

Meeting audio can be found at lebanontownship.net.

**Lebanon Township Committee
October 7, 2020**

Minutes of Regular Meeting

CALL TO ORDER

Mayor Mike Schmidt called the meeting to order at 7:00 p.m. and stated that in compliance with the “Open Public Meeting Act” this is a Regular Meeting of the Township Committee as published in the Hunterdon Review, the agenda has been posted at the Municipal Building and distributed to the Hunterdon Review, Courier News, the Express Times, the Hunterdon County Democrat and the Star Ledger.

FLAG SALUTE

Mayor Schmidt asked everyone to please stand for the Flag Salute and for a moment of silence in honor of Servicemen and Woman, Police and First Responders.

ROLL CALL

Present -	Mike Schmidt	Thomas McKee	Brian Wunder
	Marc Laul	Beverly Koehler	

Absent-

Also Present - Attorney Matt Lyons, Administrator James Barberio
Clerk Karen Sandorse (via telecom)

PRESENTATION OF MINUTES

Minutes of the Regular and Executive Meetings of August 19, 2020

Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the Regular and Executive Session Meetings of August 19, 2020.

Minutes of the Regular and Executive Meetings of September 16, 2020

Motion by Mr. Laul, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved minutes of the Regular and Executive Meetings of September 16, 2020.

PUBLIC COMMENTS – for agenda items only.

Motion by Mr. Wunder, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting.

There were no comments from the public.

Motion by Mr. Wunder, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee closed the Public Comment portion of the meeting.

RESOLUTIONS

**Resolution No. 69-2020 – Authorizing the Use of the Public Rights-Of-Way
by Planet Networks, Inc.**

Motion by Mr. Wunder, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 69-2020 as written below.

TOWNSHIP OF LEBANON
HUNTERDON COUNTY, NEW JERSEY
RESOLUTION 69-2020
RESOLUTION AUTHORIZING THE USE OF THE 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 Lebanon Township (“Township”) 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;” and

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 Township and its citizens to grant consent to Planet Networks.

NOW, THEREFORE, BE IT RESOLVED, by the Township of Lebanon, County of Hunterdon and State of New Jersey as follows:

1. That the Township Committee 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 Lebanon Township, 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 Township.
 - 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 Lebanon Township 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 Township 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.

- h) The Township authorizes and consents to Planet Networks' installation of fiber optic cables and related facilities on new and existing utility poles and conduits within the public rights-of-way.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Planet Networks shall pay the Township for all reasonable costs associated with the review and execution of their actions and shall also post a bond in an amount determined by the Township for the reasonable costs associated with any repairs necessitated by the actions of Planet Networks which are not properly or timely performed by Planet Networks and which require the Township to complete. Said bond shall remain in place until 30 days after Planet confirms in writing to the Township that Planet Networks has completed all activity associated with this permission in the Township.

Resolution No. 70-2020- Authorizing the Execution of a Shared Services Agreement Between the Township of Lebanon and the Lebanon Township Board of Education

Mayor Schmidt stated that at a prior meeting the Committee approved an Agreement with the School Board for Various Services. The Agreement is a renewal and has been in place for a number of years. Subsequently, the School Board then approved the Agreement with an insurance requirement included. The Administrator and Township Attorney reviewed the insurance supplement with the Township's insurance company and all was found to be acceptable. It was also determined during the review that since the school employees, from time to time, use the Township's equipment for snow removal the Agreement should include an indemnification provision by the school for the Township also.

Motion by Mr. Wunder, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved Resolution No. 70-2020 as written below

TOWNSHIP OF LEBANON
HUNTERDON COUNTY, NEW JERSEY
RESOLUTION 70-2020
RESOLUTION AUTHORIZING AUTHORIZING THE EXECUTION OF A SHARED
SERVICES AGREEMENT
BETWEEN THE TOWNSHIP OF LEBANON
AND THE LEBANON TOWNSHIP BOARD OF EDUCATION

WHEREAS, the Township of Lebanon and the Lebanon Township Board of Education wish to enter into a shared Services Agreement for proposes of continuing to provide, various services for the Board, including, without limitation, mowing, snow removal, miscellaneous pot hole repairs, grading, and equipment hauling, as well as loaning equipment to the Board (collectively "Services"); and

WHEREAS, the shared Services Agreement (attached hereto as Exhibit "A") will provide the Services as outlined in the Agreement; and

WHEREAS, the Shared Services Agreement shall be for a period of one (1) year and may be extended by the parties for such additional length of time as permitted by law; and

NOW, THEREFORE, BE IT RESOLVED, by the Township of Lebanon, County of Hunterdon and State of New Jersey as follow

1. On behalf of the Township of Lebanon, the Mayor and the Clerk are hereby authorized to execute the Shared Services Agreement with the Lebanon Township Board of Education

attached hereto as Exhibit "A", and any other documents necessary in furtherance of same.

AND BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

OLD BUSINESS

COVID Update

Mayor Schmidt stated that yesterday the Freeholder Director held a virtual meeting with the Mayors and County Health Department. He advised that the County is seeing an increase in COVID cases over the past few weeks, possibly due to schools, nursing home and sporting events. The County is at 1/3 of peak number of cases from back in March and April. There have been lower hospitalizations and severe illness. Since the trend is going in the wrong direction the Freeholders are asking the Township to advise members of the public to be vigilant. Mayor Schmidt noted that the County posts the town by town case numbers on their website. Lebanon Township has increased from 26 to 34 cases over the past two weeks.

