

**BOROUGH OF FANWOOD
MAYOR AND COUNCIL REGULAR MEETING
FEBRUARY 16, 2016**

The Regular Meeting of the Mayor and Council was held on March 21, 2016 at Borough Hall, 75 North Martine Avenue, Fanwood, NJ 07023 at 7:00 PM.

Council President Mitchell presided and stated: I hereby announce and request that such be included in the minutes of the meeting that notice of time, place and date of this meeting has been prominently posted on the bulletin board at Borough Hall; mailed to the Times, The Star Ledger, Courier News, PATCH, Alternate Press by January 10, 2016 filed with the Borough Clerk and mailed to any person requesting same in accordance with the requirements of the Open Public Meeting Act

The Pledge of Allegiance was led by a local Girl Scout Troop

Eleanor McGovern, Borough Administrator, gave the invocation.

Present: Kevin Boris, Russell Huegel, Tom Kranz, Erin McElroy-Barker, Katherine Mitchell, Jack Molenaar

Absent: Colleen Mahr

Also Present: Eleanor McGovern, Daniel McCarthy, Frederick Tomkins

MINUTES

Mitchell/Kranz moved to accept the following minutes as presented. Motion carried.

Regular Meeting	February 16, 2016
Special Meetings	February 23 and March 7, 2016
Agenda Meeting	March 7, 2016
Downtown Redevelopment Agency	March 7, 2016

APPOINTMENTS/RESOLUTIONS/PROCLAMATIONS/PRESENTATIONS

Presentations:

Council President Mitchell presented Ellen Morris a Devlin print as Volunteer of the Month for her dedicated service in beautifying the Downtown. Ms. Morris was present to receive the award.

The Scotch Plains Fire Department presented Fire Chief John Piccola a plaque for his continuous support of the Scotch Plains Fire Department.

Resolutions:

Councilman Kranz presented the following Resolution to the Scotch Plains Fanwood Scholarship Foundation for its 50th Anniversary:

**SCOTCH PLAINS FANWOOD SCHOLARSHIP FOUNDATION
50th ANNIVERSARY 1966 - 2016**

WHEREAS, the Scotch Plains Fanwood Scholarship Foundation, “Foundation”, is celebrating its 50th Anniversary on June 27, 2016, and

WHEREAS, the Foundation was formed for the following purpose: recognizing the vital need for education beyond the secondary level and the financial burden this education places on many families, and

WHEREAS, the Foundation, a not for profit 501(c)(3) organization, has administered a total of 2,741 awards totaling \$2,782,717 since its inception through solicited and unsolicited funds and donations to provide scholarship assistance to deserving high school graduates and college students domiciled in Scotch Plains and Fanwood, and

WHEREAS, the Foundation is administered by a Board of Trustees consisting of twenty-two volunteer members who have experience in education, management, administration, law and finance and are residents of Fanwood and Scotch Plains, and

WHEREAS, the Foundation has received unconditional financial support from the residents of both communities in its annual fund raising efforts for fifty years.

NOW, THEREFORE, BE IT RESOLVED the Mayor and Council of the Borough of Fanwood do hereby recognize the contributions of the Scotch Plains Fanwood Scholarship Foundation in enabling our students to attain a higher education; congratulate the Foundation on its 50th Anniversary; wish the Foundation continued success in the future; and spread this message across the minutes of the March 21, 2016 Council Meeting so that all who follow will know this remarkable organization whose efforts enriched the lives of so many of our students.

Mart Ball Cappio was present to receive the Resolution.

