

**MEETING TO BE BROADCAST ON COMCAST CHANNEL 27
AND VERIZON CHANNELS 41 AND 42**

**AGENDA FOR THE REGULAR BUSINESS MEETING
OF THE COUNCIL OF WEST WINDSOR TOWNSHIP
271 CLARKSVILLE ROAD
TO THE EXTENT KNOWN**

February 19, 2019

7:00 P.M.

1. Call to Order/Roll Call
2. Statement of Adequate Notice - January 11, 2019 to The Times and the Princeton Packet.
3. Salute to the Flag
4. Ceremonial Matters and/or Topic for Priority Consideration
5. Public Comment: (30 minutes comment period; 3-minute limit per person)
6. Administration Comments
7. Council Member Comments
8. Chair/Clerk Comments
9. Public Hearings

2019-01 AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 140 SMOKING AND THE USE OF TOBACCO PRODUCTS BANNED ADDING ARTICLE III SALES OF ELECTRONIC SMOKING DEVICES AND AMENDING CHAPTER 82 FEES, SECTION 12 HEALTH OF THE CODE OF WEST WINDSOR TOWNSHIP

10. Consent Agenda

A. Resolutions

- 2019-R046 Refund of Overpaid Property Taxes
- 2019-R047 Authorizing the Release of Inspection Escrow Fees to Bear Creek Active Adult Housing PB17-02
- 2019-R048 Granting Reservation of Sewer Capacity and Authorizing Execution of Treatment Works Approval Permit Application to the New Jersey Department of Environmental Protection for the Project Known as Bear Brook Homes (PB16-12)

B. Minutes

January 22, 2019 - Business Session as amended

C. Bills & Claims

11. Items Removed from Consent Agenda

12. Recommendations from Administration and Council/Clerk

- 2019-R049 Amending the Cash Management Plan for West Windsor Township to Add Peapack-Gladstone Bank
- 2019-R050 Authorizing the Revision of 2018-R252 Which Authorized the Business Administrator to Purchase Three (3) 2019 Ford Interceptor Utility AWD Vehicles from Winner Ford to Purchase Three (3) 2020 Ford Interceptor Utility AWD Vehicles for an Additional \$6,180.60 for a total not to exceed of \$97,298.40
- 2019-R051 Authorizing the Business Administrator to Purchase StorageCraft Hardware and Software from StarNet Solutions for the West Windsor Township Police - \$30,993.00

- 2019-R052 Authorizing the Mayor and Clerk to Execute a Professional Services Agreement for Arora and Associates, P.C. for Miscellaneous Engineering Services - \$3,000.00
- 2019-R053 Authorizing the Mayor and Clerk to Execute a Professional Services Agreement with Alaimo Group for Miscellaneous Engineering Services - \$475.00
- 2019-R054 Authorizing the Business Administrator to Execute Change Order No. 1 for an Increase of 10.9% with Garden State Sealing, Inc. for Supplemental Work and Quantity Adjustments Including Sealing and Repairs to North Post Road and the Alexander Road Roundabout for \$49,188.24 for a Total Contract of \$602,243.24
- 2019-R055 Authorizing the Mayor and Clerk to Execute a Contract with On-Site Landscape Maintenance for Year 3 of the bid for Public Lands Maintenance-Detention Basins and Open Space - \$69,989.00
- 2019-R056 Authorizing the Mayor and Clerk to Execute a Contract with On-Site Landscape Maintenance for Year 3 of the bid for Public Lands Maintenance Cul de Sac and Street Tree Maintenance and Replacement - \$78,299.00
- 2019-057 Authorizing the Business Administrator and Clerk to Execute the Access Agreement Between West Windsor Township and PSE&G for Use of Bernt Midland Blvd., in Community Park for Construction Access

13. Introduction of Ordinances
14. Additional Public Comment (three-minute limit per person)
15. Council Reports/Discussion/New Business

Review of Draft Concept Plan for Old Police Wing of Municipal Building

16. Administration Updates

17. Closed Session

18. Adjournment

RESOLUTION

WHEREAS, the Tax Collector, Kelly A. Montecinos, has certified the following taxpayer overpaid their taxes; and

WHEREAS, the Tax Collector is requesting that the overpaid taxes be refunded.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor that the following refund be made:

<u>Taxpayer</u>	<u>Refund</u>
PAYEE: Lillian Astraria 42152 Anissa Ave Unit 203 Orlando, FL 32814 PREVIOUS OWNER: Lillian Astaria PROPERTY LOCATION: 78 Rainflower Lane BLOCK: 35 LOT: 105.65	\$2,045.77
Total	\$2,045.77

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February, 2019

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the following applicant(s) filed application(s) with West Windsor Township Planning/Zoning Board; and

WHEREAS, in conjunction with such application(s),the following applicant(s)deposited with the Township of West Windsor escrow deposits pursuant to Section 82-3D(1)of the Revised General Ordinances of the Township of West Windsor; and

WHEREAS, professional services undertaken on behalf of the Township in conjunction with said application(s) have been completed and the costs thereof have been listed below; and

WHEREAS, this remains a partial balance in the applicant’s escrow account, which applicant is entitled to be refunded.

