

INDEPENDENCE TOWNSHIP COMMITTEE
Meeting held at the Municipal Building, Great Meadows, NJ.
February 9, 2021 7:00 p.m.

This is a regular meeting of the Township Committee of Independence Township, Warren County, New Jersey. This meeting was called to order by Mayor Robert Giordano at 7:00 p.m. with the following announcement: "Adequate notice of this meeting was given in accordance with the Open Public Meetings Act by providing a schedule of regular meetings to the Herald Times and The Express Times, posting a copy thereof on the Township bulletin board and filing a copy thereof in the office of the Municipal Clerk." The Pledge of Allegiance to the American Flag was led by Mayor Giordano.

Due to the ongoing COVID-19 pandemic and restrictions on in-person public gatherings by executive orders of the Governor of New Jersey, meetings of the Independence Township Committee will be held remotely via Zoom. The Zoom platform allows for members of the public to participate via computer, mobile device, or telephone. Both adequate and electronic notice of this meeting have been provided by publishing a revised annual notice in the two official newspapers designated by the Township, posting such notice on the door of the municipal building, and posting such notice on the municipal website. Such notice specifies the time of this meeting and provided instructions on how to access the meeting remotely.

Comments can also be emailed by 3:00 p.m. the day of the meeting to dhrebenak@independencenj.com. Written comments may also be submitted via mail or dropped off at the municipal building. Written comments must be no more than 450 words and must include your name and address. Such comments will be read into the record at the appropriate time.

Live comments will also be accepted during the appropriate times of the meeting via Zoom. If you wish to make a comment during the meeting please use the "raise hand" button on your screen if you are signed in via Zoom. If you are accessing the meeting via telephone, please hit *9 and the meeting moderator will call on you and identify you by the last few digits of your phone number. You can press *6 to unmute yourself. Please state your name and address before beginning your comment. The Township reserves the right to mute or remove disruptive meeting participants after an initial warning. Disruptive conduct includes sustained inappropriate behaviors such as, but not necessarily limited to, shouting, interruption, and use of profanity.

Please be advised that this meeting is being recorded.

ROLL CALL:

Present: Mr. Cogle via zoom, Mrs. Kelsey via zoom, Mr. Pennington, Mrs. Gesumaria, Mayor Giordano, and Debi Hrebenak. Also present were Attorney Leslie Parikh and Engineer Mike Finelli via zoom

Absent: None

Planet Networks via zoom Presentation

Resolution 21-21

**RESOLUTION OF THE TOWNSHIP OF INDEPENDENCE
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 the municipality for consent to use the public rights-of-way to place its telecommunication facilities aerially on existing and new utility poles and/or in underground conduit; and

WHEREAS, the Federal Communications Commission has held that that "an effective prohibition [under the Telecommunications Act of 1996] occurs where a state or local legal

requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of a covered service ... not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services." Declaratory Ruling and Third Report and Order, WT Docket No. 17-79; WC Docket No. 17-84, FCC-18-133A1, at para. 36, p. 15-16; and

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

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

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

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

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

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

NOW THEREFORE BE IT RESOLVED THAT:

1) That the governing body does hereby grant permission and authority to Planet Networks, Inc. to install fiber optic cables and related facilities on existing utility poles within the public right-of-way and to install new utility poles, upon the following terms and conditions:

- a) Planet Networks shall adhere to all applicable federal, State, and local laws in connection with its use of the public right-of-way.
- b) Planet Networks shall obtain any applicable permits in connection with the installation of its facilities;
- c) Planet Networks shall indemnify, defend and hold harmless the municipality, its officials, agents, and employees, from and against any claim of liability, damages or loss resulting in bodily injury or property damage arising out of Planet Network's use of the public right-of-way, except to the extent such loss, injury or property damage resulting from the acts or omissions of the municipality.
- d) Planet Networks shall procure and maintain, at its cost and expense, commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence and shall include the municipality as an additional insured on said insurance policy.
- e) Planet Networks shall be responsible for the repair of any damage to pavement or any structure arising from its construction, installation or maintenance of its facilities.
- f) Notwithstanding any provision contained herein, neither the municipality nor Planet Networks shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this consent.
- g) That the Mayor is hereby authorized to execute and the Clerk to attest to any other documents necessary to effectuate the terms of this resolution.

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

Mr. Cogle made a motion to approve Resolutions 21-21 as written. Mrs. Gesumaria seconded the motion with roll call as follows:

Ayes: Mr. Cogle, Mrs. Kelsey, Mr. Pennington, Mrs. Gesumaria and Mayor Giordano
Nays: None recorded
Abstain: None recorded

David Banisch, Township Planner Presentation on Master Plan/Highlands Grant Plan Conformance

Mr. Banish presented the estimated cost for the required Master Plan/Highland Grant Plan Conformance for the 2021 Township Budget. The following information was presented:

The Master Plan and related planning work Highlands Grant Plan Conformance is \$56,000, as follows:

- \$15,000 for Initial Assessment and Petition for Plan Conformance
- \$ 7,500 for redevelopment investigations
- \$10,000 for Master Plan re-examination report
- \$ 8,500 for Zoning amendments and
- \$15,000 for a Redevelopment plan

Township received from the Highland Council an approval for part 1A of the scope of work dated January 11, 2021 for the Independence Township Initial Assessment Grant in an amount of not to exceed \$5,000.00.

The committee approved to budget \$10,000 for master plan re-examination report for 2021.