Proclamations:

Council President Mitchell presented the Girl Scouts present with the following Proclamation:

GIRL SCOUT WEEK
March 6 – 12, 2016

WHEREAS, March 6 – 12, 2016 marks the 104th Anniversary of Girl Scout Week as designated by Girl Scouts of the USA founded in 1912 by Juliette Gordon Low in Savannah, Georgia, and

WHEREAS, the mission of the Girl Scouts of the USA is “to build girls of courage, confidence and character, who make the world a better place” through honesty, fairness, compassion, sisterhood and citizenship, and

WHEREAS, throughout its long and distinguished history, Girl Scouting has inspired millions of girls and women to strive for the highest ideals of character, conduct and patriotism, and

WHEREAS, through Girl Scouts, girls grow strong, gain self-confidence, develop leadership skills and learn the lifelong lesson of contributing back to their communities, and

WHEREAS, more than 2.7 million current Girl Scout members nationwide will be celebrating 104 years of this American tradition, with nearly 60 million women who are former Girl Scouts and living proof of the impact of this amazing Movement.

WHEREAS, the Girl Scouts of Washington Rock Council was formed in 1957 and has capably delivered the optimal Girl Scout experience to over 750,000 young women and adults in Union,

Middlesex and Somerset counties, and

NOW, THEREFORE, I, Colleen Mahr, Mayor of the Borough of Fanwood so recognize the importance and value of Girl Scouting in the Borough and do hereby proclaim March 6-12, 2016 as

GIRL SCOUT WEEK

in the Borough of Fanwood.

The following Proclamation was read by Councilman Boris:

**YOUTH ART MONTH
MARCH 2016**

WHEREAS, art education contributes powerful educational benefits to all elementary, middle, and secondary students including the following:

- Art education develops students' creative problem-solving and critical thinking abilities;
- Art education teaches sensitivity to beauty, order, and other expressive qualities;
- Art education gives students a deeper understanding of multi-cultural values and beliefs;
- Art education reinforces and brings to life what students learn in other subjects; and
- Art education interrelates student learning in art production, art history, art criticism, and aesthetics.

WHEREAS, our national leaders have acknowledged the necessity of including arts experiences in all students' education.

NOW THEREFORE I, Colleen Mahr, Mayor of the Borough of Fanwood do hereby proclaim March 2016, YOUTH ART MONTH, in the Borough of Fanwood and encourage the support of quality school art programs for children and youth.

CORRESPONDENCE

1. Novapoint LLC, Block 55 Lot 13
Re: Business wants to be included in the Abatement Zone
Disposition: Letter given to Elizabeth Jeffery to respond
2. PSE&G
Re: Rate Increase
Disposition: Note and File
3. Fanwood Board of Health
Re: Ordinance on prohibiting sale of tobacco to persons under age 21 for Council's review
Disposition: Ordinance supported by Mayor and Council

COUNCIL REPORTS

A. Administration and Finance (Councilman Huegel)

Huegel/Kranz moved to accept the Tax Collector's Report for February. Motion carried.

Huegel/Kranz moved to approved the Payment of Claims. Motion carried on the following roll call vote.

BE IT RESOLVED that claims in the amount of \$5,288,485.32 having been listed on the Bill List and recorded in the files of the Borough Hall, and approved by the Chairman of the appropriate

Committee, be paid.

FOR: Huegel, Kranz, Boris, McElroy-Barker, Mitchell, Molenaar
 AGAINST: None
 ABSTAIN: None
 ABSENT: None

Councilman Huegel reported on the 2016 Budget and the increases in certain line items. There will be an increase for the local levy of 1.6%.

B. Public Safety (Councilman Boris)

Councilman Boris reported for the Police Department and the Environmental Commission

C. Public Works (Councilman Molenaar)

Councilman Molenaar reported for the Public Works Department, the Planning Board and the Historic Preservation Commission.

D. Land Use and Historic Preservation (Councilwoman McElroy-Barker)

Councilwoman McElroy-Barker reported for the Recreation Commission.

E. Recreation and Community Services (Councilman Kranz)

Councilman Kranz reported for the Board of Health.

F. Health and Senior Citizens (Councilwoman Mitchell)

Councilwoman Mitchell reported for the Library, Earth Day, Cultural Arts, and the Rescue Squad.

MEETING OPEN TO THE PUBLIC

Huegel/Molenaar moved to open the meeting to the public. Motion carried.