Date of Deposit	Project No.	Developers	Total Escrow	Total Disb...	Balance of Escrow
31-Dec-16	PB 17-02	Bear Creek Active Adult Housing	\$ 10,000.00	\$ (9,156.88)	\$ 843.12
			<u>\$ 10,000.00</u>	<u>\$ (9,156.88)</u>	<u>\$ 843.12</u>

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that the Treasurer is hereby authorized and directed to refund to the applicant(s) the portion of the escrow deposits which the applicant(s) is entitled to be refunded as set forth above.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February, 2019.

 Gay M. Huber
 Township Clerk
 West Windsor Township

RESOLUTION

WHEREAS, Bear Brook Homes, LLC, through their professional consultant, has submitted a request for a reservation of sewer capacity in the public sewer system for the project known as Bear Brook Homes (PB16-12) located at Block 9, Lots 55 & 56; and

WHEREAS, an extension of the sanitary sewer collection system is also proposed, which requires a Treatment Works Approval Permit from the New Jersey Department of Environmental Protection; and

WHEREAS, the development project is estimated to generate a total wastewater flow of 2,700 gpd; and

WHEREAS, the Township Engineer has certified that there is sufficient capacity in the existing downstream sanitary sewer system to accommodate the increase in average daily flow to a total of 2,700 gallons of wastewater that is estimated to be generated by the proposed improvements.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor that a reservation of sewer capacity in the total amount of 2,700 gallons per day, is hereby granted for the project known as Bear Brook Homes (PB16-12) located at Block 9, Lots 55 & 56; and

BE IT FURTHER RESOLVED that this allocation of Township sewer capacity shall be in effect for a period of one (1) year; and

BE IT FURTHER RESOLVED that the Township Engineer be and hereby is authorized to execute the endorsement of the New Jersey Department of Environmental Protection Treatment Works Approval Permit application, as required to implement this Resolution, upon submission of final design/construction plans and specifications acceptable to the Township Engineer.

Adopted: February 19, 2019

I hereby certify this is a true copy of a Resolution adopted by the West Windsor Township Council at their meeting held on the 19th day of February 2019.

Gay M. Huber
Township Clerk
West Windsor Township

TOWNSHIP OF WEST WINDSOR
CASH MANAGEMENT PLAN

WHEREAS, P.L. 1983, Chapter 8, Local Fiscal Affairs Law; N.J.S. 40A: 5-14, has been amended to require that each municipality designate a Cash Management Plan for the deposit of each local unit's monies;

NOW, THEREFORE, BE IT RESOLVED, that the following Cash Management Plan of the Township of West Windsor be and hereby is adopted:

A: DESIGNATION OF OFFICIAL DEPOSITORIES:

The following financial institutions are designated official depositories:

1st Constitution Bank
Bank of America
Bank of New York Mellon NJ
Bergen Commercial Bank
Central Jersey Bank
Columbia Bank
Cut Water Assets Management
Fidelity Investments Institutional Services Co., Inc.
First Choice Bank
Fulton Bank
Grand Bank
Hudson City Savings Bank
Investors Savings Bank
JP Morgan Chase Bank
Kearny Federal Savings
Merrill Lynch Bank & Trust Company
MBIA Municipal Investors Service Corporation
Morgan Stanley Smith Barney Trust FSB
NJ/ARM New Jersey Asset & Rebate Management
North Fork Bank
Ocean First Bank
Peapack-Gladstone Bank
PFM Assets Management, LLC
PNC Bank
Roma Bank
Santander Bank
State of New Jersey Cash Management Account
Sun National Bank
TD Bank, National Association
The Bank of Princeton
TriState Capital Bank
Valley National Bank
Wells Fargo Bank

Designated official depositories are required to submit to the Chief Financial Officer of the Township of West Windsor a copy of the State of New Jersey, Department of Banking, Government Unit Deposit Protection Act Notification of eligibility, which must be filed semiannually in the Department of Banking as of June 30th and December 31st of each year. Said Notices must be available for annual audit.

Designated official depositories are required to submit to the Chief Financial Officer a copy of institution's "Annual Report" on an annual basis.

