

REGULAR COUNCIL MEETING  
JANUARY 29, 2013

Council Chamber, Municipal Building  
Irvington, N.J. – Tuesday Evening  
January 29, 2013 - 8:00 P.M.

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call

Present: Charnette Frederic, Paul Inman, Sandra R. Jones, Lebby C. Jones, David Lyons

Absent: Andrea C. McElroy (excused), D. Bilal Beasley (excused)

Acting Council President S. Jones read the Statement of Proper Notice pursuant to the Sunshine Law.

4. Hearing of Citizens on Agenda Items Only (limited to three minutes per person and thirty minutes total)

Cathy Southerland, 50 Adams Street  
Richard Williams, 197 Linden Avenue  
Eugene Otto, 35 Ellery Avenue  
Eric Dixon, 17 Ruth Street

5. Hearing of Council Members

Council Members S. Jones, Lyons, Inman and Frederic responded to the issues raised by the above referenced citizens.

6. Reports & Recommendations of Township Officers, Boards & Commissions

A. Reports

Minutes – Directors’ Meeting – 1-15-13  
Minutes – Joint Meeting – 1-11-13  
Municipal Court – Monthly - December  
Minutes – Zoning Board of Adjustment – 1-8-13

7. Reports of Committees

None

8. Ordinances, Bills & Claims

A. Ordinances on 1<sup>st</sup> Reading

None

C. Bills & Claims

Inman – S. Jones 2. Payrolls

December 29, 2012 through January 11, 2013

REGULAR	OVERTIME	OTHER EARNED	TOTAL
\$1,349,000.00	\$165,062.61	\$45,041.97	\$1,559,104.58

Adopted  
Absent: McElroy, Beasley

9. Resolutions & Motions

A. Resolutions

Lyons – S. Jones 1. Introduction of Springfield Avenue Center Business Improvement District's 2012-2013 Budget

**APPROVAL FOR THE SPRINGFIELD AVENUE CENTER BUSINESS IMPROVEMENT DISTRICT FY 2012-2013 ANNUAL BUDGET**

WHEREAS, N.J.S.A. 40:56-84 requires that the budget for Special Improvement Districts be introduced in writing at a meeting of the Municipal Council for approval; and

WHEREAS, the Springfield Avenue Center Business Improvement District introduced its FY 2012-2013 budget with a report that explains how the budget contributes to goals and objectives for the special improvement district:

NOW, BE IT THEREFORE RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON the Municipal Council of the Township of Irvington, New Jersey does hereby approve the detailed annual budget for the Springfield Avenue Center Business Improvement District for 2012-2013 and that this approval is subject to all requirements of N.J.S.A. 40:56-84, which includes public notice and hearing.

Adopted  
Absent: McElroy, Beasley

Inman – Frederic 2. Introduction of Camptown Business Improvement District's 2012-2013 Budget

**RESOLUTION OF APPROVAL FOR THE CAMPTOWN BUSINESS IMPROVEMENT DISTRICT FY 2012-2013 ANNUAL BUDGET**

WHEREAS, N.J.S.A. 40:56-84 requires that the budget for Special Improvement Districts be introduced in writing at a meeting of the Municipal Council for approval; and

WHEREAS, the Camptown Business Improvement District introduced its FY 2012-2013 budget with a report that explains how the budget contributes to goals and objectives for the special improvement district:

NOW, BE IT THEREFORE RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON the Municipal Council of the Township of Irvington, New Jersey does hereby approve the detailed annual budget for the Camptown Business Improvement District for 2012-2013 and that this approval is subject to all requirements of N.J.S.A. 40:56-84, which includes public notice and hearing.

Adopted  
Absent: McElroy, Beasley

L.C. Jones – Frederic 4. Support the Spill Compensation Control Act Amendment.

**RESOLUTION SUPPORTING A BILL TO AMEND THE DEFINITION OF HAZARDOUS SUBSTANCES WITHIN THE SPILL COMPENSATION AND CONTROL ACT, N.J.S.A 58:10-23.11(b)**

WHEREAS, the Township Council of the Township of Irvington is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Township of Irvington is a named Third party Defendant in the pending environmental litigation captioned NJDEP v Occidental Chemical et al, bearing, Docket No. ESX-L-9868-0S; and

WHEREAS, in the pending litigation the Third Party Plaintiffs are seeking contribution, among other things, from the Township of Irvington as a result of various alleged discharges of sewage and/or sewage sludge into the Arthur Kill, Passaic River and New Bay Complex; and

WHEREAS, the Spill Compensation Act (the "Act"), N.J.S.A. 58:10-23.11(b) currently contains a definition of hazardous substances that reads as follows:

"Hazardous substances" means the "environmental hazard substances" on the environmental hazard substances list adopted by the department pursuant to section 4 of P.L 1983, c. 315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 [33 U.S.C. 1321] of the Federal Water Pollution Control Act Amendments of 1972, Pub. L 92-500, as amended by the Clean Water Act of 1977, Pub. L 95-218(22

U.S.C. §1251et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 [22 U.S.C. 1317] of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub. L. 96-510 (42 U.S.C. § 9601et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of P.L. 1976, c.141 (C. 58:10-23.11et seq.); and

WHEREAS, this definition has been held by the New Jersey Courts to only apply to domestic sewage and sewage sludge from a public sewer system or publicly operated sewerage treatment plant,; and

WHEREAS, the legislative history of the Act suggests that the Legislature intended for the definition to include all sewerage and sewage from a public sewer system or publicly operated sewerage treatment plant, whether domestic or commercial, and

WHEREAS, the Legislature is now proposing an Amendment to the Act that would clarify the definition of hazardous substance to read as follows:

Hazardous substances" means the "environmental hazard substances" on the environmental hazard substances list adopted by the department pursuant to section 4 of P.L 1983, c. 315 (C.34:5A-4);such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311[33 U.S.C. 1321] of the Federal Water Pollution Control Act Amendments of 1972, Pub. L 92-500, as amended by the Clean Water Act of 1977, Pub. L 95-218(22 U.S.C. §1251et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 [22 U.S.C.1317] of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub. L. 96-510 (42 U.S.C. § 9601et seq.); provided, however, that sewage and sewage sludge, including but not limited to, any domestic commercial or industrial wastewater, sewage or sewage sludge collected by or expelled from a sanitary sewer system or public sewage treatment plant, shall not be considered as hazardous substances for the purposes of P.L. 1976,c.141(C. 58:10-23.11et seq.); and

WHEREAS, the Legislature is also proposing an Amendment to the Act that would define "Public sewage treatment plant" to read as follows:

"Public sewage treatment plant" means any publicly owned structure, device or facility used to treat or process domestic, commercial or industrial sewage sludge, or wastewater;

WHEREAS, the Township of Irvington is in full support of the adoption of the proposed Amendment to the definition of hazardous substances under the Act and inclusion of a definition of "Public sewage treatment plant".