Katherine Balch, Library Board Trustee, gave a report about the Fanwood Library: attendance is up, Digital magazines available, tutors in Library and the Board is working on a plan for the building.

Boris/Huegel moved to close the meeting to the public. Motion carried.

OLD BUSINESS

None

NEW BUSINESS

A. Administration and Finance (Councilman Huegel)

Ordinance 16-02-S

Huegel/Boris moved to adopt Ordinance 16-02-S on first reading. Motion carried.

**CALENDAR YEAR 2016
 ORDINANCE TO ESTABLISH A CAP BANK
 (N.J.S.A. 40A:4-45.14)**

Second Reading/Public Hearing will be held on April 18, 2016.

Resolution 16-03-45

Huegel/Boris moved to adopt Resolution 16-03-45. Motion carried.

BE IT RESOLVED by the Mayor and Council of the Borough of Fanwood that the statements of revenues and appropriations as presented to Council on March 21, 2016 shall constitute the Fanwood Municipal Budget for 2016.

BE IT FURTHER RESOLVED that said Budget be published in the Times in the issue of March 24, 2016.

BE IT FURTHER RESOLVED that the adoption of the Municipal Budget is scheduled for April 18, 2016.

Resolution 16-03-41

Huegel/Boris moved to adopt Resolution 16-03-41. Motion carried on the following roll call vote.

WHEREAS, an emergent condition has arisen in that the Borough of Fanwood is expected to enter into contracts, commitments or payments prior to the CY 2016 Budget and no adequate provision has been made in the CY 2016 temporary budget for the afore said purposes, and

WHEREAS, N.J.S.A.: 40-20 provides for the creation of an emergency temporary appropriation for said purpose, and

WHEREAS, the total emergency temporary appropriation resolutions adopted in the year CY 2016 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total \$2,173,701.66.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Fanwood, in the County of Union, State of New Jersey, (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20:

Emergency temporary appropriation is and the same are hereby made in the amount of \$934,725.00 as follows:

Salary:

Public Defender	\$2,000.00	Crossing Guards S&W	\$5,000.00
Recreation S&W	\$2,000.00		

Operations:

Finance O&E	\$10,000.00	Road Repair O&E	\$10,000.00
Communications O&E	\$5,000.00	Social Security	\$10,000.00
PFRS	\$481,193.00	PERS	\$201,649.00
Recycling	\$4,000.00	Payment of BAN	\$50,000.00
Tax Collector	\$500.00	Zoning O&E	\$383
Police O&E	\$5,000.00	Shade Tree	\$20,000.00
Park O&E	\$2,000.00	Traffic Lights O&E	\$1,000.00
PARSA	\$125,000.00		

FOR: Huegel, Boris, Kranz, McElroy-Barker, Mitchell, Molenaar
 AGAINST: None
 ABSTAIN: None
 ABSENT: None

Resolution 16-03-42

Huegel/Boris moved to adopt Resolution 16-03-42. Motion carried on the following roll call vote.

WHEREAS, various 2015 bills have been presented for payment this year, which bills were not covered by order number and/or recorded at the time of transfers between the 2015 Budget Appropriation Reserve in the last two months of 2015; and

WHEREAS, N.J.S. 40A:4-59 provides that all unexpected balances carried forward after the close of the year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allow transfers to be made from unexpended balances which are expected to be insufficient during the first three months of the succeeding year;

NOW, THEREFORE BE IT RESOLVED by the Council of the Borough of Fanwood that the transfers in the amount of \$70,000.00 be made between the 2015 Budget Appropriation Reserve as follows:

FROM:		TO:	
Downtown Revitalization	\$10,000.00	Capital Improvement Fund	\$60,000.00
Financial Administration	\$5,000.00	Snow Removal	\$10,000.00
Legal O&E	\$25,000.00		
Other Insurance O&E	\$5,000.00		
Police S&W	\$15,000.00		
Road Repair O&E	\$6,000.00		
Sanitation O&E	\$4,000.00		

FOR: Huegel, Boris, Kranz, McElroy-Barker, Mitchell, Molenaar
 AGAINST: None
 ABSTAIN: None
 ABSENT: None

Resolution 16-03-43

Huegel/Boris moved to adopt Resolution 16-03-43. Motion carried on the following roll call vote.