B. DEPOSIT OF FUNDS:

All funds shall be deposited within forty-eight (48) hours of receipt in accordance to maximize interest earnings.

Operating funds shall be deposited into interest bearing accounts to maximize interest earnings.

Capital and Debt service funds shall be deposited into interest bearing accounts.

Trust funds shall be deposited into interest bearing accounts in accordance with State statutes regulating the deposit of developer's escrow deposits.

C. DESIGNATION OF ALLOWABLE INVESTMENT INSTRUMENTS:

The Township may permit deposits and investments in such depositories as permitted in Section 4 of P.L. 1970, chapter 236 (C.17:9-44) and other instruments pursuant to Section 8 of P.L. 1977, c. 396 (C.40A:5-15.1) approved by the Director of the Division of Local Government Services as specified below:

United States Treasury Bills (T-Bills)
Township of West Windsor or Other Municipal Bonds or Notes
Commercial Bank Deposit and Certificates of Deposit (CD's)
Repurchase Agreements
Investments in Savings and Loan Association
United States Government Agency and Instrumentality
Obligations
MBIA – Class Fund
State of New Jersey Cash Management Fund
School District Obligations

D. DEFINITION OF ACCEPTABLE COLLATERAL AND PROTECTION OF TOWNSHIP ASSETS:

All designated depositories must conform to all applicable State statutes concerning depositories of Public Funds.

All depositories shall obtain the highest amount possible F.D.I.C. and/or F.S.L.I.C. coverage of all Township assets (Demand and Certificate of Deposit).

Collateral will be required for all deposits and investments of the Township, except for those in the State Cash Management Fund, collateral must have a market value of not less than 100 percent of all deposits and investments.

For pledges by depositories on Township Funds, the following securities will be considered acceptable for pledges:

- a. Any security backed by the U.S. Government
- b. Any direct obligation of any taxing authority within the Township of West Windsor
- c. Real Estate Mortgage Loans for Real Estate property located within the Township of West Windsor market area. Pledges of Real Estate Mortgage Loans shall be maintained at a market value of 115 percent of deposits.
- d. All pledges of Collateral must be indicated on an advice copy of the investment instrument which shall be forwarded to the Chief Financial Officer/Treasurer.

E. COMPENSATING BALANCE AGREEMENTS:

Where compensating balances are used to offset bank expenses, an agreement between the bank and the Township shall be executed, specifying the charge for each service.

F. REPORTING PROCEDURES:

Pursuant to NJSA 40A:5-14(e), The Chief Financial Officer shall prepare a monthly report to the governing body summarizing all investments made or redeemed since the last meeting. The report shall set forth each organization holding local unit funds, the amount of securities purchased or sold, class or type of securities purchased, book value, earned income, fees incurred, and market value of all investments as of the report date and other information that may be required by the governing body.

G. DIVERSIFICATION REQUIREMENTS:

The Chief Financial Officer/Treasurer shall closely examine investments to guard against the effects of a financial institution going into default. This may be accomplished through the practice of spreading the investments around in various designated official depositories.

H. MAXIMUM MATURITY POLICY:

Investments shall be limited to a maturity not to exceed one year on all operating funds unless a longer maturity is permitted within the provision of regulation promulgated by either the Federal or State Governments.

I. INVESTMENT PROCEDURES:

Bids for Certificates of Deposit will be solicited from at least three (3) designated depositories only if the amount is \$100,000 or greater.

Telephone bids will be solicited from designated depositories by the Chief Financial Officer/Treasurer or designated staff member.

The depository shall specify the principal amount of investment bid, interest rate and number of days used to calculate the interest to be paid upon maturity.

Interest paid shall be from the date the bid was awarded to the date of maturity.

All bidders may request the results of the bid after the bid is formally awarded.

A check or wire transfer of funds will be made available to the winning bidder on the same business day the bid is awarded.

Each quotation shall be documented to record the date and time of quote, the parties in the discussion, the instrument(s), maturities and rates. A bid form of the Township may be used.

J. RETURN ON INVESTMENT:

Where the return on a proposed investment does not exceed the cost of making said investment by a minimum amount the Chief Financial Officer/Treasurer will not make the investment. The Chief Financial Officer/Treasurer shall have the discretion to award an investment to the bank wherein the funds reside, should that bank's quoted rate be less than other quoted rates received in the event that the differential in interest rates is less than 25 basis points, and providing that the term of the investment is less than fifteen (15) days.

