

This Meeting was held in Person following all Covid Guidelines.

## BOROUGH OF HAMPTON

### REGULAR MEETING

December 13, 2021

Mayor Todd Shaner called the Regular Meeting of the Hampton Borough Council to order at 7:30p.m. Borough Clerk Linda Leidner gave the Open Public Meetings Act Statement. The notice of this meeting was advertised in the Hunterdon Democrat on January 14, 2021. The notice was posted on the public bulletin board and is on file in the Office of the Municipal Clerk.

Roll Call:	Present:	Mayor Todd Shaner	Rob Celentano
		Carroll Swenson	Jeff Tampier
		Rob Wotanowski	
	Absent:	John Drummond	Doug Rega

The following people were also present: Matt Lyons, Borough Attorney and Alan Brower, DPW Director, Kathy Olsen, CFO and Bob Baker former Councilman.

Mayor Shaner presented a plaque to Bob Baker in appreciation of his years of service to the Borough of Hampton. Mr. Baker retired from Council in January 2021 when he moved to Florida. Mayor Shaner also read a congratulatory note from retired Borough Attorney Richard Cushing.

Motion by Cm. Wotanowski, second by Cm. Celentano to approve the Regular Meeting Minutes of the November 22, 2021.

Voice Vote. All ayes, motion carried.

### Comments and Questions from the Public:

Fire Chief Rick Alan reported that the Christmas Tree lighting at Hampton School was well attended. Aside from a glitch with the tree lights due to the wind storm the night before, everything went off without a hitch. Chief Alan thanked the Borough Council for allowing the DPW to take time out of their work day to put the lights on the tree. Chief Alan also reported that officers have been elected for 2022.

### Communications:

Letter from Planet Networks requesting Resolution to consent to use facilities lawfully erected in public right of way for fiber optic cabling.

Robert Boyle from Planet Networks explained how fiber optics work and the purpose of the company's request for the following resolution. Mr. Boyle explained that they connect to existing poles. Should a new pole be needed Planet Network would have to reach out to the Borough Engineer. In the areas where utilities are underground, their network would be run underground as well.

It was requested that Mr. Boyle submit proof of insurance to the Municipal Clerk's Office.

Mr. Boyle also explained that this process will take time and Planet Network will not be available here in Hampton Borough immediately. This is a preliminary step to the process.

Motion by Cm. Wotanowski, second by Cm. Swenson to adopt the following Resolution:

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**RESOLUTION NO. 74-2021 RESOLUTION AUTHORIZING THE USE OF PUBLIC RIGHTS-OF-WAY BY PLANET NETWORKS, INC.**

**WHEREAS**, Planet Networks Inc. ("Planet Networks") is a provider of telecommunications services that is authorized by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout New Jersey; and

**WHEREAS**, Planet Networks has petitioned the municipality for consent to use the public rights-of-way to place its telecommunication facilities aerially on existing and new utility poles and/or in underground conduit; and

**WHEREAS**, the Federal Communications Commission has held that that "an effective prohibition [under the Telecommunications Act of 1996] occurs where a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of a covered service ... not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services." Declaratory Ruling and Third Report and Order, WT Docket No. 17-79; WC Docket No. 17-84, FCC-18-133A1, at para. 36, p. 15-16; and

**WHEREAS**, Planet Networks has or will enter into agreements with the utility companies for the use of their poles; and

**WHEREAS**, N.J.S.A. 48:3-19 provides that "[t]he consent of the municipality shall be obtained for the use by a person of the poles of 'another person unless each person has a lawful right to maintain poles in such street, highway or other public place;" and

**WHEREAS**, N.J.S.A. 27:16-6 provides, in part that "[t]he board of chosen freeholders shall not grant an easement, right of way, or use in, under or over, any portion of a county road in a municipality, unless the governing body of the municipality ... shall consent thereto;" and

**WHEREAS**, N.J.S.A. 46:17-8 provides that "[a]ny telegraph or telephone company organized under the laws of this or any other State, or of the United States may erect, construct and maintain the necessary poles, wires, conduits, and other fixtures for its lines, in, upon, along, over or under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles, and through, across or under any of the waters within this State and upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same."

**WHEREAS**, N.J.S.A. 54:30A-124(a) provides that a municipality may not impose any fees, taxes, levies or assessments in the nature of a local franchise, right of way, or gross receipts fee, tax, levy or assessment against telecommunications companies but that a municipality may impose reasonable fees for actual services made by any municipal agency; and

**WHEREAS**, it is in the best interests of the municipality and its citizens to grant consent to Planet Networks.

**NOW THEREFORE BE IT RESOLVED THAT:**

1) That the governing body OF THE Borough of Hampton does hereby grant permission and authority to Planet Networks,

Inc. to install fiber optic cables and related facilities on existing utility poles within the public right-of-way and to install new utility poles, upon the following terms and conditions:

- a) Planet Networks shall adhere to all applicable federal, State, and local laws in connection with its use of the public right-of-way.
- b) Planet Networks shall obtain any applicable permits in connection with the installation of its facilities;
- c) Planet Networks shall indemnify, defend and hold harmless the municipality, its officials, agents, and employees, from and against any claim of liability, damages or loss resulting in bodily injury or property damage arising out of Planet Network's use of the public right-of-way, except to the extent such loss, injury or property damage resulting from the acts or omissions of the municipality.