WHEREAS, THE Borough of Fanwood (“the Borough”) owns a 1942 Central Railroad of New Jersey (“CNJ”) train caboose designated as CNJ 91544 (the “Caboose”), and

WHEREAS, the Caboose is not operational and in severely dilapidated condition, and

WHEREAS, pursuant to the Local Public Contracts Law (“LPCL”), N.J.S.A. 40A:11-36, the Borough has determined the fair market value of the Caboose to be less than \$\$2,625.00, and

WHEREAS, the Sterling Hill Mining Museum (the “Museum”), a New jersey non-profit organization located at 30 Plant Street, Ogdensburg, NJ 07439, has expressed an interest in purchasing the Caboose from the Borough, and

WHEREAS, pursuant to N.J.S.A. 40A:11-36, the Borough is authorized to sell the Caboose at private sale without advertising for bids.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Fanwood hereby approves the sale of the Caboose to the Museum for the total purchase price of Ten Dollars (\$10.00), and

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk be and hereby are authorized and directed to execute a contract and other relevant documents with the Museum necessary to effectuate the sale of the Caboose as authorized by this Resolution.

FOR: Huegel, Boris, Kranz, McElroy-Barker, Mitchell, Molenaar
AGAINST: None
ABSTAIN: None
ABSENT: None

Resolution 16-03-44

Huegel/Boris moved to adopt Resolution 16-03-44. Motion carried on the following roll call vote.

WHEREAS, an application for a liquor license renewal for license year 2015-2016 has been completed by the applicant and submitted to ABC; the required fee was paid to the Borough; and a tax clearance certificate from the NJ Department of the Treasury has been received for the following license:

Plenary Retail Consumption License:

WANCHIE, LLC
51 Fourth Street
Fanwood, NJ 07023
2005-33-004-011

NOW, THEREFORE, BE IT RESOLVED by the Borough Council that a liquor license be issued, to WANCHIE, LLC, for the period July 1, 2015 through June 30, 2016, for the above Plenary Retail Consumption License.

FOR: Huegel, Boris, Kranz, McElroy-Barker, Mitchell, Molenaar
AGAINST: None
ABSTAIN: None
ABSENT: None

Resolution 16-03-46

Huegel/McElroy-Barker moved to adopt Resolution 16-03-46. Motion carried on the following roll call vote.

WHEREAS, the Mayor and Council have a need to acquire special engineering services (“Services”), by means of a fair and open contract procedure pursuant to the provisions of N.J.S.A. 19:44A-20.5, and

WHEREAS, the Borough Clerk has determined that the value of the Services may exceed \$17,500, and

WHEREAS, **Najarian Associates, One Industrial Way West, Eatontown, NJ 07724** submitted a response to the RFQ issued by the Mayor and Council for the Services relating to Special Engineering Services and was determined to be a Qualified Respondent for the Services, and

WHEREAS, the Mayor and Council have determined to retain said firm.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fanwood that Najarian Associates, be, and hereby is, appointed to provide professional engineering and surveying services, alterations and additions to the Fanwood Library, Forest Road and North Avenue, Block 36, Lot 1.

BE IT FURTHER RESOLVED that a copy of the attached notice be printed once in The Times of Scotch Plains within 10 days from this date.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be, and hereby are, authorized to enter into a contract in accordance with the terms of this Resolution and the attached Notice.