K. CONTROLS:

When possible, the internal controls should provide for a separation of the investment placement functions and the accounting activity. Controls must be designated for telephone orders, wire transfers and securities safekeeping. Only specifically designated personnel shall be allowed to conduct this part of the transactions, and all activity should be subject to immediate written confirmation by the designated depository. The Chief Financial Officer/Treasurer shall review each day's activity.

L. BONDING:

Staff members of the Township of West Windsor shall be covered by a Public Employee's Faithful Performance Bond with the Mid Jersey Municipal Joint Insurance Fund.

M. COMPLIANCE:

The Cash Management Plan of the Township of West Windsor shall be subject to the annual audit conducted pursuant to N.J.S. 40A:5-4.

N. The Official charged with the custody of the monies of the Township of West Windsor shall deposit them as designated by the Cash Management Plan and shall thereafter be relieved of any liability or loss of such monies due to the insolvency or closing of any depository designated in the Cash Management Plan pursuant to N.J.S. 40A:5-2.

O. Where a conflict exists between this Cash Management Plan and State statute, the applicable State statute shall apply.

P. AFFORDABLE HOUSING DEVELOPMENT FEES

All development fees collected pursuant to the West Windsor Township Affordable Housing Development Fee Ordinance will be placed in an account established pursuant to the Cash Management Plan and known as the Affordable Housing Trust Fund. No money shall be expended from the account unless the expenditure conforms to the Development Fee Ordinance, a Spending Plan approved by the Council on Affordable Housing, and the conditions set forth in N.J.A.C. 5:94-6.16(a). The depository holding the Affordable Housing Trust Fund will sign a statement so as to recognize the necessity of compliance with the conditions placed upon the Township's Chief Financial Officer by this paragraph.

If and when COAH deems it necessary to access the account or freeze expenditures from said account, the depository by signing this agreement agrees to comply with such instructions from COAH upon receiving official notice from its Executive Director.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, on October 29, 2018 the Township Council approved Resolution 2018-R252 for the purchase of three (3) 2019 Interceptor Utility AWD vehicles; and

WHEREAS, the manufacturer stopped production of said vehicles and replaced them in the New Jersey State Contract #A88728 with 2020 models with an increase in price and therefore Resolution 2018-R252 in the amount of \$91,117.80 is no longer valid; and

WHEREAS, West Windsor Township still needs to purchase three (3) Police Interceptor Utility AWD vehicles and has to change the purchase from the 2019 vehicles to the 2020 vehicles; and

WHEREAS, Chas S. Winner, Inc. dba Winner Ford, 250 Berlin Road, Cherry Hill, New Jersey has been awarded New Jersey State Contract #A88728 for the 2020 Interceptor Utility AWD vehicles as follows:

Price Line #00005	Commodity Code:	071-080-084097	\$91,032.00
Price Line #00006	Commodity Code:	071-080-084098	\$ 2,759.40
			\$93,791.40

WHEREAS, the manufacturer Ford Motor Company is providing a Canceled Order Incentive deduction of \$2,000.00 per vehicle which totals a \$6,000.00 decrease in the above purchase price; and

WHEREAS, there are additional factory options that are not part of the New Jersey State Contract #A88728 totaling \$9,507.00; and

WHEREAS, the Chief Financial Officer has certified that funds are available for said vehicles in the following accounts:

Police Vehicles	105-18-424A	\$6,180.60
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NOW, THEREFORE, BE IT RESOLVED, by the West Windsor Township Council that the Business Administrator is authorized to purchase three (3) 2020 Police Interceptor Utility AWD vehicles from Chas. S. Winner, Inc., dba Winner Ford; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to amend the existing purchase orders to reflect the \$6,180.60 increase in the cost of said purchases from \$91,117.80 to a new total not to exceed of \$97,298.40.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th of February, 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor wishes to upgrade the computer backup hardware and software currently in the Township's Police Department to ensure the integrity of their data and programs; and

WHEREAS, the Township requested price quotes from six vendors for the purchase of StorageCraft backup hardware and software for the Police Department and received three price quotes; and

WHEREAS, two price quotes are nonresponsive due to pricing for labor for the installation of the hardware and software were not included; and

WHEREAS, the only responsive price quote was received from Starnet Solutions, Inc., P.O. Box 313, Farmingdale, New Jersey 07727 in the amount of \$30,993.00; and

WHEREAS, under the Local Public Contracts Law N.J.S.A. 40A:11-5 (4) "a municipality can purchase said equipment from a vendor if the price is at least 10% less than the contracting unit would be charged for ...", under State contract; and

WHEREAS, the price quote from Starnet Solutions, Inc., is at least 10% less than the price quotes received from SHI Corporation and PCM-G because neither included labor costs to install said hardware and software; and

WHEREAS, the Chief Financial Officer has certified that funds are available for said purchase from the following account:

Police-Acquisition of Office/Computer Equipment 405-2018-15-021 \$30,993.00

NOW, THEREFORE, BE IT RESOLVED, that the Township Council by a two-thirds vote of the full membership authorizes the Business Administrator to purchase StorageCraft hardware and software from Starnet Solutions, Inc. P.O. Box 313, Farmingdale, New Jersey 07727 for an amount not to exceed \$30,993.00.