Minutes Approval: 12.8.20, 01.05.21

A motion was made by Mr. Cogle to approve minutes 12.08.20 as written. Mrs. Kelsey seconded the motion with roll call as follows:

Ayes: Mr. Pennington, Mr. Cogle, Mrs. Kelsey and Mayor Giordano
Nays: None recorded
Abstain: Mrs. Gesumaria

A motion was made by Mr. Cogle to approve minutes 1.05.21 as written. Mrs. Kelsey seconded the motion with roll call as follows:

Ayes: Mr. Pennington, Mr. Cogle, Mrs. Kelsey, Mrs. Gesumaria, and Mayor Giordano
Nays: None recorded
Abstain: None recorded

DEPARTMENT REPORTS:

Tax Collector – Report submitted via email

Construction/Zoning – Reports submitted via email.

Environmental – Collection of plastic bags. Due to COVID-19 no meeting

Treasurer – Working on the Budget

Recreation/Green Acres –Registration for spring sport open.

Police – Report submitted via email.

Emergency Services – Fundraiser for the Fire Department was successful.

DPW – Mayor commend the DPW on an excellent job on the snow removal of 30 inches.

Municipal Clerk: Dog licenses are being issued extended the renewal until March 1st.

Working on budget.

Land Use Board – No meeting in February

Seniors – Nothing to report.

Board of Education – Mrs. Gesumaria reported the following:

- GM Board meeting was held on January 27th.
- The current enrollment is reported at 617 students, which is 80 students less than in the 17-18 school year.
- The students have begun to come into school 5 days a week in a hybrid fashion where the "green" group comes in for three days and the "blue" comes in for two days and the following week they switch.
- They would like to try to bring the students in for full days, still in a hybrid manner, around President's Day. *
- The district has begun to stream in-person classroom instruction for the students who are joining the class remotely, which is great so they can be a part of the same instruction while at home.
- They are still working on the class size policy.
- Mr. Mai mentioned a forum being held soon in part to discuss the way the BOE meetings are being held. At the moment members of the public have to RSVP and be sent a google meet link in order to join interactively.
- They had their first strategic planning meeting on 1/14 and the next one is planned for 2/11. Kathy Helewa is facilitating the process.

*Later in the meeting (7:35pm), Mr. Mai emailed me to say that while the district was going to try to bring students back for full hybrid days around President's Day they have decided to wait. They will keep everyone posted on their plans. I emailed Mr. Mai back that I would report that clarification at the end of the meeting, which I did.

Mr. Mai stated that the district really appreciated the help the Township provided in plowing the snow on school property. He discussed how their snowplow had broken down. He thanked Officer in Charge Prell and Sergeant Varina for reviewing the safety concern of the Great Meadows Regional Schools. Starting Tuesday, February 16, 2021 and continuing on every Tuesday until further notice, Med Labs Diagnostics will be providing free of charge Covid-19 testing for any student, parent, or staff member of our school district who would like to receive one.

PROFESSIONAL REPORTS:

Attorney Parikh: Report submitted via email. Township Committee needs to review Cannabis Legislation.

Engineer Finelli: Report submitted via email. Discussed Asbury Road Completion. Senior Center Grant received an extension to be completed by November 2021. Estimated on project was \$200,000 to complete work. The Township went out to bid twice; the bid lowest bid received was \$219,922. At the present time, no bids were accepted.

OLD BUSINESS:

Ordinance 2021-01

Second Reading/Public Comment

**CALENDAR YEAR 2021
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

Mr. Cogle made a motion to open up discussion on this ordinance to the Public. Mrs. Kelsey seconded the motion with roll call as follows:

Ayes: Mrs. Kelsey, Mr. Pennington, Mr. Cogle, Mrs. Gesumaria and Mayor Giordano
Nays: None recorded
Abstain: None recorded

As there were no comments, a motion was made by Mr. Cogle to close the public hearing. Mayor Giordano seconded the motion with roll call as follows:

Ayes: Mrs. Kelsey, Mr. Pennington, Mr. Cogle, Mrs. Gesumaria and Mayor Giordano
Nays: None recorded
Abstain: None recorded

A motion was made by Mr. Pennington to adopt Ordinance 2021-01 as written. Mrs. Gesumaria seconded the motion with roll call as follows:

Ayes: Mrs. Kelsey, Mr. Pennington, Mr. Cogle, Mrs. Gesumaria, and Mayor Giordano
Nays: None recorded
Abstain: None recorded

NEW BUSINESS:

Ordinance 2021-02 *Introduction/First Reading*
Chapter 337 Stormwater Control

A motion was made by Mrs. Gesumaria to adopt Ordinance 2021-02 for First Reading. Mr. Pennington seconded the motion with roll call as follows:

Ayes: Mr. Cogle, Mrs. Kelsey, Mr. Pennington, Mrs. Gesumaria, and Mayor Giordano
Nays: None recorded
Abstain: None recorded.

Second reading and public hearing will be on March 9, 2021

PUBLIC COMMENT: none

BILLS: Mr. Cogle has a couple of questions regarding purchase orders which were clarified by the Township Clerk.

A motion was made by Mr. Cogle to pay the bills as presented. Mr. Pennington seconded the motion with roll call as follows:

Ayes: Mr. Cogle, Mrs. Kelsey, Mr. Pennington, Mrs. Gesumaria and Mayor Giordano
Nays: None recorded
Abstain: None recorded

ADJOURNMENT: A motion was made by Mrs. Kelsey to adjourn the meeting at 8:20 p.m. Mr. Cogle seconded the motion with roll call as follows:

Ayes: Mr. Cogle, Mr. Pennington, Mrs. Kelsey, Mrs. Gesumaria, and Mayor Giordano
Nays: None recorded
Abstain: None recorded

Respectfully submitted,

Deborah M. Hrebenak, RMC/CMR
Municipal Clerk