Follow up to Request of The Anti-Racism Coalition of North Hunterdon

Mayor Schmidt stated that the Committee members have received an invitation from The Anti-Racism Coalition of North Hunterdon. The invitation is a follow up to the Coalition's request for the Committee to amend the Township's resolution supporting individual rights. They would like to discuss the topic in more detail. Mayor Schmidt stated that all five members cannot attend the meeting due to Open Public Meeting Act issues. Mayor Schmidt proposed the appointment of a subcommittee to attend the meeting and to report back to the Township Committee at a public meeting. Mayor Schmidt said that as there is no liaison for the Coalition and suggested that he and Mr. Laul attend as Mayor and Deputy Mayor.

Ms. Koehler stated that she already responded to the Coalition's invitation and will be attending the meeting. She questioned why a public notice could not be placed so all interested members could attend.

Discussion was held. Attorney Lyons provided he advice on the matter.

The Committee decided to decline the meeting invitation due to the OPMA. The Coalition will be asked for other possible meeting dates. The Clerk will then coordinate the dates with the Committee. A special workshop meeting will be set up at the next Township Committee meeting for the Coalition to present their education presentation.

Motion by Mr. McKee, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee authorized the Clerk to send a notice to the Coalition informing them that the Committee members will not be attending the meeting but, in lieu of, a special meeting will be scheduled.

Tree Clearing

Mr. Wunder inquired on the tree work that was to be conducted along the roadways.

Mayor Schmidt stated that, in the future, JCPL will be sending a resolution to the Committee for more aggressive trees cutting near substations.

NEW BUSINESS

Park Committee's Request to Appoint a New Member

Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee appointed Drew DePalma as a new member of the Park Committee.

Police Chief's Request to Purchase - 2 Motorola Radios

Motion by Mr. Laul, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved the Police Chief's request to purchase 2 Motorola Radios from M & W Communications at \$2101.06.

Police Chief's Request to Purchase - PowerDMS Pro Base & License/Training

Motion by Mr. McKee, seconded by Mr. Wunder and carried by unanimous favorable roll call vote, the Township Committee approved the Police Chief's request to purchase a PowerDMS Pro Base, with license training, at \$3446.25 from ProwerDMS.

Eastern Concrete Materials, Inc. - Glen Gardner Quarry

Mayor Schmidt stated that the Township was advised by Glen Gardner Borough that the Glen Gardner Quarry is applying for a Use Variance through Glen Gardner. The application relates to a road project on Route 78 by Jugtown Mountain. The Quarry is proposing to bring rock from the highway to the Quarry, to be crushed and sent out as gravel. Mayor Schmidt stated that this may be important to Lebanon Township so he thought that it was good idea to monitor it. Mayor Schmidt proposed that a subcommittee be formed to include Township Committee members and Planning Board members. Ms. Koehler and Mr. Wunder volunteered to sit on the subcommittee.

Motion by Mr. McKee, seconded by Mr. Laul and carried by unanimous favorable roll call vote, the Township Committee appointed Ms. Kohler and Mr. Wunder to the subcommittee.

PRESENTATION OF VOUCHERS

Committee Members provided a description of vouchers exceeding \$1000.00.

Motion by Mr. Wunder, seconded by Ms. Koehler and carried by unanimous favorable roll call vote, the Township Committee approved the October 7, 2020 bill list in the amount of \$ 154,314.72.

CORRESPONDENCE

a. Engineer Steve Risse – Notification of Retirement

Engineer Risse will be retiring January 1, 2021. Mayor Schmidt suggested having the Planning Board and Board of Adjustment decide on who they are going to appoint for Engineer and then the Committee can decide if they want to go in the same direction.

b. Recycling Coordinator JoAnn Fascenelli – Paper Shredding Event

c. Curator's Report

PUBLIC COMMENTS

Motion by Mr. Laul, seconded by Mr. McKee carried by unanimous favorable roll call vote, the Township Committee opened the Public Comment portion of the meeting at 7:52.

Ms. Karen Newman, a member of The North Hunterdon Anti-Racism Coalition, provided the Committee with information on their meetings and the Coalitions reasoning behind inviting the Committee members to join their meetings.

Ms. Kathryn Koch asked Mr. Wunder and Mr. McKee if they met with the Historian's subcommittee and if so, what was the result.

Motion by Mr. Laul, seconded by Mr. McKee and carried by unanimous favorable roll call vote, the Township Committee closed the Public Comment portion of the meeting at 7:57 p.m.

Mr. Laul asked if the Coalition could tape their zoom meeting and provide copies to the Committee. Ms. Newman stated that it could be possible but she would have to talk to the group. Ms. Newman said that it is a learning session not a debating session. Discussion held. Attorney Lyons will look into a solution that will hopefully satisfy everyone.

ADJOURNMENT

Having no further business to come before the Committee a motion was made by Mr. McKee seconded by Mr. Laul and carried by unanimous favorable roll call vote to adjourn the meeting at 8:01 p.m.

Respectfully submitted,

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Approved: November 4, 2020

Mike Schmidt, Mayor