Adopted: February 19, 2019

I hereby certify that the above Resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February, 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor requires professional engineering services on a consultant basis for inspection and certification of construction performed by developers, conformance reviews, and miscellaneous engineering projects as assigned; and

WHEREAS, the Township wishes to enter into a services agreement with Arora and Associates for the aforesaid services; and

WHEREAS, the Chief Financial Officer has certified that funds are available for said contract in the following line item appropriation accounts:

<u>Engineering-Consultant Services</u>	<u>105-30-210</u>	<u>\$3,000.00</u>
Account Title	Account Number	Amount

WHEREAS, the maximum amount of the contract is subject to the final adoption of the 2019 Local Municipal Budget and funds are available through various developers’ escrow accounts and account 105-30-210 “Engineering Costs & Services: Consultants;” and

WHEREAS, additional services may be required for various capital projects as assigned and may be certified to if funds are available as certified by the Township’s Chief Financial Officer; and

WHEREAS, services to be performed may be retained by the Township without public advertising for bids pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. because the aforesaid services are professional in nature; and

WHEREAS, the Local Public Contracts Law requires a resolution authorizing the award of contract for the services without competitive bidding being publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor as follows:

- (1) The Mayor and Clerk are hereby authorized to execute, on behalf of the Township a services agreement with Arora and Associates to cover the period February 19, 2019 through December 31, 2019.
- (2) The Agreement so authorized shall require the Provider to provide professional engineering services, including development inspection services pursuant to its proposal dated December 28, 2018. The contract shall be awarded without competitive bidding as authorized by the Local Public Contracts Law pursuant to N.J.S.A. 40A:11-1 because the services are professional in nature.
- (3) A notice of this action shall be published in the newspaper used by the Township for legal publications as required by law within ten (10) days of its passage.

- (4) An executed copy of the Contract between the Township and Arora and Associates and a copy of this Resolution, shall be on file and available for public inspection in the office of the Township Clerk.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor requires professional engineering services on a consultant basis for inspection and certification of construction performed by developers, conformance reviews, and miscellaneous engineering projects as assigned; and

WHEREAS, the Township wishes to enter into a services agreement with Alaimo Group for the aforesaid services; and

WHEREAS, the maximum amount of the contract is subject to the final adoption of the 2018 Local Municipal Budget and funds are available through various developers' escrow accounts and account 105-30-210 "Engineering Costs & Services: Consultants;" and

WHEREAS, additional services may be required for various capital projects as assigned and may be certified to if funds are available as certified by the Township's Chief Financial Officer; and

WHEREAS, services to be performed may be retained by the Township without public advertising for bids pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because the aforesaid services are professional in nature; and

WHEREAS, the Local Public Contracts Law requires a resolution authorizing the award of contract for the services without competitive bidding be publicly advertised.

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation accounts:

Engineering Consultant Services	105-30-210	\$475.00
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NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor as follows:

- (1) The Mayor and Clerk are hereby authorized to execute, on behalf of the Township a services agreement with Alaimo Group to cover the period February 19, 2019 through December 31, 2019.
- (2) The Agreement so authorized shall require the Provider to provide professional engineering services, including development inspection services pursuant to its proposal dated January 23, 2019. The contract is awarded without competitive bidding as authorized by the Local Public Contracts Law pursuant to N.J.S.A. 40A:11-5(1)(a) because the services are professional in nature.
- (3) A notice of this action shall be published in the newspaper used by the Township for legal publications as required by law within ten (10) days of its passage.

- (4) An executed copy of the Contract between the Township and Alaimo Group and a copy of this Resolution, shall be on file and available for public inspection in the office of the Township Clerk.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February 2019.