NOW THEREFORE BE IT RESOLVED, by the Municipal Council of the Township of Irvington that the Municipal Council be and hereby supports the adoption of the amendment to N.J.S.A. 58:10-23.11(b) which clarified the definition of hazardous substance by excluding any domestic, commercial and/or industrial sewage and sewage sludge discharged to or through a public sewage treatment plan from the definition; and

BE IT FURTHER RESOLVED that the Irvington Municipal Clerk be and hereby is authorized to distribute a copy of this Resolution to the Joint Meeting of Essex and Union Counties for distribution to all appropriate officials and agencies including its Legislative Representatives, the Governor and the Lieutenant Governor.

BE IT FURTHER RESOLVED that further action of the Irvington Municipal Council shall be required in connection with this matter and this resolution shall take effect immediately.

Adopted

Absent: McElroy, Beasley

S. Jones – Frederic 4. Authorize Use of \$10,000.00 in HUD/HOME Irvington Homebuyer Assistance Loan Program - 57 Mt. Vernon Avenue

WHEREAS, the Township of Irvington has obligated funds for the purpose of financing its HUD/HOME Irvington Homebuyer Assistance Loan Program; and

WHEREAS, the Township of Irvington has committed to funds obligated for its HUD/HOME Irvington Homebuyer Assistance Loan Program in accordance with its previously adopted "Policy and Procedural Manual for the Homebuyer Program" per application to the Township's HUD/HOME Program; and

WHEREAS the Township of Irvington's HUD/HOME Irvington Homebuyer Program staff and supervisor have certified that the applicant(s) identified herein are eligible for the HUD/HOME Irvington Homebuyer Assistance Loan Program benefits in accordance with the Township's adopted policies and procedures; and

WHEREAS, the Mayor has previously authorized the provision of the requested HUD/HOME Irvington Homebuyer Assistance Loan Program benefits in accordance with the provisions of said policy.

NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the Township of Irvington does ratify and approve the provision of the HUD/HOME Irvington Homebuyer Assistance Loan Program funds to the applicant(s) in the amount set forth in the Irvington Homebuyers Assistance Program Agreement-Case No. HB-2011-0014, in the amount of \$ 10,000.00; and

BE IT FURTHER RESOLVED that the aforesaid funds are to be used toward Down Payment for the process of purchasing the premises known as 57 Mt. Vernon Avenue, IRVINGTON, NEW JERSEY, Exhibit A, Sales Contract; and

BE IT FURTHER RESOLVED that the aforesaid funds are to use Irvington Homebuyer Assistance Loan Program funds and are to be paid to Charles Akubueze and Beatrice Ogbennaya and Christopher A. Ekeocha, Esq., subject to having provided the Office of Community Development & Planning with a true copy of their contract of sale, mortgage commitment and appraisal, and whose attorney and title company is properly licensed to practice law and transfer title by the State of New Jersey and the Homebuyer Assistance Program Agreement between the applicant(s); and

BE IT FURTHER RESOLVED that any such funds not expended in the Purchase of the subject property in accordance with adopted policy and procedures shall be recaptured by the TOWNSHIP

OF IRVINGTON for use in assisting other HUD/HOME Irvington Homebuyer Assistance Loan Program applicant(s); and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Funds Req. No. C3-00243 for the above have been obtained from the Chief Financial Officer of the Township and the appropriation to be charged for the expenditure is Account No. T-21-41-850-11A-805 in the amount of \$ 10,000.00

Adopted

Absent: McElroy, Beasley

Frederic – Inman 5. Award Bid - Revaluation of Real Property in the Township of Irvington - Appraisal Systems, Inc. - Not to Exceed \$ 798,935.00

**AWARD OF CONTRACT FOR THE REVALUATION OF  
REAL PROPERTY IN THE TOWNSHIP OF IRVINGTON**

WHEREAS, the Essex County Board of Taxation has directed the Township of Irvington to implement a municipal-wide revaluation of all taxable and exempt real property within the limits of the Township of Irvington; and

WHEREAS, sealed proposals were received on November 30, 2012 for the revaluation of real properties in response to the published advertisement for proposals in the New Jersey Star Ledger on October 17, 2012; and

WHEREAS, three proposals were received and opened by the Township Clerk and Purchasing Agent; and

WHEREAS, the proposals received were reviewed according to the New Jersey Local Public Contract law, and met the terms of the proposal; and

WHEREAS, the Purchasing Committee has recommended that the award be made to Appraisal Systems, Inc, 110 South Jefferson Road, Whippany, NJ 07981 on the basis of their responsible response to the request for proposal that meets the criteria and qualifications, in an amount not to exceed \$ 798,935.00

NOW THEREFORE BE, IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that a contract for the revaluation of real properties be awarded to Appraisal Systems, Inc, 110 South Jefferson Road, Whippany, NJ 07981.

BE IT FURTHER RESOLVED that the Township Attorney is hereby authorized and directed to prepare the necessary contract and the Mayor and the Township Clerk are authorized and directed to sign the same. In addition, the Township Clerk is hereby directed to return the bid security to the unsuccessful bidders; and

BE IT FURTHER RESOLVED that the required Certificate of Availability of Funds, No. C2 00497 for \$79,893.50, ten percent (10%) of the total contract has been obtained from the Chief Financial Officer and the appropriation to be charged for this expenditure is the Non- Budget Spending Reserves, Account number 2-01-55-006-000-003 and the remaining balance will be certified in 2013 as work is completed, pursuant to the payment schedule, (Appendix 3 of bid proposal).