**NOTICE OF AWARD OF CONTRACT
FOR PROFESSIONAL SERVICES BY THE BOROUGH OF FANWOOD
RESOLUTION 16-03-46**

CONTRACTOR:	Najarian Associates One Industrial Way West Eatontown, NJ 07724
NATURE OF SERVICE:	Professional Engineering and Surveying services relevant to alterations and additions to the Fanwood Memorial Library
DURATION:	Period ending April 1, 2017.
AMOUNT:	Not to exceed \$84,000.00

A copy of this resolution and contract relating to the services are on file and available for public inspection in the Municipal Clerk’s office.

FOR:	Huegel, McElroy-Barker, Boris, Kranz, Mitchell, Molenaar
AGAINST:	None
ABSTAIN:	None
ABSENT:	None

Resolution 16-03-47
Huegel/Molenaar moved to adopt Resolution 16-03-47. Motion carried on the following roll call vote.

**BOROUGH OF FANWOOD
RESOLUTION 16-03-47**

**RESOLUTION APPOINTING STATION SQUARE AT FANWOOD LLC AS REDEVELOPER
FOR A CERTAIN PROPERTY LOCATED WITHIN THE
BOROUGH OF FANWOOD REDEVELOPMENT AREA FOR
THE DEVELOPMENT OF A MIXED USE PROJECT**

WHEREAS, on October 12, 2000, the Mayor and Council of the Borough of Fanwood(“Council”) adopted Resolution No. 00-10-144 authorizing the Planning Board of the Borough of Fanwood

(“Fanwood”) to undertake a preliminary investigation to determine whether the area of Fanwood bounded by Martine Avenue, South Avenue, La Grande Avenue and Second Street, or any part thereof, (the “Redevelopment Area”)met the criteria set forth in N.J.S.A. 40A:12A-5 of the Local Redevelopment and Housing Law (“Redevelopment Law”) as an area in need of redevelopment;

WHEREAS, for the reasons set forth in the Resolution of the Planning Board dated May 23, 2001, incorporated herein by reference, and for the reasons set forth in the report entitled “Redevelopment Area Study for the Block Bounded by South Avenue, Martine Avenue, LaGrande Avenue and Second Street in the Borough of Fanwood, New Jersey” dated March 2001, the Council adopted Resolution 01-0691 on June 14, 2001, designating the Redevelopment Area as an area in need of redevelopment; and

WHEREAS, on March 14, 2002, the Borough Council adopted Ordinance 02-01-R adopting a redevelopment plan for the Redevelopment Area (“Redevelopment Plan”) which was subsequently amended on May 20, 2002, February 8, 2005, December 5, 2008 and September 14, 2010;

WHEREAS, Station Square at Fanwood, LLC (the “Redeveloper”) is the owner of property in the Redevelopment Area, the property located at 225 LaGrande Avenue, also known as Block 64, Lot s 17-20(the “Property”); and

WHEREAS, the Redeveloper is proposing the development of residential units on the Property (the “Project”); and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Fanwood that the Redeveloper shall be and hereby is conditionally designated as Redeveloper and has the exclusive option to negotiate a Redevelopment Agreement with the Borough of Fanwood for the Property as described above and located within the Redevelopment Area, for a period of one hundred and twenty (120) days; and

BE IT FURTHER RESOLVED, that said designation may be extended upon satisfactory demonstration that substantive progress has occurred towards meeting one or more of the conditions of the designation, said conditions being as follows:

- 1) Within a sixty (60) to one hundred and twenty (120) day period of designation, the Borough and Redeveloper must negotiate, approve and execute a Redevelopment Agreement for the Property.
- 2) Within fifteen (15) days of designation, the Redeveloper will establish an escrow account with the Borough for the payment of all reasonable costs and consultant fees for the implementation of the redevelopment project, including the negotiation of all agreements. The amount to be deposited in the escrow account in the amount of \$15,000. The Redeveloper will replenish the escrow account as required until completion of the project.

FOR: Huegel, Molenaar, Boris, Kranz, McElroy-Barker, Mitchell
 AGAINST: None
 ABSTAIN: None
 ABSENT: None

Resolution 16-03-48

Huegel/Molenaar moved to adopt Resolution 16-03-48. Motion carried on the following roll call vote.

WHEREAS, Pivitol Utility Holdings Inc. d/b/a Elizabethtown Gas Company desires to obtain from the Borough of Fanwood, a permanent right-of-way and easement for the purposes of laying, constructing, maintaining, operating, repairing, altering, improving, inspecting, replacing or removing from time to time pipelines with valves, services and all other appurtenant facilities, for the transportation of gas, or any liquids, gases, substances or other materials that can be transported by or conducted through pipelines, in connection with Grantee’s provision of utility service and for the conduct of its business, in Block 64, Lot(s) 6.02, in the downtown area, and

WHEREAS, the Borough of Fanwood desires to convey to Elizabethtown Gas Company a permanent right-of-way and easement.

NOW, THEREFORE, BE IT RESOVED by the Borough Council that the Mayor and Clerk are hereby authorized to sign the Grant of Easement attached hereto.

Grant of Easement

GRANTOR:

BOROUGH OF FANWOOD,
a municipal corporation of the State of New Jersey,
with an address of 75 North Martine Avenue,
Fanwood, Union County, New Jersey 07023
hereinafter referred to as "Grantor",

and

GRANTEE:

PIVOTAL UTILITY HOLDINGS, INC. d/b/a
ELIZABETHTOWN GAS COMPANY,
a public utility corporation of the State of New Jersey,
with offices located at 300 Connell Drive, Suite 3000
Berkeley Heights, Union County, New Jersey 07922
hereinafter referred to as "Grantee",

This Agreement made this 21st day of March, 2016, by and between BOROUGH OF FANWOOD, with an address of 75 North Martine Avenue, Borough of Fanwood County of Union, State of New Jersey ("Grantor") and PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS COMPANY, with offices located in Berkeley Heights, Union County, State of New Jersey ("Grantee").

WHEREAS, Grantor is the owner of a certain tract of land located in the Borough of Fanwood, County of Union, in the State of New Jersey, and further known and designated as Block 64, Lot 6.02, by Deed recorded in the Office of the Clerk of Union County on _____, in Deed Book _____, Page _____, ("the Property"); and

WHEREAS, Grantee desires to obtain from Grantor, and Grantor desires to convey to Grantee, a permanent right-of-way and easement for the purposes of laying, constructing, maintaining, operating, repairing, altering, improving, inspecting, replacing or removing from time to time pipelines with valves, services and all other appurtenant facilities, for the transportation of gas, or any liquids, gases, substances or other materials that can be transported by or conducted through pipelines, in connection with Grantee’s provision of utility service and for the conduct of its business, all in accordance with and for the purposes set forth in this Grant of Easement; and

NOW, THEREFORE, in consideration of these premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the mutual conditions, covenants, promises and terms hereinafter contained, it is hereby agreed by Grantor and Grantee as follows:

1. Grantor does hereby grant unto Grantee the perpetual right and easement to go in, upon and occupy the Property, and more particularly described in a plat of survey thereof entitled "Lots 4,5,6, Block 64 in the Borough of Fanwood Union County, New Jersey" prepared by Titus Surveying & Engineering, P.C., dated July 15, 2010, revised October 18, 2011 and consisting of one (1) sheet", a copy of which is on file in Grantee's offices which plat is by reference incorporated herein (the "Plat"), for the following purposes:

- A. Construct and Reconstruct:** To install, reinstall, construct, reconstruct, replace, relocate, operate, maintain, use, repair, alter, improve, substitute for, extend for benefit of same or adjacent, or other properties, remove, and patrol gas service line(s), main(s), regulator station(s), appurtenances and equipment (collectively, the "Facilities") as may now or hereafter be necessary or convenient for the transmission and distribution of natural gas in connection with Grantee's provision of utility service, with said easement area and Facilities to be installed therein substantially as shown on Drawing No. attached hereto and made a part hereof.
- B. Repairs and Alterations:** To enter upon the Property at any time for the purpose of inspecting said line(s) and systems and making necessary repairs, alterations, changes, additions and substitutions in said lines and systems from time to time as Grantee deems advisable or expedient, and for any of the purposes enumerated above.
- C. Right-of-Way Maintenance:** To keep and maintain the right-of-way area, by mechanical or otherwise, clear of all structures, trees, limbs or branches, stumps, roots, shrubbery and underground growth within said rights-of-way and along said lines and systems which, in the opinion of Grantee or its representative, constitutes a hazard to or may endanger the safe and proper operation or maintenance of said lines and systems.

2. In addition to the easement rights set forth above, Grantor does further grant a construction easement incident and appurtenant to the easements set forth above over such land abutting same as may be necessary for the purpose of placing thereon materials excavated from such easement areas for the purpose of installing or repairing Grantee's facilities located therein.

3. Grantee shall have the rights and authority granted under this Grant of Easement in perpetuity, provided, however, that if Grantee, its successors or assigns shall abandon the use of the Property for the purposes herein stated for a period of more than five (5) years, then all rights and privileges herein conveyed shall ipso facto be terminated.

4. Grantor shall have the right to use, occupy and enjoy the surface and air space around the easement area for any purpose which does not interfere or threaten the safe, proper or convenient use, occupancy or enjoyment of same by Grantee.

5. Grantor shall have the right to allow other utilities to use the said easement area for any

purpose that does not in any way interfere with the accessibility and safe operation of Grantee's Facilities, provided, however, that Grantor shall not permit any other utility to use the Facilities installed by Grantee in the easement area, and Grantor's right to allow other utilities to use the easement area shall in no way limit the rights granted to Grantee by this Grant of Easement.

6. Grantee shall comply at all times with all applicable federal, state and local laws, rules, regulations, codes, ordinances and standards. Grantee shall perform all work in a workmanlike manner and with a minimum of inconvenience to the Grantor and shall take all necessary safety precautions in accordance with industry standards. Grantee shall be responsible for securing any and all permits required by law (which shall be secured prior to commencing work with the exception of matters of an emergent nature). Any damage done to the land or premises of Grantor shall be promptly repaired and restored to its condition immediately prior to damage, at the sole cost and expense of Grantee.

7. During the course of construction and at all times during the operation of its Facilities, Grantee shall: (a) maintain all of its Facilities in a reasonably safe and workmanlike manner; (b) maintain on file with the Borough Engineer with the name, address and telephone number of the individual and/or individuals responsible for the ongoing maintenance and operation of the Facilities; and (c) return the easement area to the same or substantially same condition as existed prior to any construction and/or maintenance activities. In the event that Grantee fails to return the easement area to the same or substantially same condition as existed prior to construction and/or maintenance activities, Grantor may cause such work to be done and the Superintendent of the Department of Public Works, or his designee, shall certify Grantor's expense in connection therewith, and Grantee shall be responsible for the prompt reimbursement of such reasonable and customary costs.

a. Grantee shall provide file with the Borough of Fanwood Engineer, record drawings of all equipment, improvements and utilities constructed by Grantor within the easement area. Said record drawings shall be in conformance with applicable Borough of Fanwood standards and shall be both in hard copy and on disc.

b. Grantor, its consultants, employees and agents, shall be given free access to observe the work performed under this Grant of Easement for the purpose of ensuring that the Facilities will be constructed in substantial accordance with Grantee's drawings and the provisions of this Grant of Easement. Grantor, its representatives, consultants, employees or agents, shall not otherwise supervise, direct, or have control over Grantee's work during such observations, nor shall they have authority over, or responsibility for, the means, methods, techniques, sequences or procedures of construction selected by Grantee except as provided herein. Grantee is not, and shall not be deemed, Grantor's agent or employee.

c. Grantee or Grantee's construction contractor shall at all times maintain insurance in commercially reasonable types and amounts and shall provide proof of said insurance to Grantor prior to commencement of the construction of the Facilities.

d. Grantee shall defend and indemnify Grantor against, and shall save Grantor harmless from, and shall reimburse Grantor with respect to, any and all claims, demands, actions, causes of action, injuries, orders, losses, liabilities (statutory or otherwise), obligations, damages, fines, penalties, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) incurred by, imposed upon or asserted against Grantor by reason of any accident, injury (including death at any time resulting there from) or damage to any person or property arising out of or resulting from any negligence or intentional acts or omissions of Grantee or by any employee, licensee, invitee or agent of Grantee.

e. Grantor warrants, covenants and represents that it has good and lawful right and title to grant and convey the blanket easement and right-of-way described in this easement.

f. The easement and right-of-way herein granted shall run with the lands and shall be binding on the parties hereto, their heirs, assigns, successors, licensees and lessees, in title or interest in perpetuity. Grantee may, in its discretion and at its convenience, release said easement and right-of-way by an instrument in writing duly recorded.

g. This Grant of Easement shall be governed by and construed in accordance with the laws of the State of New Jersey.

h. By the acceptance of this instrument, Grantee agrees to abide by the terms and conditions herein on its part to be performed and shall be deemed signatory hereto, and the provisions of this indenture shall inure to the benefit of and be obligatory upon the respective parties hereto and their successors and assigns.

[Signatures on the following Page]

IN WITNESS WHEREOF, the Parties have executed this document as of the date first above written.

UNOFFICIAL WITNESS/ATTEST:

GRANTOR:

By: _____ [Seal]
Name: _____
Title: _____

STATE OF NEW JERSEY COUNTY OF UNION

BE IT REMEMBERED that on this _____ day of _____, 2016, before me, the undersigned authority, personally appeared _____, being a (an) of _____, a _____ and the Grantor named in the attached document, that this person executed the attached document, being authorized to do so, and that such document was the duly authorized and voluntary act and deed of such partnership.

Notary Public
My Commission Expires:

(Notary Seal)

FOR: Huegel, Molenaar, Boris, Kranz, McElroy-Barker, Mitchell
AGAINST: None
ABSTAIN: None
ABSENT: None

**B. Land Use and Historic Preservation (Councilwoman McElroy-Barker)
Resolution 16-03-49**

McElroy-Barker/Boris moved to adopt Resolution 16-03-49. Motion carried on the following roll call vote.

WHEREAS, K-9 Resorts, Block 55/9.01, 57 South Avenue, completed a sub-division application and submitted the required escrow, for this location, and

WHEREAS, the Planning Board approved the subdivision and all claims against the escrow have been paid leaving a balance of \$216.00.

NOW, THEREFORE, BE IT RESOLVED the Borough Council hereby releases the \$216.00 to K-9 Resorts.

FOR: McElroy-Barker, Boris, Huegel, Kranz, Mitchell, Molenaar
AGAINST: None
ABSTAIN: None
ABSENT: None

MEETING OPEN TO THE PUBLIC

Boris/Huegel moved to open the meeting to the public. Motion carried.
John Mooney, Helen Street

Harry McNally, Second Street

Mike Lewis, Beech Avenue, stated the Board of Education Meeting on the Budget will be 4/6 at 9 am, 4/13 at 9:30 am and 7:30 pm.

Harold Clark, Second Street,

Boris/Huegel moved to close the meeting to the public. Motion carried.

COUNCIL COMMENTS

Councilman Molenaar stated that it's good to know that the home values are increasing in Fanwood.
Councilwoman McElroy-Barker wished everybody a Happy Spring.
Councilman Huegel wished everybody Happy Holidays.
Councilman Boris thanked the members of Sterling Hill Mining Museum for coming and purchasing the Caboose.
Councilwoman wished Tony DelMonte a happy retirement.

ADJOURNMENT

Boris/Kranz moved to adjourn at 8:35 pm. Motion carried.

Respectfully submitted,

Eleanor McGovern
Borough Clerk