Gay M. Huber,
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, West Windsor Township awarded a contract for the 2017 Annual Road Maintenance Project to Garden State Sealing, Inc. on December 11, 2017 for the contract amount of \$543,055.00 as set forth in the contract documents; and

WHEREAS, a Certification of Funds for the original contract was received from the Chief Financial Officer and funds for said contract were available in the following line item appropriation accounts:

<u>Roadway Improvements</u>	<u>405-2015-06 007</u>	<u>\$66,496.56</u>
Account Title	Account Number	Amount
<u>Roadway Improvements</u>	<u>405-2016-09 005</u>	<u>\$476,558.44</u>
Account Title	Account Number	Amount

WHEREAS, Change Order No. 1 and Final has been submitted by the Contractor and accounts for an increase of \$59,188.24 (+10.9%) associated with quantity adjustments and supplemental items, including sealing and repairs to North Post Road and the Alexander Road roundabout; and

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation accounts:

<u>Roadway Improvements</u>	<u>405-2017-21 008</u>	<u>\$59,188.24</u>
Account Title	Account Number	Amount

WHEREAS, the Township Engineer has inspected the project and recommends the change order.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that Change Order No. 1 for project closeout is hereby approved, adjusting the construction scope and quantities for a revised contract amount of \$602,243.24.

BE IT FURTHER RESOLVED that the Township Business Administrator is hereby authorized to execute Contract Change Order No. 1 for project closeout.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February 2019.

Gay M. Huber
 Township Clerk
 West Windsor Township

RESOLUTION

- WHEREAS, the Township of West Windsor has determined the need for landscape maintenance for detention basins and open space lands; and
- WHEREAS, said contracts were put out to public bid seeking bids for this annual project, including bids for two additional one year renewal options, and said bids were opened on February 7, 2017; and
- WHEREAS, six contractors picked up bids and the Township received bids from the following bidder:

<u>Contractor</u>	<u>Base Bid-2019</u>
On-Site Landscape Management Inc.	\$69,989.00

- WHEREAS, the contract was successfully carried out in 2018 by On-Site Landscape Management Services; and
- WHEREAS, the Township staff has reviewed all bids and determined that the lowest responsible 2019 bid, which is the second of two option years, was submitted by On-Site Landscape Management, Inc.; and
- WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation accounts:

Public Land Maintenance	405 2017 20 001	\$39,027.91
Preserve Open Space Maintenance	405 2015 07 004	\$30,961.09

NOW, THEREFORE, BE IT RESOLVED, by the Township of West Windsor that the contract for the renewal of Public Lands Maintenance-Detention Basins and Open Space be awarded to On-Site Landscape Management, Inc., 215 Woodward Road, Manalapan, NJ and PO Box 294, Perrineville, NJ 08535, and the Mayor and Clerk are authorized to execute said contract.

NOW BE IT FURTHER RESOLVED, this contract is awarded pursuant to a fair and open process.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the Township Council of the Township of West Windsor at their meeting held on the 19th day of February 2019.

Gay M. Huber
Township Clerk
West Windsor

RESOLUTION

WHEREAS, the Township of West Windsor has determined the need for landscape maintenance for public cul de sac island and street trees; and

WHEREAS, said contracts were put out to public bid seeking bids for this annual project, including bids for two additional one year renewal options, and said bids were opened on February 14, 2017; and

WHEREAS, eight contractors picked up bids and the Township received bids from the following bidders:

<u>Contractor</u>	<u>Base Bid-2019</u>
On Site Landscape Management Inc.	\$ 78,299.00
Greenleaf Landscape systems & Services	\$ 86,376.00
Sunset Creations Landscape Contractors	\$122,265.00

WHEREAS, the Township staff has reviewed all bids and determined that the lowest responsible bid for 2019, which is the first of two option years, was submitted by On Site Landscape Management Inc.; and

WHEREAS, Certification of Funds has been received from the Chief Financial Officer and funds for said contract are available in the following line item appropriation accounts:

Public Land Maintenance	405 2016 10 002	\$ 5,059.42
	405 2017 20 001	\$53,239.58
Street Tree Planting Program	405 2018 15 016	\$20,000.00

NOW, THEREFORE, BE IT RESOLVED, by the Township of West Windsor that the contract for the renewal of Public Lands Maintenance Cul de Sac and Street Tree Maintenance and Replacement be awarded to On Site Landscape Management Inc., 215 Woodward Road, Manalapan, NJ and PO Box 294, Perrineville, NJ 08535, and the Mayor and Clerk are authorized to execute said contract.

NOW BE IT FURTHER RESOLVED, this contract is awarded pursuant to a fair and open process.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the Township Council of the Township of West Windsor at their meeting held on the 19th day of February 2019.