Adopted

Absent: McElroy, Beasley

Frederic – L.C. Jones 6. Authorize Execution of Grant 2013 Green Communities Grant

**2013 Green Communities Grant  
Community Forestry Management Plan**

WHEREAS, the governing body of Township of Irvington desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of approximately \$3,000.00 to fund the following project: 2013 Green Communities Grant Community Forestry Management Plan; and

WHEREAS, the governing body resolves Mayor Wayne Smith as the authorized representative (a) to make an application for such a grant, (b) if awarded, to execute a grant agreement with the State for a grant in an amount not less than \$3,000.00 and not more than \$3,000.00, and (c) to execute a grant agreement with the State for a grant in an amount not less than \$3,000.00, and (c) to execute any amendments thereto which do not increase the Grantee's obligations; and

WHEREAS, Irvington Township hereby agrees to match \$3,000.00 of the Total Project Amount, in compliance with the match requirements of the agreement. The availability of the match for such purposes, whether cash, services or property, is hereby certified. 100% of the match will be made up of in-kind services; and

NOW THEREFORE, Mayor Wayne Smith is authorized to execute the attached grant agreement, Grant Identifier: PF13-030 for the State of New Jersey Department of Environmental Protection; and

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON the Township agrees to comply with all applicable federal, state and municipal laws, rules and regulations in its performance pursuant to the agreement.

Adopted

Absent: McElroy, Beasley

L.C. Jones - Lyons 7. Award Bid - Resurfacing of Orange Avenue From Rich Street to Clinton Avenue – Top Line Construction - \$160,874.97

**AWARD A CONTRACT FOR THE RESURFACING OF ORANGE AVENUE, SECTION 4-  
(Rich Street to Clinton Avenue)**

WHEREAS, the Township of Irvington applied to and received from the State of New Jersey Department of Transportation a grant under the Transportation Trust Fund Program in the amount of \$ 166,702.00 for the project known as The Resurfacing of Orange Avenue, Section 4-(Rich Street to Clinton Avenue) and;

WHEREAS, a professional services contract was awarded to the firm of Keller & Kirkpatrick for the design and construction supervision in the amount of \$ 17, 500.00, and;

WHEREAS, Keller & Kirkpatrick has prepared plans and specification for this project which were publicly bid on November 28, 2012, and:

WHEREAS, four (4) bids were received on November 28, 2012 for this project and based on the recommendation of the Township Engineer, it was determined that the lowest responsive bidder was the bid of Topline Construction, Inc. 22 5<sup>th</sup> Avenue, Somerville, NJ in the amount of \$ 160,874.97.

**NOW, THEREFORE BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON AS FOLLOWS:**

That a contract for the construction of the project known as the Resurfacing of Orange Avenue be awarded to Topline Construction, Inc. 22 5<sup>th</sup> Avenue, Somerville, NJ in the amount of \$160,874.97.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds C3-00257 for the above project has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure in the amount of \$ 160,874.97, Account No. c-04-55-825-000-91 and G-02-XX-865-05A-001.

Adopted

Absent: McElroy, Beasley

L.C. Jones – S. Jones 8. Award Bid - Resurfacing of Paine Avenue – CRC General Construction - \$179,294.50

**AWARD A CONTRACT FOR THE RESURFACING OF PAINE AVENUE**

WHEREAS, the Township of Irvington applied to and received from the State of New Jersey Department of Transportation a grant under the Transportation Trust Fund Program in the amount of \$ 297,300.00 for the project known as The Resurfacing of Paine Avenue; and

WHEREAS, a professional services contract was awarded to the firm of Keller & Kirkpatrick for the design and construction supervision in the amount of \$ 12, 200.00; and

WHEREAS, Keller & Kirkpatrick has prepared plans and specification for this project which were publicly bid on November 28, 2012, and:

WHEREAS, four (4) bids were received on November 28, 2012 for this project and based on the recommendation of the Township Engineer, it was determined that the lowest responsive bidder was the bid of CRC General Construction , 41 Hamilton Avenue, Kearny, NJ in the amount of \$179,294.50.

NOW, THEREFORE BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON AS FOLLOWS:

That a contract for the construction of the project known as the Resurfacing of Paine Avenue be awarded to CRC General Construction , 41 Hamilton Avenue, Kearny, NJ in the amount of \$179,294.50.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds C3-00259 for the above project has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure in the amount of \$179,294.50. Account No. G-02-XX-865-11A-001.

Adopted

Absent: McElroy, Beasley

L.C. Jones – Frederic 9. Award Bid - 2011 Resurfacing Program - D & L Paving - Not To Exceed \$336,983.42

**Award a Construction Contract for the 2011 Resurfacing Program**

WHEREAS, the Township of Irvington has appropriated to construct a project known as the 2011 Resurfacing Program and directed the Township Engineer to move forward with this project; and

WHEREAS, on June 28, 2011 the Municipal Council awarded a resolution DPW 11-0628-13 a professional services contract to the firm of Keller & Kirkpatrick for the design and construction supervision of this project in the amount of \$12,800.00 (\$7,200 for design and \$5,600 for construction supervision); and

WHEREAS, four (4) bids were received on December 15, 2012 for this project and based on the review and recommendation of the Township Engineer it was determined that the lowest responsive bid was that of D & L Paving, 681 Franklin Avenue, Nutley, NJ in the amount of \$336,983.42.

NOW, THEREFORE BE IT RESOLVED by the Municipal Council of the Township of Irvington as follows:

That a contract for the construction of the project known as the 2011 Resurfacing Program be awarded to D & L Paving, 681 Franklin Avenue, Nutley, NJ in the amount of \$336,983.42.

BE IT FURTHER RESOLVED the pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds C3-00258 for the above project has been obtained from the Chief Financial

Officer of the Township of Irvington and the appropriation to be charged for this expenditure in the amount of \$336,983.42, Account No. C-04-55-825-000-901.

Adopted

Absent: McElroy, Beasley

S. Jones – L.C. Jones 10. Authorize Irvington Municipal Alliance to Award a Grant in to Bridges Inc - \$10,661.00

WHEREAS, the Irvington Municipal Alliance is a recipient of grant funding from the Governor's Council on Alcoholism and Drug Abuse to provide Alcoholism/Drug Services for prevention, education and intervention for preschoolers through Senior Citizens; and

WHEREAS, the Irvington Municipal Alliance wishes to award a grant in the amount of \$10,661.00, to Bridges Inc., 14 Park Avenue, Caldwell, New Jersey for the provision of through an initiative called "ESP Bridge Elementary Socialization", said program provides prevention strategies and self-esteem building activities that seek to prevent tobacco, alcohol and substance use and/or abuse which constitutes an eligible Irvington Municipal Alliance activity; and

WHEREAS, the Irvington Municipal Alliance wishes to award a grant in the amount of \$10,661.00, to Bridges Inc., 14 Park Avenue, Caldwell, New Jersey for the provision of through an initiative called "Healthy Body Healthy Minds", said program provides prevention strategies and self-esteem building activities that seek to prevent tobacco, alcohol and substance use and/or abuse which constitutes an eligible Irvington Municipal Alliance activity; and

WHEREAS, the governing body of the Township of Irvington is required under state law (N.J.S.A. 40A:11-1 et seq.) to authorize the execution of formal grant agreements

WHEREAS, the Subgrantee has agreed that funds for services provided under this grant will not be used for any other purpose other than those listed in this contract:

NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON

1. Pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds No. C3-00260 in the amount of \$21,322.00 for the above has been obtained from the Chief Financial Officer of the Township of Irvington. The appropriations to be charged for this expenditure are Account No. G-02-XX-703-12A-299 & G-02-XX-703-12B-299 in the amount of \$21,322.00.

IT IS FURTHER RESOLVED that the Mayor is authorized to execute any required agreements to comply with said grant for the year 2012 to provide for education and assistance to those suffering from drug and alcohol abuse.

Adopted

Absent: McElroy, Beasley

10. Communications & Petitions

A. Communications

None

11. Pending Business

A. Amend Section 5-11 of Revised Code - Change Hour of Caucus Meeting to 6:00 P.M., Directors' Meeting to 6:00 P.M. and Regular Council Meeting to 7:00 P.M.

12. Miscellaneous

A. Bingos and Raffles

S. Jones – Frederic 1. Irvington Chamber of Commerce Foundation



Adopted

\*\*\*\*\*

NON-CONSENT AGENDA ITEMS

8. Ordinances, Bills & Claims

B. Ordinances on 2nd Reading

1. Acting President S. Jones: An Ordinance authorizing a \$5,100,000.00 Taxable Refunding Bond Ordinance will be heard at this time. The Clerk will read the notice of hearing.

The Clerk read the notice of hearing.

The Clerk will read the ordinance by title.

**REFUNDING BOND ORDINANCE OF THE TOWNSHIP OF IRVINGTON, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR THE REFUNDING OF ALL OR A PORTION OF CERTAIN TAXABLE REFUNDING BONDS, SERIES 2003 (QUALIFIED PURSUANT TO THE MUNICIPAL QUALIFIED BOND ACT) OF THE TOWNSHIP, APPROPRIATING \$5,100,000 THEREFOR AND AUTHORIZING THE ISSUANCE BY THE TOWNSHIP OF TAXABLE REFUNDING BONDS, SERIES 2013 (QUALIFIED PURSUANT TO THE PROVISIONS OF THE MUNICIPAL QUALIFIED BOND ACT) IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$5,100,000 FOR FINANCING THE COST THEREOF.**

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF IRVINGTON, IN THE COUNTY OF ESSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The Township of Irvington, in the County of Essex, New Jersey (the "Township") is hereby authorized to refund all or a portion of the outstanding principal amount of its Taxable Refunding Bonds, Series 2003 (Qualified Pursuant to the Municipal Qualified Bond Act), dated April 1, 2003, originally issued in the aggregate principal amount of \$8,230,000, which mature on April 1 in each of the years 2014 through 2017, inclusive, and 2021 (the "Refunded Bonds"), which Refunded Bonds are subject to redemption in whole or in part on any date on or after April 1, 2013 at the option of the Township at a redemption price of 100% of the principal amount of the Refunded Bonds to be redeemed, plus accrued interest to the date fixed for redemption.

Section 2. In order to finance the cost of the purpose described in Section 1 hereof and the costs of issuance associated therewith, negotiable refunding bonds are hereby authorized to be issued in one or more series in the aggregate principal amount not exceeding \$5,100,000 (the "Refunding Bonds") pursuant to the Local Bond Law of the State of New Jersey (N.J.S.A. 40A:2-1 et seq.) and the Municipal Qualified Bond Act of the State of New Jersey (N.J.S.A. 40A:3-1 et seq.).

Section 3. An aggregate amount not exceeding \$250,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-51(b) has been included in the aggregate principal amount of Refunding Bonds authorized herein.

Section 4. The Township desires to provide for all or a portion of the principal amount of the Refunded Bonds outstanding and the interest and redemption premium, if any, thereon in order to provide for savings in debt service as a result of lower interest rates in the bond markets.

Section 5. The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local

Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township is increased by the authorization of the Refunding Bonds provided in this refunding bond ordinance by \$5,100,000, and that an amount representing the principal amount of the Refunded Bonds equal to \$4,615,000 will be deductible from gross debt resulting in an increase in the Township's net debt of \$485,000. The obligations authorized herein will be within all debt limitations prescribed by that law.

Section 6. A certified copy of this refunding bond ordinance as adopted on first reading has been filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey prior to final adoption.

Section 7. This refunding bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law, provided that the consent of the Local Finance Board has been endorsed upon a certified copy of this ordinance as finally adopted.

The public hearing on this ordinance is now open.

Eugene Otto, 35 Ellery Avenue  
Cathy Southerland, 50 Adams Street  
Eric Dixon, 17 Ruth Street

Frederic - S. Jones                      Motion to close public hearing

Adopted  
Absent: McElroy, Beasley

Frederic – S. Jones                      Motion to adopt this ordinance on second reading after public hearing

Adopted  
Absent: McElroy, Beasley

2. Acting President S. Jones: An ordinance authorizing a \$20.00 per month per parking space permit for Plaza Parking Lot # 7 located on Union Avenue will be heard at this time. The Clerk will read the notice of hearing.

The Clerk read the notice of hearing.

The Clerk will read the ordinance by title.

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 192-114 ENTITLED “SCHEDULE XXIII OFF STREET PARKING PERMITS” BY THE ADDITION OF A NEW LOCATION PLAZA 7, 357 UNION AVENUE BLOCK 289 LOT 9 PURSUANT TO THE PROVISIONS OF CHAPTER 192-64A AND THE SETTING OF A RATE FOR THE ISSUANCE OF A PERMIT

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that:

1. Chapter 192-114 entitled “Schedule XXIII Off Street Parking permits” is hereby amended and supplemented by the addition of a new parking plaza designated as “Plaza No. 7, Union Avenue”
2. The number of permits is to be 20.
3. The fee per permit is to be \$20/ month.
4. If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.
5. This Ordinance shall take effect at the time and in the manner as approved by law.

The public hearing on this ordinance is now open.

Eugene Otto, 35 Ellery Avenue

Frederic – Lyons                      Motion to close public hearing

Adopted  
Absent: McElroy, Beasley

Frederic – Lyons                      Motion to adopt this ordinance on second reading after public hearing

Adopted  
Absent: McElroy, Beasley

3. Acting President S. Jones: An ordinance authorizing permission for public right of way to River Fiber, LLC for the construction, installation, operation, and or maintenance of telecommunications system for 50 years will be heard at this time. The Clerk will read the notice of hearing.

The Clerk stated for the record that this notice was identical to the prior notice that was read.

The Clerk will read the ordinance by title.

AN ORDINANCE TO GRANT A PUBLIC RIGHT-OF-WAY TO CROSS RIVER FIBER, LLC.

WHEREAS, Cross River Fiber, LLC, Cross River Fiber, Inc. d/b/a Cross River Fiber NJ Inc. ("Cross River Fiber"), with offices located at 33 Wood Avenue South, Suite 600, Iselin, NJ, has requested permission to occupy the public rights-of-way within the Township of Irvington for the purpose of constructing, installing, operating and/or maintaining a telecommunications systems, and

WHEREAS, it is deemed to be in the best interest of the Township and its citizenry, particularly including commercial and industrial citizens, for the Township Council to grant permission to Cross River Fiber to occupy the public rights-of-way within the Township for this purpose, and

WHEREAS, the granting of such permission is and shall be conditioned upon Cross River Fiber entering into a written agreement with the Township to indemnify and hold the Township harmless as to loss or liability which may arise from the construction, installation, operation, and/or maintenance of its telecommunications system within the public rights-of-way.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Irvington as follows:

SECTION 1. Permission is hereby granted to Cross River Fiber, its successors and assigns, to occupy the public rights-of-way within the Township for the purpose of construction, installation, operation, and/or maintenance of a telecommunications system for a period of fifty (50) years; and

SECTION 2. Such permission is conditioned upon Cross River Fiber entering into an indemnification agreement with the Township as is envisioned by this Ordinance, said agreement to be approved by the Township attorney as to form and subject to the recommendations of the Township Insurance Consultant attached hereto and made a part hereof; and

SECTION 3. The Mayor and Municipal Clerk are hereby authorized and directed to execute a Rights-of-Way Use Agreement a copy of which is attached hereto and made a part hereof; and

SECTION 4. Cross River Fiber is authorized to present the foregoing Ordinance to the New Jersey Board of Public Utilities for ratification, if required, pursuant to N.J.S.A. 48:2-14.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6. All ordinances of the Township of Irvington to the extent that same are not inconsistent with this Ordinance and/or the Township Form of Government Law shall remain in full force and effect until modified or repealed pursuant to law. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 7. If any section, subsection, paragraph, sentence, clause or word of this Ordinance shall be adjudged invalid by a Court of competent jurisdiction, then and in such event, said invalidity shall not affect the viability of the remaining portions of this Ordinance.

SECTION 8. This Ordinance shall become effective immediately upon adoption and publication according to law.

The public hearing on this ordinance is now open.

Cathy Southerland, 50 Adams Street  
Eugene Otto, 35 Ellery Avenue

S. Jones – Lyons                      Motion to close public hearing

Adopted  
Absent: McElroy, Beasley

S. Jones – Lyons                      Motion to adopt this ordinance on second reading after public hearing

Council Members Lyons and Frederic spoke.

Adopted  
Absent: McElroy, Beasley

C. Bills & Claims

S. Jones – Inman   1. Bill Lists

RESOLVED THAT THE BILLS AND CLAIMS AGAINST THE TOWNSHIP OF IRVINGTON FOR A PERIOD ENDING JANUARY 29, 2013, AS ENUMERATED ON THIS LIST FOR MATERIALS, SUPPLIES AND SERVICES FURNISHED, DELIVERED AND/OR PERFORMED HAVE BEEN CERTIFIED BY THE DEPARTMENTS AS CORRECT, EACH CLAIM AND PURCHASE ORDER HAVE BEEN VERIFIED AND REVIEWED FOR THE AVAILABILITY OF FUNDS, ACCURACY OF ACCOUNT CODING AND COMPLETENESS BY THE ADMINISTRATION, THEREFORE:

BE IT RESOLVED, BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON THAT THE FOLLOWING BE PAID BY THE CHIEF FINANCIAL OFFICER:

BILL LIST	\$3,387,428.49
SUPPLEMENTAL	\$ 44,182.24
TOTAL	\$3,431,610.73

Adopted  
No: Lyons  
Absent: McElroy, Beasley

9. Resolutions & Motions

A. Resolutions

Lyons – L.C. Jones 11. Appointments – Citizens Advisory Commission – Richard Williams and Eric Dixon

WHEREAS, vacancies currently exist on the Citizens Advisory Commission due to the expiration of the terms of its members:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the following named person is hereby appointed as a member of the Citizens Advisory Commission for a term as indicated below:

NAME &                      WARD &                      APPOINTED

ADDRESS	DISTRICT	BY	TERM TO EXPIRE
Eric Dixon 320 Myrtle Avenue	N-8	Council Member Lyons	9-10-14
Richard Williams 197 Linden Avenue	N-8	Council Member Lyons	9-10-14

Adopted  
Absent: McElroy, Beasley

S. Jones – Inman 12. Ratify Corrective Action Plans for 2010-2011 Audit Reports

FY – 2010 – 2011 Corrective Action Plan

WHEREAS, in accordance with the requirements of the Single Audit Act and the regulations of the Division of Local Government Services, all municipalities are required to prepare and file a Corrective Action Plan; and

WHEREAS, this plan must be filed with the Division of Local Government Services in accordance with regulations established by the Division; and

WHEREAS, such a plan was prepared by the Chief Financial Officer and reviewed by the members of the governing body of the Township of Irvington;

NOW THEREFORE BE IT RESOLVED, that the 2010 - 2011 Corrective Action Plan, attached hereto, be approved by the governing body of the Township of Irvington and filed with the Division of Local Government Services.