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- d) Planet Networks shall procure and maintain, at its cost and expense, commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence and shall include the municipality as an additional insured on said insurance policy.
- e) Planet Networks shall be responsible for the repair of any damage to pavement or any structure arising from its construction, installation or maintenance of its facilities.
- f) Notwithstanding any provision contained herein, neither the municipality nor Planet Networks shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this consent.
- g) That the Mayor is hereby authorized to execute and the Clerk to attest to any other documents necessary to effectuate the terms of this resolution.

STATEMENT: This resolution authorizes and consents to Planet Networks, Inc.'s installation of fiber optic cables and related facilities on new and existing utility poles and conduits within the public rights-of-way.

**Roll call:** Aye: Celentano, Swenson, Tampier, Wotanowski

All ayes: Motion carried.

**November Crossing Guard Report** – No discussion.

**Municipal Court Reports November 2021** – No discussion

**Tax Collector 2021 Analysis and October & November 2021 Reports** – No discussion.

**Unfinished Business:**

**Fire Company request for Catering Company to use the kitchen:**

Fire Company President approved the changes made to the new Lease Agreement as modified by Borough Attorney Matt Lyons.

**Motion by Cm. Wotanowski, second by Cm. Celentano to authorize the Mayor and Borough Clerk to sign the amended Fire Company Lease Agreement.**

Roll Call Vote: AYE: Celentano, Swenson, Wotanowski, Mayor Shaner

Abstain: Tampier

All ayes, motion carried.

**Parking Ordinance** – Mr. Brower indicated that his will be ready for introduction in January.

**Lumberyard** – Nothing new to report.

**School Study/Hampton School Updates** – Nothing new to report.

**Reports of Committees:**

**Cm. Drummond and Cm. Rega** were absent.

**Cm. Swenson** noted that the town looks really nice with all of the decorations.

**Cm. Celentano:** Cm. Celentano reported that the Christmas tree lighting was a success. There were a lot of kids. Santa was a big hit. It was a nice event.

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**Cm. Tampier** – Inquired as to what the DPW used to put the lights on the tree. DPW Director Alan Brower explained a lift was used because of the location of the septic system on the property. Mr. Brower also noted that heavier lights will be needed. The ones used were too light and the wind took them down.

**Cm. Wotanowski** had nothing to report.

**Municipal Clerk’s Report –**

Mrs. Leidner reported that the 2022 Free Rabies Clinic will be held Saturday, January 8, 2022 from 8:30am-10:00am at the DPW garage.

**New Business:**

**Motion by Cm. Wotanowski, second by Cm. Celentano to adopt the following Resolution:**

**RESOLUTION NO. 75-2021**

**AUTHORIZING THE EXECUTION OF AN AMENDED CONTRACT OF SALE FOR BOROUGH OWNED PROPERTY AT 12 MacKENZIE ROAD (BLOCK 17, LOT 9)**

**WHEREAS**, the Borough of Hampton is the record owner of the property at 12 MacKenzie Road, Block 17, Lot 9 (the “Property”) on the Tax Map of the Borough of Hampton; and

**WHEREAS**, N.J.S.A. 40A:12-13(a) authorizes a municipality to enter into an open public sale at auction to the highest bidder for property that is not needed for public use; and

**WHEREAS**, pursuant to Ordinance 10-2021, the Hampton Borough Council authorized sale of the Property:

**WHEREAS**, pursuant to Resolution No. 70-2021 the Borough Council authorized execution of a Purchase and Sale Agreement with Matarazzo Properties, LLC (the “Purchaser”); and

**WHEREAS**, the Purchaser has requested certain changes to the Purchase and Sale Agreement and the Borough Council is agreeable to such requested changes.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Clerk are authorized to executed the revised Purchase and Sale Agreement in a form substantially similar to that attached hereto.

Roll Call Vote: AYE: Celentano, Swenson, Wotanowski, Mayor Shaner

Abstain: Tampier

All ayes, motion carried.

**Motion by Cm. Wotanowski, second by Cm. Tampier to adopt the following Resolution:**

**RESOLUTION #76-2021**

**WHEREAS**, it has been determined that there will be excesses in certain appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriations for the year 2021 and it has also been determined that certain appropriations are deemed to be insufficient to fulfill the purposes of such appropriations; and

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**WHEREAS**, N.J.S.A. 40A:4-58 provides for the transfer of the amount of such appropriations as may be deemed in excess to such appropriations as may be deemed to be insufficient; and

**WHEREAS**, the transfers about to be authorized do not affect any appropriations, to which or from which transfer are prohibited under the statutes;

**NOW, THEREFORE, BE IT RESOLVED** that the following transfers between 2021 appropriations be authorized pursuant to N.J.S.A. 40A:4-58:

		<u>From</u>	<u>To</u>
Street Lighting	Other Expenses	\$ 2,000.00	
Electricity	Other Expenses	\$ 2,000.00	
Natural Gas	Other Expenses	\$ 3,000.00	
Streets & Roads	Other Expenses		\$ 2,000.00
Gas & Diesel Fuel	Other Expenses		\$ 4,000.00
Telephone	Other Expenses		\$ 1,000.00
<b>TOTALS</b>		<u>\$ 7,000.00</u>	<u>\$ 7,000.00</u>

Roll Call Vote: AYE: Celentano, Swenson, Tampier, Wotanowski  
All ayes, motion carried.

**RAFFLE LICENSE FOR APPROVAL:**

**Motion by Cm. Wotanowski, second by Cm Swenson to approve the following Raffle License:**

Raffle License Application received from the Hampton Fire Company Ladies Auxiliary to hold an Off Premise Merchandise Raffle on January 20, 2022.

Voice Vote: All ayes. Motion carried.

**Bills and Claims:** Motion by Cm. Swenson, second by Cm. Wotanowski to approve the request from the Chief Financial Officer to pay the bills on the bill list of December 13, 2021 and bills that need to be paid prior to December 31, 2021.

Roll call: Aye: Celentano, Swenson, Tampier, Wotanowski  
All ayes: Motion carried.

Motion by Cm. Celentano, second by Cm. Wotanowski to approve the following Resolution:

**RESOLUTION NO. 77-2021**

**WHEREAS**, the Open Public Meetings Act; N.J.S.A. 10:4-6 et seq., declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

**WHEREAS**, the Open Public Meetings Act also recognized exceptions to the right of the public to attend portions of such meetings; and

**WHEREAS**, the Mayor and Council find it necessary to conduct an executive session closed to the public as permitted by the N.J.S.A. 40:4-12; and

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**WHEREAS**, the Mayor and Council will reconvene in public session at the conclusion of the executive session;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Borough Council of the Borough of Hampton, County of Hunterdon, State of New Jersey that they will conduct an executive session to discuss the following topic (s) as permitted by N.J.S.A. 40:4-12:

**PERSONNEL**

**BE IT FURTHER RESOLVED** that the Mayor and Council hereby declare that their discussion of the subjects identified above may be made public at a time when the Borough Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough or any other entity with respect to said discussion. That time is currently estimated to be: One Year

**BE IT FURTHER RESOLVED** that the Mayor and Borough Council for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

Meeting was closed to the Public at 8:12pm and it was announced that Action May be Taken after the Executive Session

Motion by Cm. Wotanowski, second by Cm. Swenson to close Executive Session and Open Meeting to the Public at 8:32pm. All Ayes, motion carried.

Motion by Cm. Swenson, second by Cm. Wotanowski to hire David Banks with the following Resolution:

**RESOLUTION NO. 78-2022  
APPOINTING PART TIME LABORER WITH CDL**

**WHEREAS**, there is a need for a part-time Laborer for the DPW; and

**WHEREAS**, David C. Banks has been determined as being qualified for the position; and

**WHEREAS**; David C. Banks holds a current CDL; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Hampton that David C. Banks is hired as a Part Time Laborer for the DPW; and

**BE IT FURTHER RESOLVED**, David C. Banks will receive a salary of \$20.00 per hour due to his qualifications and holding a current CDL.

**Roll call:** Aye: Celentano, Swenson, Tampier, Wotanowski

All ayes: Motion carried.

Adam Fox from the Hampton Fire Company arrived after the Executive Session. Mr. Fox explained that the meeting room is in need of an update and the Fire Company is offering to move forward with this process.

First item that needs to be updated is the chairs. The rug needs to be replaced and the dance floor needs to be updated.

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The Fire Company is willing to fund this project as an updated room would make a more desirable hall to rent.

Mr. Fox also inquired as to whether money was budgeted for the replacement of ceiling tiles and replacement of the lights.

Motion by Cm. Wotanowski, second by Cm. Swenson to give permission to the Hampton Fire Company to replace the chairs and rug in the council meeting room.

Roll Call Vote: AYE: Celentano, Swenson, Wotanowski, Mayor Shaner

Abstain: Tampier

All ayes, motion carried.

**Adjournment:** Motion by Cm Swenson second by Cm. Wotanowski to adjourn the Regular Meeting of the Hampton Borough Council. Voice Vote: All ayes, motion carried. The meeting adjourned at 8:50p.m.

Respectfully submitted,

Linda Leidner, RMC  
Municipal Clerk