Gay M. Huber
Township Clerk
West Windsor

RESOLUTION AUTHORIZING EXECUTION OF TEMPORARY ROAD ACCESS
AGREEMENT WITH PUBLIC SERVICE ELECTRIC AND GAS COMPANY

WHEREAS, Public Service Electric and Gas Company (“PSE&G”), is a provider of electric utility services with offices located at 80 Park Plaza, Newark, NJ 07102; and

WHEREAS, PSE&G has requested the consent of the Township for a temporary right of use over the portion of the existing paved access road, Bernt Midland Blvd, within Community Park (Block 19, Lot 11.01), between Princeton-Hightstown Road (County Route 571) and the PSE&G utility right-of-way corridor (Block 19, Lot 5), to provide construction access for PSE&G to build an upgraded transmission line through the same right-of-way corridor, in order to provide improved electric utility service to the public; and

WHEREAS, PSE&G desires to enter into a Temporary Road Access Agreement with the Township of West Windsor that sets forth the terms of use, occupancy and manner in which PSE&G will utilize the municipal access road (“Access Agreement”); and

WHEREAS, the Access Agreement shall be effective for an initial two (2) year term and contains provisions for one 6-month extension, if necessary; and

WHEREAS, annexed hereto is a copy of the Access Agreement to be entered into by and between the Township of West Windsor and PSE&G;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that:

1. Non-exclusive consent is hereby granted to PSE&G for a temporary right of use over the portion of the existing paved access road, Bernt Midland Blvd, within Community Park (Block 19, Lot 11.01), between Princeton-Hightstown Road (County Route 571) and the PSE&G utility right-of-way corridor (Block 19, Lot 5), to provide construction access for PSE&G to build an upgraded transmission line through the same right-of-way corridor for an initial two (2) year term and up to one 6-month extension, if necessary.
2. The within granted permission is conditioned upon PSE&G entering into the attached Access Agreement with the Township of West Windsor, and providing proof of the required general liability and property damage insurance coverage.

3. The Business Administrator and the Township Clerk be and hereby are authorized to execute the annexed Access Agreement between the Township of West Windsor and PSE&G, subject to the final review approval of the Township Engineer and the Township Attorney. The Business Administrator is also authorized to execute subsequent and related applications as may be needed for PSE&G's use of the Township's access road.
4. A copy of this Resolution and the executed Access Agreement shall kept on file in the Office of the Township Clerk.

Adopted: February 19, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 19th day of February 2019.

Gay M. Huber
Township Clerk
West Windsor Township

ORDINANCE 2019-01

TOWNSHIP OF WEST WINDSOR

MERCER COUNTY, NEW JERSEY

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 140 SMOKING AND THE
USE OF TOBACCO PRODUCTS BANNED ADDING ARTICLE III SALES OF
ELECTRONIC SMOKING DEVICES AND AMENDING CHAPTER 82 FEES, SECTION 12
HEALTH OF THE CODE OF WEST WINDSOR TOWNSHIP

WHEREAS, the use of electronic smoking devices has been found to be a significant health concern for youth in the United States; and

WHEREAS, Township Council recognizes that electronic smoking devices are available in local retail stores and the risk that young people begin to use these products poses a significant danger to their health and well-being; and

WHEREAS, the Surgeon General and the Centers for Disease Control recommend a multifaceted, community-wide approach to address this emerging health threat for young people in our communities; and

WHEREAS, the State of New Jersey has established regulations which prohibit the sale of tobacco products and any type of smoking devices, including electronic smoking devices, to someone under the age of 21; and

WHEREAS, the Township Code sets forth certain licensing requirements for businesses operating in the Township; and

WHEREAS, Township Council desires to establish requirements for the licensure and operation of businesses in the Township that sell electronic smoking devices to support a tobacco age of sale inspection and educational outreach program aimed at reducing youth access to these products; and

NOW THEREFORE BE IT ORDAINED, by the West Windsor Township Council, in the County of Mercer, State of New Jersey, as follows:

Chapter 140

Article III: Sales of Electronic Smoking Devices

140-9 Purpose.

The purpose of this Article is to establish licensing requirements for establishments that sell electronic smoking devices. The funds collected through licensure of such establishments shall

be used to fund the development and maintenance of a tobacco age of sale enforcement program and other smoking cessation, prevention and control programs as may be established by the West Windsor Township Health Department.

140-10 Definitions.

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

Electronic smoking device means an electronic or other powered device that can be used to deliver nicotine or other substances to the person inhaling from the device, including but not limited to, electronic cigarette, cigar, cigarillo or pipe, or any cartridge or other component of the device or related product including but not limited to any substances used in such devices, such as liquids or powders.

Person means an individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

Retail electronic smoking device establishment means a physical establishment, duly licensed by the Board of Health, that sells, offers for sale, gives, distributes or furnishes electronic smoking devices designed for consumption through inhalation.