Adopted  
Absent: McElroy, Beasley

S. Jones – Inman 13. Authorize Transfers of Funds in CY 2012 Municipal Budget

TOWNSHIP OF IRVINGTON  
APPROPRIATIONS TRANSFER RESOLUTION  
CY – 2012 #2

WHEREAS, NJSA 40A:4-58, allows appropriation transfers during the last 2 months of a fiscal year:

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Irvington that the following transfers be made in the CY 2012 Budget, as detailed in the following schedule:

Accounts	From	To
Within “CAP”		
Municipal Council S&W		\$ 10,000.00
Clerks S&W		1,047.27
Elections O&E		13,603.13
Township Attorney S&W		335.14
State Unemployed		340.38
Emergency Management S&W		0.06
Health S&W		3,956.66
Recreation S&W		255.88
PERS		385.59
Social Security OASI		14,081.13
Municipal Court S&W	\$ 49,073.90	
Municipal Court O&E		49,073.90
Police Dept S&W	861,040.43	
Police Dept. S&W Overtime		861,040.43
Group Health Insurance	44,006.24	

SUB-TOTAL INSIDE CAPS	\$954,120.57	\$954,120.57
OUTSIDE CAPS:	-	-
SUB-TOTAL OUTSIDE CAPS	-	-
GRAND TOTAL	\$954,120.57	\$954,120.57

BE IT FURTHER RESOLVED, that this resolution shall be effective as of December 31, 2012.

Adopted  
Absent: McElroy, Beasley

L.C. Jones – S. Jones 14. Waive 20 Day Waiting Period For Effective Date of Ordinance Establishing Parking Permit Frees for Union Avenue Plaza 7 Municipal Parking Lot

WHEREAS, an ordinance entitled "AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 192-114 ENTITLED “SCHEDULE XX111 OFF STREET PARKING PERMITS” BY THE ADDITION OF A NEW LOCATION PLAZA 7, 357 UNION AVENUE BLOCK 289 LOT 9 PURSUANT TO THE PROVISIONS OF CHAPTER 192-64A AND THE SETTING OF A RATE FOR THE ISSUANCE OF A PERMIT” was duly passed on first reading by the Municipal Council on January 15, 2013, and duly adopted by the Municipal Council on second reading after public hearing on January 29, 2013; and

WHEREAS, pursuant to N.J.S.A. 40:69A-181 (a) and Section 5-30 (d) of the Revised Code of the Township of Irvington, an ordinance shall take effect twenty (20) days after final passage by the Municipal Council and approval by the Mayor; and

WHEREAS, pursuant to N.J.S.A. 40:69A-181 (b) and Section 5-30 (d) of the Revised Code of the Township of Irvington, two- thirds (2/3) of the full membership of the Municipal Council may declare an emergency, by written resolution, to reduce this twenty (20) day period:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON (not less than 2/3 of the full membership thereof affirmatively concurring) that pursuant to the provisions of N.J.S.A. 40:69A-181 (b) and Section 5-30 (d) of the Revised Code of the Township of Irvington, it does hereby declare that an emergency exists that an ordinance entitled "AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 192-114 ENTITLED “SCHEDULE XX111 OFF STREET PARKING PERMITS” BY THE ADDITION OF A NEW LOCATION PLAZA 7, 357 UNION AVENUE BLOCK 289 LOT 9 PURSUANT TO THE PROVISIONS OF CHAPTER 192-64A AND THE SETTING OF A RATE FOR THE ISSUANCE OF A PERMIT” shall become effective immediately upon its approval by the Mayor.

Adopted  
Absent: McElroy, Beasley

Inman – L.C. Jones 15. Authorize Temporary Emergency Appropriation to Extend the Calendar Year 2013 Municipal Budget

<b>APPROPRIATIONS WITHIN "CAPS"</b>	
	<b><i>CY-13</i></b>
<b>OFFICE OF THE MAYOR</b>	<b><i>Emerg. # 1</i></b>
Mayor's Office:	
Salaries and Wages	
Other Expenses	
Irvington Mental Health Center:	-
Other Expenses	
Planning Board:	-
Salaries and Wages	-
Other Expenses	-
Office of Emergency Management:	-

Salaries and Wages	-
Other Expenses	-
Mayor's Committees:	-
Salaries and Wages	-
Other Expenses	-
<b>Total Office of the Mayor</b>	-
<b><u>OFFICE OF THE TOWNSHIP CLERK</u></b>	-
Township Clerk's Office:	
Salaries and Wages	-
Other Expenses	-
Elections:	-
Salaries and Wages	-
Other Expenses	-
Council's Office:	-
Salaries and Wages	-
Other Expenses	-
Board of Adjustment:	-
Salaries and Wages	-
Other Expenses	-
Rent Leveling Board:	-
Salaries and Wages	-
Other Expenses	-
<b>Total Office of the Township Clerk</b>	-
<b><u>OFFICE OF THE TAX ASSESSOR</u></b>	-
Municipal Tax Assessor:	
Salaries and Wages	-
Other Expenses	6,000.00
<b>Total Office of the Tax Assessor</b>	<b>6,000.00</b>
<b><u>ATTORNEY TO TOWNSHIP COUNCIL</u></b>	-
Legislative Research Officer:	
Salaries and Wages	-
Other Expenses	-
<b>Total Attorney to Township Council</b>	-
<b><u>OFFICE OF THE TOWNSHIP ATTORNEY</u></b>	-
Township Attorney:	
Salaries and Wages	-
Other Expenses	-
<b>Total Office of the Township Attorney</b>	-
<b><u>DEPARTMENT OF ADMINISTRATION</u></b>	-
Office of the Business Administrator:	
Salaries and Wages	-
Other Expenses	-
Other Expenses - Postage	-
<b>Total Department of Administration</b>	-
<b><u>DEPARTMENT OF POLICE</u></b>	-
Police:	

Salaries and Wages	-
Overtime	-
Other Expenses:	-
Cars	-
Other Expenses	-
<b>APPROPRIATIONS WITHIN "CAPS"(continue)</b>	-
School Guards:	-
Salaries and Wages	-
Other Expenses	-
Chaplains and Surgeons:	-
Salaries and Wages	-
Parking Division:	-
Other Expenses	-
<b>Total Department of Police</b>	-
<b>DEPARTMENT OF FIRE</b>	-
Fire:	
Salaries and Wages	-
Other Expenses	-
Uniform Fire Safety	-
Salaries and Wages	-
Other Expenses	-
<b>Total Department of Fire</b>	-
<b>DEPARTMENT OF REVENUE AND FINANCE</b>	-
Division of Finance:	
Salaries and Wages	-
Other Expenses:	-
Administration of Finance	-
Auditing	-
Insurance:	-
General Liability	-
Workers Comp	-
Employers Group Health	-
Division of Revenue-Tax Collection:	-
Salaries and Wages	-
Other Expenses	-
Division of Licenses:	-
Salaries and Wages	-
Other Expenses	-
Division of Central Purchasing:	-
Salaries and Wages	-
Other Expenses	-
<b>Total Department of Revenue and Finance</b>	-
<b>DEPARTMENT OF PUBLIC WORKS</b>	-
Division of Engineering:	
Salaries and Wages	-
Other Expenses	-
Land Rental, Refuse Dumping:	-
Other Expenses	-
Division of Streets and Sewers:	-
Salaries and Wages	-
Other Expenses	-



Snow Removal:	-
Salaries and Wages	-
Other Expenses	-
Division of Motorized Equipment:	-
Salaries and Wages	-
Other Expenses	-
Division of Public Property:	-
Salaries and Wages:	-
Public Buildings	-
Shade Tree	-
Other Expenses:	-
Public Buildings	-
Shade Tree	-
<b>Total Department of Public Works</b>	-
<b><u>DEPARTMENT OF HEALTH AND WELFARE</u></b>	-
Division of Health:	
Salaries and Wages:	
Health Administration	-
Environmental Health	-
Nursing	-
Other Expenses:	-
Health Administration	-
Environmental Health	-
Nursing	-
Irvington Neighborhood Improvement Corp.	-
Salaries and Wages	-
Other Expenses	-
<b>Total Department of Health and Welfare</b>	-
<b><u>DEPARTMENT OF PARKS AND RECREATION</u></b>	-
Division of Park Maintenance:	
Salaries and Wages	-
Other Expenses	-
Division of Recreation:	-
Salaries and Wages	-
Other Expenses	-
Public Events and Celebration:	-
Other Expenses	-
Senior Citizen Center:	-
Salaries and Wages	-
Other Expenses	-
Irvington Municipal Pool:	-
Salaries and Wages	-
Other Expenses	6,500.00
<b>Total Department of Parks and Recreation</b>	<b>6,500.00</b>
<b><u>DEPARTMENT OF HOUSING</u></b>	-
Housing Services:	
Salaries and Wages	-
Other Expenses	-
<b>Total Department of Housing Services</b>	-
<b><u>MUNICIPAL COURT</u></b>	-

Municipal Court	
Salaries and Wages	-
Other Expenses	-
<b>Total Municipal Court</b>	-
<b><u>PUBLIC DEFENDER</u></b>	-
Public Defender	
Salaries and Wages	-
<b>Total Public Defender</b>	-
<b><u>UNIFORM CONSTRUCTION CODE</u></b>	-
Construction Code Official:	
Salaries and Wages	-
Other Expenses	-
<b>Total Construction Services</b>	-
<b><u>UNCLASSIFIED</u></b>	-
Utilities:	
Electricity, Gas	-
Telephone and Telegraph	-
Telephone Lease System	-
Fire Hydrants	-
Water	-
Gasoline	-
Street Lighting	-
Prior Year Salary Adjustments	-
Emergency Dispatch Services (Transportation)	-
Tax Appeals'	-
<b>Total Unclassified</b>	-
<b>Total Operations Within "CAPS"</b>	<b><u>12,500.00</u></b>
<b><u>Deferred Charges &amp; Statutory Expenditures</u></b>	-
Social Security System (OASI)	-
State Unemployment Insurance Fund	-
Fund Administrative Cost	-
Public Employees Retirement System	-
Police & Firemen's Retirement System	-
Judgments	-
Deferred Charges Grants Over	-
Deficit in Operations Health Benefits	-
Deferred Charges	-
Cash Deficit Preceding Year	-
<b>Total Deferred Charges &amp; Statutory Exp</b>	-
<b>Total Appropriations Within "CAPS"</b>	<b><u>12,500.00</u></b>
<b><u>APPROPRIATIONS EXCLUDED FROM "CAPS"</u></b>	-
<b><u>OTHER OPERATIONS</u></b>	-
Joint Sewer Maintenance	150,000.00
Maintenance of Free Public Library	-
911 Dispatch Services	-

<b>Total Other Operations</b>	<b>150,000.00</b>
<b>APPROPRIATIONS EXCLUDED from "CAPS"(continue)</b>	
<b>FEDERAL AND STATE GRANTS</b>	
HUD- Major Step Transitional Housing 11-12	388,839.00
NJ State Health Grant HIV/AIDS -(INIC)	136,821.00
Municipal Alliance - 2013	42,643.00
Youth Accountability Initiative	11,539.00
<b>Total Grants</b>	<b>579,842.00</b>
<b>Total Operations Excluded from "CAPS"</b>	<b>729,842.00</b>
<b>MUNICIPAL DEBT SERVICE</b>	
Down Payment on Capital Improvements	-
Capital Improvement Fund	-
Payment of Bond Principal	-
Interest on Bonds	-
Payment of Note Principal	-
Interest on Notes	-
Green Trust Loan Program:	-
Payment of Principal and Interest	-
Payment of Principal and Interest-2003	-
Payment of Principal & Interest 727 GTP	-
Demolition Loan Repayment	-
NJ Environmental Infrastructure Trust Loan Principal & Interest	-
Deferred Charges - Emer Auth 5 Yr	-
Emergency Storm	-
<b>Total Municipal Debt Service</b>	<b>-</b>
<b>Total Appropriations Excluded from "CAPS"</b>	
<b>for Municipal Purposes</b>	<b>729,842.00</b>
<b>TYPE ONE SCHOOL DEBT</b>	
Payment of Bond Principal	-
Interest on Bonds	-
<b>Total Type One School Debt</b>	<b>-</b>
<b>Total Appropriations Excluded from "CAPS"</b>	<b>729,842.00</b>
<b>Reserve for Uncollected Taxes</b>	<b>-</b>
<b>Total General Appropriations</b>	<b>742,342.00</b>

Council Member Lyons spoke.

Adopted  
Absent: McElroy, Beasley

L.C. Jones – S.. Jones 16. Determine Form and Details of \$5,100,000.00 Taxable Refunding Bonds

NOTE: This item was never submitted by the Administration

L.C. Jones – S. Jones                      Motion to table

Adopted  
Absent: McElroy, Beasley

\*\*\*\*\*

ALCOHOLIC BEVERAGE CONTROL BOARD

JANUARY 29, 2013

Chair Person Inman reads the Statement of Proper Notice pursuant to the Sunshine Law.

1. Roll Call: Commissioners Frederic, L.C. Jones, S. Jones, Lyons, Inman, Chair

Absent: Commissioners Beasley (excused, McElroy (excused)

2. New Business

S. Jones – Inman A. Authorize ABC Plenary Retail Consumption License for Jomar, Inc., trading as The Rainbow to Cease to Exist for Failure to File an Application for Renewal of the Licenses for the 2011-2012 License Term

WHEREAS, the following named license holder has not petitioned the Director of the State Division of Alcoholic Beverage Control for authorization to have their license renewed in an inactive state pursuant to N.J.S.A. 33:1-12.39; and

WHEREAS, the following named license holder has not filed an application for renewal of the licenses for the 2011-2012 license term; and

WHEREAS, as a result of the aforesaid circumstances, the State Division of Alcoholic Beverage Control has authorized and directed that the local issuing authority adopt a resolution indicating that this license has lapsed and ceases to exist for failure of the licensee to file timely renewal applications for the 2011-2012 license term in accordance with N.J.S.A. 33:1-12.13 and N.J.S.A. 33:1-12.18:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL ACTING AS THE ALCOHOLIC BEVERAGE CONTROL BOARD OF THE TOWNSHIP OF IRVINGTON that the local A.B.C. Board hereby declares that the following license has lapsed and ceased to exist for failure of the licensee to file a timely renewal application for the 2011-2012 license term in accordance with N.J.S.A. 33:1-12.13 and N.J.S.A. 33:1-12.18:

0709-33-076-003 JOMAR CORP. OF IRVINGTON, INC.  
557 GROVE STREET  
T/A THE RAINBOW

Adopted  
Absent: McElroy, Beasley

S. Jones – Inman B. Authorize ABC Plenary Retail Consumption License for A&J Companies International, Inc., trading as Joyce’s Tropical Garden to Cease to Exist for Failure to Comply With Consent Agreement

RESOLUTION AND ORDER BY THE MUNICIPAL COUNCIL ACTING AS THE ALCOHOLIC BEVERAGE CONTROL BOARD OF THE TOWNSHIP OF IRVINGTON, REVOKING THE RETAIL CONSUMPTION LICENSE ISSUED TO A & J COMPANIES INTERNATIONAL, INC., T/A JOYCE’S TROPICAL GARDEN No. 0709-033-020-007

WHEREAS, on October 27, 2009, the Municipal Council of the Township of Irvington, acting as the Alcoholic Beverage Control Board of the Township of Irvington, revoked the retail consumption license No. 0709-033-020-007, belonging to licensee A & J Companies T/A Joyce’s Tropical Garden (hereinafter “Licensee”); and

WHEREAS, the matter of A & J Companies International, Inc., T/A Joyce’s Tropical Garden v.

Governing Body of The Township of Irvington, was filed by the licensee in the Office of Administrative Law under Docket No. ABC-13844-09 and subsequently appealed under the Superior Court, Appellate Division, Docket No. A-2485-10T2; and

WHEREAS, the Appellate Division, by way of its May 11, 2012 decision, remanded this matter to the New Jersey State Division of Alcoholic Beverage Control for a reconsideration of its decision of revocation; and

WHEREAS, the Township's Attorney's office, on June 1, 2012, conferred with the Director of the Division of Alcoholic Beverage Control and counsel for the licensee, an adult Go-Go establishment, to address the issue of whether this matter should be remanded to the Office of Administrative Law to determine whether the penalty of revocation is appropriate; and

WHEREAS, the Township's Attorney's office, considering the strong interest in prohibiting the licensee's establishment and the need to make appropriate use of alcohol licenses in the Township, thereafter recommend that this matter be resolved by way of a Consent Agreement memorialized by the Director of the Division of Alcoholic Beverage Control authorizing that the licensee's license be sold to a *bona fide* third party purchaser whose *bona fideness* shall be determined by the Governing Body of the Township of Irvington; and

WHEREAS, after the execution of the Consent Agreement by the Township's Attorney's Office and counsel for the licensee, on July 10, 2012 the Municipal Council of the Township of Irvington, acting as the Alcoholic Beverage Control Board of the Township of Irvington, approved same; and

WHEREAS, on August 8, 2012, the Township's Attorney's Office received correspondence from the office of the State's Director of the Division of Alcoholic Beverage Control informing the licensee that it was approaching the December 31, 2012 deadline to sell its license to a *bona fide* third party or risk revocation; and

WHEREAS, by the 1st of January 2013, the licensee did not successfully sell its license to a *bona fide* third party.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that the Plenary Retail Consumption License No. 0709-033-020-007, heretofore issued by the Municipal Council, acting as the Alcoholic Beverage Control Board of the Township of Irvington to A&J Companies, t/a Joyce's Tropical Gardens, 1371 Springfield Avenue, Irvington, New Jersey, 07111, be revoked effective immediately and that the license ceases to exist as a result of non-compliance with the aforementioned Consent Agreement.

The license holder, Betty Oster, was present and a general question and answering session ensued prior to the vote to adopt this resolution.

Adopted  
Absent: McElroy, Beasley

### 3. Adjournment

\*\*\*\*\*

### 12. Miscellaneous

#### B. General Hearing of Citizens and Council Members (limited to five minutes per person)

Cathy Southerland, 50 Adams Street  
Richard Williams, 197 Linden Avenue  
Eric Dixon, 17 Ruth Street

Council Members Frederic, Inman and Lyons addressed the issues raised by the above referenced citizens.

### 13. Adjournment

There being no further business the meeting adjourned at 8:56 P.M.

\_\_\_\_\_  
Sandra R. Jones, Acting Council President

\_\_\_\_\_  
Harold E. Wiener, Municipal Clerk