

Minutes of End of the Year Meeting of the Mayor and Council held on Tuesday, December 26, 2017 at 8:00 A.M. at the Upper Saddle River Borough Hall.

Pursuant to the Open Sunshine Act P.L. 1975, c. 231, proper notice of this meeting has been provided by submitting appropriate notice to The Ridgewood News and The Record on December 15, 2016 by Fax and mail in which the time, place and purpose of the meeting was set forth.

RULE 1. Roll Call:

|              |                    |         |
|--------------|--------------------|---------|
| Mayor        | Joanne Minichetti  | Present |
| Councilman   | Roger DeBerardine  | Absent  |
| Councilman   | Steven DiMartino   | Absent  |
| Councilman   | Jonathan Ditkoff   | Absent  |
| Councilman   | Vincent M. Durante | Present |
| Councilwoman | Joanne Florio      | Present |
| Councilman   | Thomas Hafner      | Present |

RULE 2,3. Passed

RULE 4. Communications, Petitions & Bills:

A motion by Councilman Durante, seconded by Councilwoman Florio to pay bills in the amount of \$3,290,729.97 was unanimously approved by all Council members present. Mayor Minichetti declared bills approved for payment and ordered checks drawn.

Roll Call: Ayes: Council members Durante, Florio, Hafner.  
Nays: None.

RULE 5. Unfinished Business: Passed.

RULE 6. New Business:

CONSENT AGENDA: All items listed with an asterisk (\*) are considered to be routine and non-controversial by the Council and shall be so approved. There will be no separate discussion of these items unless a Council member or citizen so requests, in which case the item will be considered in its normal sequence.

A motion to approve Consent Agenda by Councilman Hafner, seconded by Councilwoman Florio was unanimously approved by all Council members present.

Roll Call: Ayes: Council members Durante, Florio, Hafner.  
Nays: None.

\*Motion to approve Raffle License #379 to Diabetes Foundation, Inc.

\*Motion to approve Raffle License #380 to SRV Lions Charities, Inc.

\*Authorize Borough Clerk to seek bids for collection of solid waste and recyclable materials.

\*Resolution #114-17

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey' and

WHEREAS, the Borough Council of the Borough of Upper Saddle River, County of Bergen, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

WHEREAS, the Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, Borough Council was applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Bergen;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Upper Saddle River, County of Bergen, State of New Jersey hereby recognizes the following:

1. The Borough Council does hereby authorize submission of a strategic plan for the Upper saddle River Municipal Alliance grant for fiscal year 2017 in the amount of:

|              |          |
|--------------|----------|
| DEDF         | \$9,876  |
| Cash Match   | 2,469    |
| In-Kind      | 7,407    |
| Total Budget | \$19,752 |

2. The Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

\*Resolution #115-17

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled "David and Nadine Berkowitz v. Borough of Upper Saddle River", Docket No. 002754-2017, which matters involve an appeal of the assessment on certain premises known as Block 102, Lot 10.04, and being more commonly known as 11 Cobblestone Drive, for the 2016 and 2017 tax years; and

WHEREAS, the parcel is assessed for both years at \$1,320,700; and

WHEREAS, the appeal contests the assessment on the property for the 2016 and 2017 tax years.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeal based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the assessment for the 2016 tax year on said parcel shall be established at \$1,250,000.

2. The Stipulation of Settlement shall provide that the assessment for the 2017 tax year on said parcel shall be established at \$1,150,000.

3. Plaintiffs agree to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owners shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T. Regan, Esq., be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

\*Resolution #116-17

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled "Andrew and Marilyn Herf v. Borough of Upper Saddle River", Docket No. 062435-2017, which matter involves an appeal of the assessment for the 2017 tax year on certain premises known as Block 1306, Lot 6 and being more commonly known as 19 Rustic Road; and

WHEREAS, the parcel is assessed for the 2017 tax year at \$1,153,500; and

WHEREAS, said appeal was filed to contest the assessment on the property for the 2017 tax year.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeal based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the assessment for 2017 tax year on said parcel shall be established at \$1,128,500.

2. The Stipulation of Settlement shall provide that the assessment for the 2018 tax year on said parcel shall be established at \$1,100,000.

3. Plaintiffs agree to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owners shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the

option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T. Regan, Esq., be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

\*Resolution #117-17

WHEREAS, Cross River Fiber, LLC ("CRF" or "the applicant"), has made application to the Borough of Upper Saddle River for municipal consent pursuant to *N.J.S.A. 48:3-19* to construct telecommunications facilities on existing utility poles at various locations in the Borough; and

WHEREAS, said application seeks approval to maintain such facilities for a period of fifty (50) years; and

WHEREAS, in 2011 CRF entered into a Joint Use License Agreement with Verizon New Jersey Inc., ("Verizon") to use facilities of Verizon for the construction of CRF's telecommunications facilities; and

WHEREAS, the Mayor and Council has reviewed CRF's request, the proposed Rights-of-Way Use Agreement, the Joint License Agreement dated December 21, 2011 between CRF and Verizon, various photographs and exhibits submitted by CRF and other documents submitted by the applicant, as well as the statements made by CRF's representative at the November 2, 2017 Mayor and Council meeting and a subsequent e-mail from such representative dated November 3, 2017.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council that the following findings of fact are made and determined:

1. CRF seeks municipal consent pursuant to *N.J.S.A 48:3-19* to construct fiber optic cable on utility poles at various locations within the Borough. The proposed construction and installation is for the purpose of establishing its telecommunication facilities within the Borough.

2. The Governing Body is of the opinion that CRF has failed to identify a need for the installation and placement of its facilities within the Borough. More particularly, the applicant has admitted that it currently has no customers within the Borough. Nor has CRF identified any parties who currently seek or require the applicant's telecommunications services either presently or within the foreseeable future.

3. The applicant has indicated that it is required to install cable facilities within the Borough in order to reduce cost, and that a different route would be "cost prohibitive". However, this constitutes an inadequate reason for approval of the application, particularly when there has been no demonstration that there is a need for CRF's facilities within the Borough.

4. While the applicant contends that the Borough has permitted other

providers to install its facilities within the Borough, it is clear that these other utilities have customers and that their services are required by residential and business establishments in the Borough. CRF has failed to show that there is a need for their facilities and that any benefit will ensue to the Borough if its fiber optic cables are placed on utility poles at the desired locations.

BE IT FURTHER RESOLVED that based upon the above findings of fact and conclusions, that the application of CRF for municipal consent and approval be and the same is hereby denied.

Resolution #118-17 by Councilman Durante, seconded by Councilwoman Florio:

WHEREAS, the Borough of Upper Saddle River advertised that sealed proposals would be received on December 13, 2017 for Improvements to Carlough Road, Section 5; and

WHEREAS, in response to said advertisement for proposals, a bid submitted by American Asphalt Milling Co., 96 Midland Avenue, Kearny, NJ 07430 was the lowest responsible bidder in a base bid amount of \$139,782.35 and \$29,236.75 for an Alternate Bid A; and

WHEREAS, the submission has been reviewed and found to be in conformance with the specifications;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby award a contract to American Asphalt Milling Co., 96 Midland Avenue, Kearny, NJ 07430 for Improvements to Carlough Road, Section 5 in a base bid amount of \$139,782.35 and \$29,236.75 for Alternate Bid A.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be and are hereby authorized to execute a contract for the aforesaid service.

Roll Call: Ayes: Council members Durante, Florio, Hafner.  
Nays: None.

RULE 7. Public Comments: None.

RULE 8. Adjournment:

A motion by Councilwoman Florio, seconded by Councilman Hafner to adjourn was unanimously approved by all Council members present. (Meeting adjourned at 8:15 a.m.)

Respectfully submitted,

Theodore F. Preusch  
Borough Administrator