Smoking means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

Vapor/Vape Shop is a retailer that either devotes 25% or more of the floor area or display area to, or derives 75% or more of gross sales receipts from, the sale of electronic smoking devices and/or related products.

140-11 License requirements; fees.

A. No person shall conduct, maintain or operate a retail electronic smoking device establishment that sells, offers for sale at any cost or no cost, distributes or furnishes electronic smoking devices, or any cartridge or other component of the device or related product without first obtaining a license to do so.

B. No itinerant establishments or vendors shall be permitted to obtain an electronic smoking device establishment license.

C. Applications for licenses shall be submitted, together with the fee established in Chapter 82, Fees, as follows:

- (1) Applications shall be submitted not less than 30 days prior to the proposed date of commencement of operations.

(2) All licenses issued for electronic smoking device establishments shall expire on January 1 of the year following which they were issued or upon transfer of ownership or operation of the licensed premises, whichever comes first.

(3) Applications for renewals of annual licenses shall be submitted on or before December 1 of each year preceding the year for which the application is made.

140-12 Requirements and Prohibitions.

No person shall sell or offer for sale at any cost or no cost, distribute or furnish electronic smoking devices or any cartridge or other component of the device or related product to any person under the age of 21 years.

- A. Licensed retail electronic smoking device establishments shall conspicuously post signs having a minimum size of six inches by eight inches (6 x 8) where EDS and related products are displayed and at all points of sale notifying customers that proof of age is required to purchase such products.
- B. No person or retailer selling electronic smoking devices shall allow an employee to sell or distribute such products until the person has read the local ordinances and state laws pertaining to the sale and distribution of ESDs and has signed a *Statement of Understanding* form that they have read and understand such ordinance and laws. A list of applicable regulations and a *Statement of Understanding* form shall be provided to the establishment owner/representative by the West Windsor Health Department. The signed *Statement of Understanding* form for each separate employee shall be maintained by the owner on the premises for a minimum of one (1) year following the employee's termination of employment.
- C. The establishment shall post the license in a conspicuous place in such establishment.
- D. As a condition prior to the issuance of a license or renewal of any such license, the applicant or licensee shall be required to establish, by written documentation, that the person in charge of the retail ESD establishment has established an employee training policy.
- E. Smoking, vaping, consuming or otherwise sampling electronic delivery devices or refill products is prohibited within a facility licensed as retail electronic smoking device establishment.

- F. The sale of any electronic smoking device refill including but not limited to any and all liquids, gels, wax or powders, and whether or not such refill contains nicotine, that is intended for human consumption and is not contained in packaging that is child-resistant is prohibited as set forth in N.J.S.A. 2A:170-51.9 et seq.
- G. License holders can only do in-person sales of ESD at their retail electronic smoking device establishment. There shall be no sales at nonregistered retail locations or mobile locations, including but not limited to, street fairs, local fairs, festivals or similar events.
- H. Vapor/Vape shops shall be prohibited from obtaining a license to operate retail electronic smoking device establishments in this municipality.

140-13 Enforcement.

- A. The provisions of this Article shall be enforced by the Health Officer, Chief of Police and/or their designees. Additional municipal officials may be appointed as enforcement agents by the Business Administrator as deemed necessary.
- B. Any person found to be selling or offering electronic smoking devices or product without a valid license issued by the Health Department shall cease activity immediately upon receipt of written order by the enforcement official.

140-14 Violations and penalties.

- A. Any person(s) who is found to be in violation of the provisions of this Article shall, upon conviction, pay a fine of \$250 for the first violation, \$500 for the second violation, and \$1,000 for third and each subsequent violation. Each violation, and every day in which a violation occurs, shall constitute a separate violation. No fines shall be issued for sixty (60) days after publication of this ordinance.
- B. In addition to the penalty assessment in 140-13 A, a person(s) found guilty of 3 or more violations of 140-11A, sales of electronic smoking devices or products to a youths under the age of 21, will, upon conviction, have the license permanently revoked.

- C. The foregoing civil penalties are in addition to any penalties that may be imposed under N.J.S.A. 2A: 170-51, et seq. and N.J.S.A. 2C:33-13.1, et seq.
- D. The defenses enumerated in N.J.S.A. 2A:170-51,4b and N.J.S.A. 2C:33-13.1b shall constitute defenses to any prosecution brought pursuant to this Article.
- E. Civilian complaints may be filed in Municipal Court against violators of this Article.

82-12 Health

- J. Retail electronic smoking devices establishment. The annual fee for an electronic smoking device establishment license shall be \$1,500.00.

INTRODUCTION:
PUBLIC HEARING:
ADOPTION:
MAYOR APPROVAL:
EFFECTIVE DATE: