycling or if recycling is not properly occurring.
- J. Single stream recycling of mixed classes of construction recyclables: Construction/Demolition sites may opt to collect all recyclables in one container provided there are no other materials (including garbage) in that container. To qualify for this provision, recyclables must go to a Transfer Station/MRF that is properly permitted by the New Jersey Department of Environmental Protection and has certified that they have the ability to separate out and maximize the capture rate of the mandated materials. The specific materials that may be commingled together will be determined by the provisions in the receiving Transfer Station/MRF's permit.
- K. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.
- S 357- 19 Compliance Requirements for Fairs, Parks, Concerts, Streets, and other Outdoor Events
- A. The organizer/owner/contractor of the location must provide a recycling system that is operated in compliance with the requirements of this municipal ordinance.
- B. The recycling system must provide for any mandated recyclables generated at the event. It must be clear to an inspector that the system is being serviced: i.e., containers must be clearly marked and the area neatly maintained; there must not be garbage in the recyclables or recyclables in the garbage; container capacity

must be adequate to hold materials between pick-ups. There must be sufficient recycling containers for any mandated recyclables generated at the event.

- C. The organizer/owner/contractor of the location is responsible for arranging for recyclables to be removed from the premises and for ensuring that they are taken to an approved recyclables market. The owner/operator/contractor may make arrangements to deliver the recyclables to the municipal collection system (drop-off center or curbside collection) if permitted by the municipality. Otherwise, the owner/operator/contractor is responsible for arranging to have recyclables collected and transported and for resolving any problems with the transporter of the recyclables.
- D. The recycling system must be made accessible and available to all patrons, customers, and employees. Notice/signs must be provided to ensure all are aware of their responsibilities.
- E. The owner/operator/contractor of the location is responsible for obtaining pertinent documentation in order to report the tonnages of materials recycled at least once per year but not later than March 1 or else he/she must arrange to have the collector provide that documentation directly to the municipality.
- F. Single/Dual Stream Recycling: The recycling system may utilize separate containers for each recyclable material or it may provide for two or more materials to be placed in one container. Establishments may opt to collect their recyclables in a single stream or dual stream (fiber, commingled) provided the MRF that receives the material has certified that they have the ability to separate out and maximize the capture rate of the mandated recyclables.

S 357 - 20 New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties (Pursuant to N.J.S.A. 13:1E-99.13a and 99.16c.)

- A. Any application to the planning board of the municipality of the City of Rahway, for subdivision or site plan approval for the construction of 25 or more units of multi-family residential housing, single-family developments of 50 or more units, or any commercial, institutional, or industrial development proposal for the utilization of 1,000 square feet or more of land, must include a recycling plan compliant. This plan must contain, at a minimum, the following:
 - 1. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and
 - 2. Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area

shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.

- B. Prior to the issuance of a Certificate of Occupancy by the municipality of the City of Rahway, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.
- C. Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the municipal engineer.

S 357-22 Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.
- C. Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

S 357-23 Enforcement

The Code Enforcement Official, the Department of Health, the Recycling Coordinator, the Police Department, the Property Maintenance Official, the Housing Officer, or the municipal designated agent, the Union County Office of Health Management and the Union County Utilities Authority are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of, but is not limited to, sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

S 357-24 Violations and Penalties

Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$500.00, nor more than the maximum allowed under the laws of the State of New Jersey, except for Section III which shall, upon conviction thereof, be punishable by a fine not less than \$100.00, nor more than \$1000. Each day for which a violation of this Ordinance occurs shall be considered a separate offence.

Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program, including, but not limited to: educational materials, bins, containers, training videos, etc.

S 357-26 Severability, Effective Date

- A. In the event that it is determined, by a Court of competent jurisdiction, that any provision or section of this Ordinance is unconstitutional, all other sections and provisions shall remain in effect. This Ordinance shall take effect immediately, unless otherwise provided by Resolution of the governing body.

ARTICLE IV
Incineration of Recyclable Materials

S 357-27 Title

The title of this article shall be “An Ordinance Prohibiting the Incineration of Recyclable Materials in the City of Rahway.”

S 357-28 Definitions

As used in this article, the following terms shall have the meanings indicated:

RECYCLABLE MATERIALS – All materials recognized as recyclable by the New Jersey Department of Environmental Protection and Energy and any material that is recycled anywhere in the State of New Jersey.

VIOLATION OF THIS ARTICLE – The incineration of recyclable materials within a fifteen-minute period. The incineration of recyclable materials for any length of time within a fifteen minute period of time shall count as one violation of this article.

S 357-29 Incineration of Recyclable Material Prohibited; Exceptions

It shall be illegal for any person, corporation or public agency to incinerate recyclable materials in the City of Rahway. The only exception to this prohibition shall be the burning of paper and firewood in a residential fireplace and the burning of wood to heat a home.

S 357-30 Violations and penalties

For each violation the penalty shall be no less than \$500 and no more than the maximum penalty allowed under the laws of the State of New Jersey.

S357-31 Enforcement

The Department of Health and Welfare of the City of Rahway shall check incinerators in the City of Rahway for possible violations of this article and shall respond to complaints. Any person may file a formal complaint with the Municipal Court of the City of Rahway, which Court shall levy fines for violations in accordance with state

ARTICLE V
Collector Obligations

S 357- 32 Compliance with Regulations for Collection and Disposal

- A. The collection and disposal in transportation of solid waste shall comply with all rules and regulations of the local health department, disposal sites and laws of the State of New Jersey, particularly with the rules of the Bureau of Solid Waste Management of the New Jersey Department of Environmental Protection relating to the registration, collection, transportation and disposal of solid waste as stated in the rules of the Board of Public Utilities.
- B. The municipal service of the collection and disposal of solid waste hereunder shall be limited to curbside collection along public curbs and streets that have been dedicated to and accepted by the City of Rahway. The municipal service of collection and disposal of solid waste hereunder shall not extend to entry upon private property to remove solid waste or designated recyclable material.

S 357-33 Vehicles Used for Collection and/or Transportation of Materials

- A. All vehicles used in the collection and transportation of solid waste or recycling materials will be subject to the approval of the City of Rahway.
- B. All vehicles used for the collection and transportation of solid waste shall be provided with a watertight box, body or container, closed and entirely covered with suitable covers, adequate to prevent leakage or material being blown from the vehicle. Such vehicle shall be kept closed at all times, except during

collecting and disposing and shall be kept clean, washed thoroughly and disinfected as needed. The collector shall not permit any vehicle to become offensive, either from odor or appearance.

- C. Every vehicle used by the collector for collection and transportation of solid waste shall carry at least one broom and one shovel and any other equipment necessary to keep the vehicle clean and for cleaning up the collection area when materials are dropped or spilled. If any solid waste material should fall from the vehicle, either during the collection or transportation, such material shall be immediately gathered and placed back in the vehicle and the area rendered clean.
- D. The name of the collector and the number or call sign of the vehicle, NJDEP registration number shall be placed on each truck and be discernable at all times.

S 357-34 Conduct of Collectors

- A. The collector shall report to the Director of Public Works in writing, within twenty four hours, all cases in which it is impossible to collect or remove solid waste or designated recyclable materials. Such document shall explain the reason why the materials cannot be removed or collected.
- B. Neither the collector, licensee, agents, employees or any other person shall pick or sort through solid waste or designated recyclable materials. The contents of the containers of solid waste or designated recyclable material shall be immediately transferred without spillage to the collection vehicle.
- C. The collector shall see to it that their employees and agents shall diligently perform the necessary work and shall refrain from neglect, insolence or any other improper conduct; the collector shall discipline any employee failing these requirements.

S 357-35 Duties of Contractors

- A. The collector shall, on the same day, report to the Director of Public Works any dispute that occurs between himself and any occupant with regards to removal or collection of solid waste or designated recyclable material. The Director of Public Works or his designee shall immediately investigate the subject matter and take steps that may be necessary under the circumstances to rectify the situation.
- B. The collector shall maintain an office within fifteen miles of the city boundaries with a telephone connection and keep the office open from 6:00AM to 4:30PM on each day of collection. The collector shall be responsible for handling complaints within twenty-four hours of receiving said complaint.
- C. The collector will be responsible for the collection and transportation of solid waste or designated recyclable material from within the limits of the City of Rahway. All materials generated from outside the city or by contractors as described herein will not be collected.

S 357-36 Equipment Subject to Inspection

All equipment used by the collector and any solid waste and/or recycling site used by the collector shall be subject to inspection by the Director of Public Works or his designated agent during normal operating hours.

S 357-37 Collections to be Prompt, Schedule Notification

- A. Solid waste and/or designated recyclable collections shall take place no earlier than 6:00AM and no later than 4:30PM. Collections made during any other hours may be authorized by the Director of Public Works.
- B. Neither the collector or any employees or agents shall engage in loud or unnecessary noises during the collection or removal of materials.
- C. The collector shall notify all occupants and residents of the dates for collection of solid waste or designated recyclable material at least once per year.

S 357-38 Vehicle Attendants

With each vehicle utilized by the collector for the collection and transportation of solid waste or designated recyclable material there shall be at least one employee who speaks and understand the English language.

S 357-39 Transfer of Contracts

No contract for the collection or removal of the solid waste or recyclable materials made between the municipality and the collector shall be assignable or interchangeable to or with any other contractor, except with approval of the Municipal council of the city of Rahway. Any transfer of contract without such consent shall at the option of the governing body, render the contract null and void and empower the council, at its discretion to award the work to another contractor and the collector shall be answerable for any loss or damages.

S 357-40 Collectors to be Registered

Any collector engaged by the City of Rahway must be registered with the New Jersey State Department of Environmental Protection Agency.

S 357-41 Violations and Penalties

For each violation the penalty shall be no less than \$500 and no more than the maximum penalty allowed under the laws of the State of New Jersey.

**ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT
WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY
REPEALED.**

**THIS ORDINANCE SHALL TAKE EFFECT UPON FINAL PASSAGE
AND PUBLICATION AS PROVIDED BY LAW**

Council President Steinman 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 Steinman closed the Public Hearing.

Roll Call for O-33-13:

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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-35-13 Council President Steinman: 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 OF THE CITY OF RAHWAY, COUNTY OF UNION, NEW JERSEY, APPROVING AN APPLICATION FOR A LONG TERM TAX EXEMPTION PURSUANT TO N.J.S.A. 40A:20-1 ET SEQ. AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A FINANCIAL AGREEMENT BY AND BETWEEN THE CITY OF RAHWAY AND METRO RAHWAY URBAN RENEWAL, L.L.C. FOR PROPERTY LOCATED ON LOTS 1, 5, 23, 24 AND 25 IN BLOCK 149 AS SHOWN ON THE OFFICIAL TAX MAP OF THE CITY OF RAHWAY AND LOCATED IN THE CENTRAL BUSINESS DISTRICT AREA

BE IT ORDAINED by the Municipal Council of the City of Rahway that:

Section 1. The Municipal Council of the City of Rahway designated properties located at Block 149/ Lot 1, 5, 23, 24 and 25 (the "Property") as part of a larger redevelopment area (the "Central Business District Redevelopment Area") by adoption of a resolution on October 9, 2001 and included the Property as part of the Central Business District Redevelopment Plan by an amendment adopted on November 8, 2004 (the "Plan"), which Plan has been subsequently amended.

Section 2. The City of Rahway (the "City") and the Rahway Redevelopment Agency (the "Agency") have undertaken various projects (with and without private redevelopers) within the Central Business District Redevelopment Area.

Section 3. Heartstone Development, LLC (“Heartstone”), a predecessor of Metro Rahway Urban Renewal, L.L.C., was designated as conditional redeveloper by the Agency for the development of a 116 unit market rate residential project.

Section 4. On or about August 15, 2006, the Agency and Heartstone entered into a redevelopment agreement, which will set forth certain terms and conditions with respect to the redevelopment of the Property, the construction of the improvements and the payment of certain costs in connection therewith (the “Redevelopment Agreement”), which Agreement has been amended.

Section 5. Heartstone obtained amended preliminary and final site plan approval for the Project from the Rahway Planning Board on September 23, 2008, which was memorialized in a resolution adopted on October 29, 2008.

Section 6. On December 5, 2012, the Agency authorized the assignment and assumption of the Redevelopment Agreement by Metro Rahway Urban Renewal, L.L.C. (the “Redeveloper”) from Heartstone Development, LLC.

Section 7. On or about November 2012, the Redeveloper acquired the Property.

Section 8. Pursuant to and in accordance with the provisions of the Long Term Tax Exemption Law, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State, and the acts amendatory thereof and supplement thereto (the “Long Term Tax Exemption Law”, as codified in N.J.S.A. 40A:20-1 et seq.), the City is authorized to provide for tax abatement within a redevelopment area and for payments in lieu of taxes.

Section 9. The Redeveloper has submitted an application, dated March 5, 2013, for the approval of a Project, as such term is used in the Long Term Tax Exemption Law, all in accordance with N.J.S.A. 40A:20-8 (the “Exemption Application”, a copy of which is attached hereto as Exhibit A), which Exemption Application was amended by a letter dated July 8, 2013 and is made part of the Exemption Application attached hereto.

Section 10. The Exemption Application requests a 15-year term for the Financial Agreement and an annual service charge based on 10% of annual gross revenues.

Section 11. The City and the Redeveloper have reached agreement with respect to, among other things, the terms and conditions relating to the Annual Service Charges and desire to execute the Financial Agreement.

NOW, THEREFORE, BE IT FURTHER ORDAINED AND ENACTED by the City Council of the City of Rahway, County of Union, New Jersey, as follows:

Section 1. The Exemption Application is hereby accepted and approved.

Section 2. The Financial Agreement shall be for a 15-year term with an annual service charge based on 10% of actual annual gross revenues for the project in accordance with the Long Term Tax Exemption Law.

Section 3. The Financial Agreement is hereby authorized to be executed and delivered on behalf of the City by the Mayor in substantially the form attached hereto as Exhibit B. The City Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Mayor and to affix the corporate seal of the City to the Financial Agreement.

Section 4. This ordinance shall take effect upon final passage and publication as required by law.

Council President Steinman 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 Steinman closed the Public Hearing.

Roll Call for O-35-13:

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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-36-13 Council President Steinman: 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 EMERGENCY SINKHOLE REPAIR, BY AND IN THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY; APPROPRIATING \$300,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$300,000 IN BONDS OR NOTES TO FINANCE THE 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 to be undertaken by the City of Rahway, in the County of Union, State of New Jersey (the “City”) as a general improvement. For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$300,000 from the Sewer Utility of the City. Pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the “Local Bond Law”), no down payment is required as the Sewer Utility is self-liquidating.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the said \$300,000 appropriation, negotiable bonds of the Sewer Utility of the City are hereby authorized to be issued in the aggregate principal amount not exceeding \$300,000 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 an aggregate principal amount not exceeding \$300,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. (a) The improvement hereby authorized and purpose for the financing of which said obligations are to be issued is emergency sinkhole repair along various roadways throughout the City, including but not limited to, excavating, repairing, milling, paving, reconstruction, resurfacing, painting and striping the roadways.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$300,000.

(c) The aggregate estimated cost of said improvement or purpose is \$300,000.

(d) The above improvement and purpose set forth in Section 3(a) is more particularly described in documents on file in the Office of the City Clerk and shall also include, but is not limited to, the following, as applicable, surveying, construction planning, engineering and design work, preparation of plans and specifications, permits, bid documents, construction inspection and contract

administration, environmental testing and remediation and also all work, materials, equipment, labor and appurtenances as necessary therefor or incidental thereto.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Union or a private entity make a contribution or grant in aid, as applicable, to the City for the improvement or 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. In the event, however, that any amount so contributed or granted, as applicable, by the United States of America, the State of New Jersey, the County of Union or a private entity, 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. 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 of the City 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 Sewer Utility of the City is hereby amended to conform with the provisions of this bond ordinance, and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital programs of the Sewer Utility 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 or purpose 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 said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 20 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 \$300,000 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$60,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 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 obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of the obligations 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 \$300,000. 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 improvements or purposes 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 and approval by the Mayor, as provided by the Local Bond Law.

Council President Steinman 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 Steinman closed the Public Hearing.

Roll Call for O-36-13:

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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-37-13 Council President Steinman: 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 THE ACQUISITION OF EQUIPMENT FOR THE DEPARTMENT OF PUBLIC WORKS AND THE FIRE DEPARTMENT, BY AND IN THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY; APPROPRIATING \$550,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$522,500

BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE 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 \$550,000, which sum includes \$27,500 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 down payment is now available therefor 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.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said \$550,000 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 \$522,500 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 \$522,500 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 various equipment for the Department of Public Works and for the Fire Department, including but not limited to pick-up trucks with plows, a three-ton hot box, a wood chipper, a refuse truck, a brine machine and associated equipment, a Bobcat upgrade with attachments and various fire hoses, and also including all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$522,500.

(c) The estimated cost of said improvement or purpose is \$550,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of \$27,500, is comprised of the down payment 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. 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 5 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 \$522,500 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 \$110,000 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 \$522,500. 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 if and to the extent such bonds or notes are issued as tax-exempt obligations.

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 Steinman 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 Steinman closed the Public Hearing.

Roll Call for O-37-13:

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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-38-13 Council President Steinman: 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 AMENDING AND SUPPLEMENTING
BOND ORDINANCE NUMBER O-9-13 FINALLY ADOPTED BY
THE CITY COUNCIL ON MARCH 11, 2013, TO INCREASE THE**

APPROPRIATION THEREIN BY \$100,000 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$95,000 TO FINANCE PART OF THE ADDITIONAL COSTS 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 bond ordinance of the City of Rahway, in the County of Union, State of New Jersey (the "City"), heretofore finally adopted by the City Council on March 11, 2013, number O-9-13, entitled: "A BOND ORDINANCE PROVIDING FOR VARIOUS 2013 CAPITAL IMPROVEMENTS AND ELECTRICAL UPGRADES TO VARIOUS CITY-OWNED BUILDINGS AND FACILITIES, BY AND IN THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY; APPROPRIATING \$1,450,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,380,945 BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF" (the "Original Ordinance"), is hereby amended and supplemented to the extent and with the effect as follows:

SECTION 2. For the improvements or purposes described in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, there is hereby appropriated the additional sum of \$100,000, said sum being inclusive of \$5,000 as the amount of an additional down payment as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"), now available therefor 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. Therefore, the total appropriation contained in the Original Ordinance, as amended and supplemented hereby, shall be increased by \$100,000 from \$1,450,000 and shall equal the amount of \$1,550,000, said sum being inclusive of all appropriations heretofore made in the Original Ordinance, as amended and supplemented hereby, including the total amount of down payment increased by \$5,000 from \$69,055 to equal \$74,055. The total appropriation including the total amount of down payment is \$1,550,000.

SECTION 3. In order to finance the additional cost of the improvements or purposes set forth in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, not covered by the additional down payment, additional negotiable bonds or notes of the City in the amount of \$95,000 are hereby authorized to be issued by the City for such improvements or purposes in Section 3(a) of the Original Ordinance, as amended and supplemented, such that the total authorization of negotiable bonds or notes to be issued by the City for the improvements or purposes stated in Section 3(a) of the Original Ordinance, as

amended and supplemented hereby, shall be increased by \$95,000 from \$1,380,945 and shall equal the amount of \$1,475,945.

SECTION 4. Section 3(a)(i) of the Original Ordinance shall be amended to read in its entirety as follows:

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
<p>“(i) City Hall – acquisition, installation and replacement of an emergency generator; upgrading and reconfiguration of the electrical system, including the acquisition and installation of a connection for a portable emergency generator to power the Emergency Call Center; acquisition and installation of two (2) sanitary sewer backflow preventor check valves and two (2) by-pass ejector pump systems at City Hall;</p>	\$489,800	\$466,237	\$23,563	15 years”

SECTION 5. The Capital Budget of the City is hereby amended, as necessary, to conform with the provisions of this amendatory and supplemental bond ordinance and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs (the “Director of the Division of Local Government Services”), will be on file in the office of the Clerk and will be available for public inspection.

SECTION 6. 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 additional authorization of the bonds and notes provided for in this amendatory and supplemental bond

ordinance by \$95,000 and the said obligations authorized herein will be within all debt limitations prescribed by law.

SECTION 7. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by the Original Ordinance, as amended and supplemented hereby. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 8. The City reasonably expects to reimburse any expenditures toward the cost of the improvements or purposes described in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, and paid prior to the issuance of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the City, or any member of the same “Controlled Group” as the City, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 8 is intended to be and hereby is a declaration of the City’s official intent to reimburse any expenditures toward the cost of the improvements or purposes set forth in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, to be incurred and paid prior to the issuance of bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”). The proceeds of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, used to reimburse the City for any expenditures toward the cost of the improvements or purposes set forth in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, will not be used directly or indirectly (i) to “refund” an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year, following the reimbursement of any expenditures of bond proceeds “replacement proceeds”, within the meaning of Treasury Regulation Section 1.148-1 of the bonds, or any other bond issue, or (iii) to reimburse the City for any expenditure or payment that was originally paid with the proceeds of any obligation of the City (other than borrowing by the City from one of its own funds or the funds of a member of the same “Controlled Group” within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, to

reimburse the City for any expenditures toward the cost of the improvements or purposes set forth in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, will be issued in an amount not to exceed \$1,475,945. The costs to be reimbursed with the proceeds of the bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, will be “capital expenditures” in accordance with the meaning of Section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

SECTION 9. 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 the Original Ordinance, as amended and supplemented hereby.

SECTION 10. Except as expressly amended hereby, the Original Ordinance shall remain in full force and effect.

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 Steinman 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 Steinman closed the Public Hearing.

Roll Call for O-38-13:

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson
Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman: 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**

15. ADJOURNMENT

Motion to adjourn the meeting at 7:36 p.m. was made by Councilmember Steinman and seconded by Councilmember Brown:

YES: Councilmembers Baker, Bresenhan, Brown, Farrar, Mione, Wenson Maier, Steinman

ABSENT: Councilmembers Cox, Saliga

Council President Steinman declared the motion carried.