PROCEEDINGS OF CITY COUNCIL

(OFFICIAL)

ELIZABETH, N.J.

Tuesday Evening
July 23, 2013
7:30 p.m.

A regular meeting of the City Council was held this evening in the City Council Chamber, City Hall.

Council President William Gallman, Jr., announced that this regular meeting is listed in the "Annual Notice", as defined by Chapter 231, P.L. 1975, and that copies of the "Annual Notice" have been mailed or delivered to the Star Ledger, Home News and Tribune, and Cablevision of Elizabeth and posted and filed in the City Clerk's Office in compliance with the terms of the Open Public Meetings Law, Chapter 231, P.L. 1975 on December 27, 2012.

PRESENT: Council Members-at-Large: Patricia Perkins-Auguste, Frank J. Cuesta, Manny Grova, Jr.
Council Members: [redacted], 1st Ward; [redacted], 2nd Ward; Joseph Keenan, 3rd Ward; Carlos Cedeno, 4th Ward; Frank O. Mazza, 6th Ward; and President William Gallman, Jr., 5th Ward - ~~8~~ 7

ABSENT: Torres, Gonzalez - 2

ALSO PRESENT: Jorge Estrada, Special Counsel

Councilman Gonzalez delivered the opening prayer and led all present in the Pledge of Allegiance to the American Flag.

PUBLIC SPEAKING

Mr. Sammy Muhammad, 32 Elmwood Place, thanked Council for their help and extended an invitation on August 17th, from 4:00 p.m. to 8:00 p.m. He thanked Council for helping Mr. Sharif Tankard in receiving justice. In closing, Mr. Muhammad announced that City Council of the City of Elizabeth is one of the best for helping the downtrodden. Thank You.

There being no one else present who desired to be heard, Council President Gallman declared the public speaking portion of the meeting closed.

PUBLIC HEARINGS

Council President Gallman announced that the next business in order would be a public hearing on **Ordinance No. 4387 (AS AMENDED)**, entitled:

AN ORDINANCE TO AUTHORIZE THE CREATION OF A SPECIAL IMPROVEMENT DISTRICT IN THE CITY TO BE KNOWN AS THE GREATER ELIZABETH TOURISM IMPROVEMENT DISTRICT AND DESIGNATING GREATER ELIZABETH DESTINATION MARKETING ORGANIZATION AS THE DISTRICT MANAGEMENT CORPORATION

This ordinance was adopted on its first reading at the meeting of City Council held on **June 25, 2013**.

The Notice of Public Hearing was published in the Star Ledger issue of **July 1, 2013 (As Amended).**

The Clerk read the foregoing ordinance by title and Council President Gallman asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President Gallman declared the public hearing portion of the meeting closed.

Council President Gallman announced that the next business in order would be a public hearing on **Ordinance No. 4388**, entitled:

AN ORDINANCE TO AMEND CHAPTER 13.16.120, 13.16.130 (B) (1), 13.16.130 (B) (2), 13.16.130 (B) (3) (a), 13.16.130 (B) (3) (b) 13.16.130 (B) (3) (c,), (C), AND H OF THE CODE OF ELIZABETH TO INCREASE THE SEWER RATES IN THE CITY OF ELIZABETH AND TO AUGMENT THE LANGUAGE THEREOF.

This ordinance was adopted on its first reading at the meeting of City Council held on **June 25, 2013**.

The Notice of Public Hearing was published in the Star Ledger issue of **July 1, 2013**.

The Clerk read the foregoing ordinance by title and Council President Gallman asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President Gallman declared the public hearing portion of the meeting closed.

Council President Gallman announced that the next business in order would be a public hearing on **Ordinance No. 4392**, entitled:

AN ORDINANCE AMENDING CHAPTER 17.52 OF THE CODE OF THE CITY OF ELIZABETH ENTITLED "FEES," SPECIFICALLY TO AMEND SECTION 17.52.040 TO CONFORM TO STATE STATUTE.

This ordinance was adopted on its first reading at the meeting of City Council held on **June 25, 2013**.

The Notice of Public Hearing was published in the Star Ledger issue of **July 1, 2013**.

The Clerk read the foregoing ordinance by title and Council President Gallman asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President Gallman declared the public hearing portion of the meeting closed.

Council President Gallman announced that the next business in order would be a public hearing on **Ordinance No. 4393**, entitled:

AN ORDINANCE TO AUTHORIZE THE RENEWAL AND EXECUTION OF A LEASE AGREEMENT FOR THE RENTAL OF SPACE AT 1018 EAST GRAND STREET, ELIZABETH, NEW JERSEY, FOR THE PERIOD OF JUNE 18, 2013 THROUGH JUNE 18, 2014, BY THE ELIZABETH NEW JERSEY CORPS OF THE SALVATION ARMY, A NEW YORK CORPORATION, 1005 EAST JERSEY STREET, ELIZABETH, NEW JERSEY, TO PROVIDE EMERGENCY SHELTER FOR HOMELESS INDIVIDUALS AT THE ANNUAL RENTAL FEE OF ONE DOLLAR ($1.00) PER YEAR.

This ordinance was adopted on its first reading at the meeting of City Council held on **June 25, 2013**.

The Notice of Public Hearing was published in the Star Ledger issue of **July 1, 2013**.

The Clerk read the foregoing ordinance by title and Council President Gallman asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President Gallman declared the public hearing portion of the meeting closed.

Council President Gallman announced that the next business in order would be a public hearing on **Ordinance No. 4394**, entitled:

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF CHAPTER 17.44 OF THE CODE OF THE CITY OF ELIZABETH, ENTITLED "FLOOD DAMAGE PREVENTION," SPECIFICALLY TO ADOPT NEW LANGUAGE CONTAINED IN THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION MODEL FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance was adopted on its first reading at the meeting of City Council held on **June 25, 2013**.

The Notice of Public Hearing was published in the Star Ledger issue of **July 1, 2013**.

The Clerk read the foregoing ordinance by title and Council President Gallman asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President Gallman declared the public hearing portion of the meeting closed.

Council President Gallman announced that the next business in order would be a public hearing on **Ordinance No. 4395**, entitled:

AN ORDINANCE GRANTING AN ENCROACHMENT PERMIT TO GROUNDWATER & ENVIRONMENTAL SERVICES, 1340 CAMPUS PARKWAY, NEPTUNE, N.J., 07753, TO PERFORM ENVIRONMENTAL WORK CONSISTING OF ONE (1) GROUND-WATER MONITORING WELL WITHIN THE PUBLIC RIGHT-OF-WAY ON DENTON STREET CROSS FROM 654 SOUTH BROAD STREET.

This ordinance was adopted on its first reading at the meeting of City Council held on **June 25, 2013**.

The Notice of Public Hearing was published in the Star Ledger issue of **July 1, 2013**.

The Clerk read the foregoing ordinance by title and Council President Gallman asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President Gallman declared the public hearing portion of the meeting closed.

Council President Gallman announced that the next business in order would be a public hearing on **Ordinance No. 4396**, entitled:

AN ORDINANCE GRANTING AN ENCROACHMENT PERMIT TO KLEINFELDER OF 3 AAA DRIVE, FIRST FLOOR, HAMILTON, NJ 08691, TO PERFORM ENVIRONMENTAL WORK CONSISTING OF TWO (2) TEMPORARY MONITORING POINTS IDENTIFIED AS TP-3 AND TP-4 WITHIN THE PUBLIC RIGHT-OF-WAY OF 460 ELIZAETH AVENUE, ELIZABETH, NJ.

This ordinance was adopted on its first reading at the meeting of City Council held on **June 25, 2013**.

The Notice of Public Hearing was published in the Star Ledger issue of **July 1, 2013**.

The Clerk read the foregoing ordinance by title and Council President Gallman asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President Gallman declared the public hearing portion of the meeting closed.

PETITIONS, COMMUNICATIONS, ETC.

By the Clerk:

Letter dated June 28, 2013, from His Honor the Mayor advising he is appointing the following to the Board of Trustees of the Free Public Library: Ms. Anne P. Russell, 201 Shelley Avenue, Elizabeth, NJ, to fill the unexpired term of Ms. Leticia R. Salermo (`12/21/2015) who recently resigned; Mr. Theodore A. Freedman, 668 North Broad Street, Apt. A12, Elizabeth, NJ, Alternate Member, replacing Ms. Russell, who was recently promoted.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from His Honor the Mayor, subject to your confirmation, is reappointing the following attorneys to serve as Public Defenders in the Elizabeth Municipal Court for the period of July 1, 2013 to June 30, 2014: Candido Rodriguez, Jr. and Diene Hernandez-Rodriguez, Esq., 442 Westfield Avenue, Elizabeth, NJ, Chanima K. Odoms, 1812 Front Street, Scotch Plains, NJ; Deirdre M. Mason, Esq., 1812 Front Street, Scotch Plains, NJ; Celeste Dudley-Smith, Esq, 2810 Morris Avenue, Suite 311, Union, NJ; Nuno Afonso, Esq., Jubilo L. Afonso, Esq., 546-548 Elizabeth Avenue, Elizabeth, NJ; Lindal Scott Foster, Esq., 1139 East Jersey Street, Suite 401, Elizabeth, NJ; Maria M. Dias, 701 Westfield Avenue, Elizabeth, NJ, and Lisa A. Perez, Esq., 550 Broad Street, Newark, NJ.
Which was received.

By the Clerk:

Letter dated June 25, 2013, from the Business Administrator requesting authorization for the proper City officials to execute an agreement with the Elizabeth Parking Authority for the rental of twenty-five (25) parking spaces in Lot No. 6 and three hundred (300) parking spaces in Lot No. 2 at a rate of $25.00 per parking space per month for a period of one (1) year effective July 1, 2013 through June 30, 2014;at a total cost of $8,125.00 per month or $97,500.00 for one year.
Which was received.

By the Clerk:

Letter dated June 25, 2013, from the Business Administrator recommending the award of a contract to American Hose & Hydraulics Company, 700 21st Avenue, Paterson, NJ, for the purchase of miscellaneous automotive and hydraulic truck parts and repairs for various departments for the period of June 24, 2013 through October 28, 2013 at a cost not to exceed $50,000.00.
Which was received.

By the Clerk:

Letter dated June 27, 2013, from the Business Administrator recommending the award of a contract with SHI International, 290 Davidson Avenue, Somerset, NJ, for the purchase of software, licensing and training which will encompass an automated system for permits, violations, inspection notices, Zoning Board applications, agendas, escrow and billing for the Bureaus of Construction and Zoning at a total cost of $24,531.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the renewal of the contract with International Healthcare Services, Inc., c/o Dimensional Management, 333 Earle Ovington Blvd, Suite 300, Uniondale, NY, for the continuation of the HMO dental coverage for City of Elizabeth employees for a period of three (3) years, commencing July 1, 2013 to June 30, 2016, at a cost not to exceed $245,000.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator requesting authorization for the proper City officials to execute a contract with Equifax Workforce Solutions, 1845 Borman Court, St. Louis, MO, for unemployment insurance cost control services for the period of June 30, 2013 to June 30, 2015, at a total cost of $7,520.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the award of a professional service contract to Dr. Michael R. Zaboski, 240 Williamson Street, Suite 204, Elizabeth, NJ, as the physician for the Elizabeth Police Department for the period of July 1, 2013 to June 30, 2014, at a fee not to exceed $20,000.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator requesting authorization for the proper City officials to execute a contract with Kean University, 1000 Morris Avenue, Union, NJ, for Data Processing and Telecommunications Technical Consulting Services for a one year period commencing July 1, 2013 to June 30, 2014, at a cost not to exceed $50,500.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the award of a contract to Horizon HealthCare Dental Services, 1427 Wyckoff Road, Farmingdale, NJ, to provide a Dental Insurance Program incorporating the City's Traditional Plan, Managed Dental Choice, and Total Care option for a two (2) year term in a total amount not to exceed $925,000.00 per year, or a total amount not to exceed $1,850,000.00 covering a two year period commencing July 1, 2013 to June 30, 2015.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator requesting authorization for the proper City officials to award a contract to William H. Malone, 45 Eisenhower Drive, Paramus, NJ, to provide insurance management consulting services for the period of July 1, 2013 to June 30, 2014, at a flat fee of $25,000.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator requesting authorization for the proper City officials to execute an Indemnification Agreement with the Elizabeth Board of Education covering the City's utilization of their facilities during the 2013-2014 Fiscal Year, commencing July 1, 2013 to June 30, 2014.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator requesting authorization for the proper City officials to award the policy of insurance to NY Marine & General Insurance Company/Midlands Management Corp., 3503 N.W. 63rd Street, Suite 305, Oklahoma City, OK, through the agent-of-record Sirocco Group, to obtain excess insurance on Worker's Compensation Coverage and excess General Liability insurance for the period of July 1, 2013 to June 30, 2014, at an annual premium of $218,753.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the award of a contract to Jet Vac, Inc., Box 222, Northville, MI, for parts and repairs for sweepers, to include but not limited to gutter brooms, main brooms and hydraulic motors for the Department of Public Works for the period of June 24, 2013 to October 28, 2013, at a cost not to exceed $50,000.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the award of a contract to Cherry Valley Tractor Sales, 35 Route 70 West, Marlton, NJ, for the purchase of parts and repairs for lawn and grounds equipment for the period of June 24, 2013 through June 28, 2014 at a cost not to exceed $100,000.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the award of a contract to Old Dominion Brush Company, 5118 Glen Alden Drive, Richmond, VA, for the purchase of parts and repairs for Road Maintenance Equipment for the period of June 24, 2013 through October 28, 2013, at a cost not to exceed $50,000.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the award of a contract to Storr Tractor Company, 3191 US Highway 22, Branchburg, NJ, for the purchase of parts and repairs for lawn and grounds equipment for various departments for the period of June 24, 2013 through June 28, 2014, at a cost not to exceed $100,000.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Business Administrator recommending the award of a contract to Garden State Highway Products, 1740 East Oak Road, Vineland, NJ, for Break-Away U-Post and Sign Supports, to include but not limited to materials for street signs, for the Department of Public Works for the period of June 24, 2013 through June 30, 2014, at a cost not to exceed $50,000.00.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Business Administrator recommending the award of a contract to Storr Tractor Company, 3191 Route 22, Branchburg, NJ, for the purchase of two (2) Leaf Mulching Kits for the Toro tractor in the amount of $1,501.76.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Business Administrator recommending the award of a contract to PSE&G, 472 Weston Canal Road, Somerset, NJ, for the installation of seventeen 14 foot tall Classic 1 Poles with fixtures to be installed at the O'Brien Playground in the amount of $52,695.83.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Business Administrator recommending the award of a contract to Gametime, c/o MRC, P.O. Box 106, Spring Lake, NJ, for the purchase of playground equipment for the O'Brien Playground renovation at a total cost of $79,252.48.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Business Administrator recommending the award of a contract to Modern Office Systems, LLC, 45 West 36th Street, 9th Floor, New York, NY, for the purchase of evidence lockers for the Police Department Property Room in the amount of $17,194.80.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Business Administrator requesting an amendment to the resolution adopted February 13, 2013, authorizing an award to Firefighter One, LLC, for the purchase of Masks, CBRNE Meters and Service Air Tanks for the Police Department in the amount of $100,000.00, not to exceed $250,000.00, specifically to increase the amount of the contract by $200,000.00 for additional equipment required.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Business Administrator requesting authorization for the proper City officials to participate in the United States Communities Government Purchasing Alliance, National Cooperative Pricing Program, 2999 Oak Road, Suite 710, Walnut Creek, CA, for the purchase of solar panels.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Business Administrator requesting authorization for Nubiluz Transport, LLC, (Nubiluz), 170 New Brunswick Avenue, Perth Amboy, NJ, to operate as an Autobus, pursuant to Chapter 5.16 of the Code of the City of Elizabeth.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Business Administrator recommending the award of a contract to Ricoh America's Corporation, 5 Dedrick Place, West Caldwell, NJ, for the maintenance of existing photocopiers for the period of July 1, 2013 through June 30, 2014, in an amount not to exceed $45,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Business Administrator requesting an amendment to the resolution adopted August 28, 2012, authorizing a contract with Concord Engineering to perform Energy Consulting Services for the period August 28, 2012 to August 27, 2013, at a cost not to exceed $100,000.00, specifically to extend the award of the contract to August 27, 2014.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the City Attorney recommending that the law firm of LaCorte, Bundy, Varady & Kinsella be reappointed to provide the defense of civil litigation in auto and general liability cases, as well as matters included in the City's self insurance program for the fiscal year July 1, 2013 to June 30, 2014 at a rate of $175.00 per hour for civil litigation in the trial and appellate courts; legal work required to defend against late notices of claim, motions, and for other miscellaneous matters shall be compensated at $75.00 per hour, together with reasonable expenses; subrogation claims to recover property damage losses shall be paid on the basis of 25% of the amount of recovery, plus reasonable expenses, not to exceed $450,000.00 except as specifically authorized by your Honorable Body.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the City Attorney recommending awarding contracts for legal representation in litigation for the period of July 1, 2013 to June 30, 2014 with an hourly rate of $175.00 and with a cap of $65,000.00 for each attorney when LaCorte, Bundy, Varady & Kinsella, Esqs. have conflicts of interest to the following attorneys: Edward J. Kologi, Michael S. Simitz, 923 North Wood Avenue, Linden, NJ; Robert F. Renaud, 190 North Avenue East, Cranford, NJ; Peter W. Spaeth, 2517 Highway 35, Building K, Suites 201 & 202, Manasquan, NJ; Guy P. Ryan, 16 Madison Avenue – Building 1, Toms River, NJ; Kraig M. Dowd, 365 Rifle Camp Road, Woodland Park, NJ; Alan C. Roth, 150 Morris Avenue, Suite 206,Springfield, NJ; Daniel Antonelli, 1000 Stuyvesant Avenue, Suite 1, Union, NJ; Janyce M. Wilson, 226 St. Paul Street, Westfield, NJ; Raymond S. Londa, 277 N. Broad Street, Elizabeth, NJ; Florio & Kenny, LLP, 5 Martin View Plaza, Suite 103, Hoboken, NJ.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the City Attorney recommending the renewal of contract with LaCorte, Bundy, Varady & Kinsella, 989 Bonnel Court, Union, NJ to provide legal services to the City in the defense of Workers' Compensation cases and matters included within the City's partial self- insurance program for the Fiscal Year July 1, 2013 to June 30, 2014 at a rate of $175.00 per hour for each hour for each petition which includes attendance at all hearings, negotiations trials, appeals, etc., plus reasonable expenses; a rate of 15% of recovery of liens involving third party actions, not to exceed $150,000.00, except as specifically authorized by your Honorable Body.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting City Council approve the 2012 SFY Corrective Action Plan, which covers all findings and recommendations in the 2012 SFY Annual Audit Report.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting that your Honorable Body consider the approval of a bond ordinance that would authorize the construction of a new Fire House for Engine Company #6, 472 Catherine Street, in the amount of $3,200,000.00, with the City authorizing obligations of $3,040,000.00, with a down payment of $160,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting that your Honorable Body consider the approval of a bond ordinance that would authorize the anticipated costs of engineering and construction for an Emergency Maintenance Contract for the Elizabeth River Flood Control Project in the amount of $7,500,000.00, with the City authorizing obligations of $7,125,000.00, with a down payment of $375,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting that your Honorable Body consider the introduction and approval of the 2013 Midtown Elizabeth Special Improvement District Budget.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer advising that transfers for the 2013 SFY Municipal and Sewer Utility Budgets may be necessary.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting authorization for the proper City officials to enter into a contract with Acacia Financial Group, Inc., Four Greentree Centre, 13000 Lincoln Drive West, Suite 206, Marlton, NJ, to provide financial advisory services to the City in connection with the City's issuance of municipal and sewer utility debt obligations, including bonds and bond anticipation notes and any other financial analysis deemed necessary, in an amount not to exceed $40,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting authorization for the proper City officials to enter into a contract with Powell Capital Markets, Inc., 280 Corporate Center, 3 Becker Farm Road, Roseland, NJ, to provide financial advisory services to the City in connection with the City's issuance of municipal and sewer utility debt obligations including bonds and bond anticipation notes and any other financial analysis deemed necessary, in an amount not to exceed $40,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting authorization for the proper City officials to enter into a contract with DeCotiis, FitzPatrick & Cole, LLP, Glenpointe Centre West, 500 Frank W. Burr Boulevard, Suite 31, Teaneck, NJ to provide bond counsel services to the City in connection with the City's issuance of debt obligations and to provide for the terms and security of such obligations in accordance with the laws of the State of New Jersey, in an amount not to exceed $60,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting authorization for the proper City officials to enter into a contract with Louis C. Mai, CPA & Associates, 6 Moonshadow Court, Kinnelon, NJ, to provide statutory audits of the General Funds, Sewer Utility Funds, Other Funds, the Single Audit and also for 5 year comparative statements, in an amount not to exceed $212,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting authorization for the proper City officials to enter into a contract with Blau & Blau, 55 Morris Avenue, Springfield, NJ, to be the primary legal representative of the City in all matters relating to tax appeals, including preparation for trials, discovery and motions, and the appearance at trials and other court appearances pertaining to tax appeals at the Union County Tax Board and New Jersey Tax Court and other venues, in an amount not to exceed $130,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting authorization for the proper City officials to enter into a contract with Stack, Coolahan & Stack, LLC, 90 Hudson Street, Hoboken, NJ, to provide appraisal and consulting services to the City,including testimony and attendance at conferences scheduled by the Court in connection with State Tax Court appeals, in an amount not to exceed $78,000.00.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer advising that the SFY 2014 Appropriations Act requires that your Honorable Body approve all payments related to accumulated/uncompensated absence benefits.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting to rescind Ordinance No. 4332, approving a payment in lieu of taxes financial agreement for a project by E'Port Family Homes Urban Renewal, LP, on the property located at 158-168 First Street; 200-206 Third Street, and 212-214 Third Street.
Which was received.

By the Clerk:

Letter dated July 2, 2013, from the Chief Financial Officer requesting to rescind the resolution approving a tax exemption for a project by E'Port Family Homes Urban Renewal, LP on the property located at 158-168 First Street; 200-206 Third Street and 212-214 Third Street.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Director of Health and Human Services requesting that your Honorable Body declare September 1, 2013 to September 30, 2013 Prostate Cancer Awareness Month in the City of Elizabeth.
Which was received.

[redacted]

[redacted]

By the Clerk:

Letter dated June 28, 2013, from the Director of Health and Human Services requesting authorization to enter into an agreement with Easter Seals, Senior Community Service Employment Program, for senior citizens who work at Office of Aging programs are compensated for their time by Easter Seals for the period of July 1, 2013 through June 30, 2014.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Director of Health and Human Services requesting authorization to increase the indigent burial stipend in the Health and Human Services budget from $550.00 to $1,000.00.
Which was received.

By the Clerk:

Letter dated June 26, 2013, from the Director of Planning and Community Development requesting authorization for the proper city officials to execute any and all documents necessary to discharge the City's second mortgage and cancellation of the affordability agreement on the property located at 178-180 Third Street in the amount of $29,203.00.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Director of Planning and Community Development requesting your Honorable Body consider supporting Magill Real Estate Holdings, LLC's application for funding in an amount not to exceed $1,050,000.00 or the maximum amount allowed to the NJ Department of Community Affairs, under the Neighborhood Enhancement Program, to acquire and rehabilitate an existing vacant mixed and non-conforming use structure located at 279 Second Street, into a six (6) unit 100% residential structure.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Director of Planning and Community Development requesting your Honorable Body consider supporting Magill Real Estate Holdings, LLC's application for funding in an amount not to exceed $1,350,000.00 or the maximum amount allowed to the NJ Department of Community Affairs under the Neighborhood Enhancement Program to demolish an existing vacant and dilapidated one (1) unit structure and construct a six (6) unit apartment building with nine (9) off street parking spaces located at 1175 Mary Street.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Director of Planning and Community Development requesting authorization for the proper City officials to execute any and all documents necessary and appropriate to postpone the Rental Housing Program second mortgage held by the City on the property located at 450-454 Grier Avenue in the amount of $800,000.00.
Which was received.

By the Clerk:

Letter dated June 17, 2013, from the Director of Public Works requesting authorization to have liens placed against properties listed on Schedule A attached hereto for the boarding up of said properties in the amount of $2,392.46.
Which was received.

[redacted]

[redacted]

By the Clerk:

Letter dated June 17, 2013, from the Director of Public Works requesting authorization to have liens placed against properties listed on Schedule A attached hereto for the removal and disposal of debris from said properties in the amount of $4,245.05.
Which was received.

By the Clerk:

Letter dated June 26, 2013, from the Director of Public Works requesting authorization to have a lien placed against the property listed on Schedule A for the replacement of the sidewalk in the amount of $1,008.77.
Which was received.

By the Clerk:

Letter dated June 26, 2013, from the Director of Public Works requesting Change Order No. 1 to the contract awarded to Supreme Conditioning Systems, Inc., for the preventive maintenance and emergency repair service for heating, air conditioning, and automatic temperature control systems at various Public buildings in the amount of $608,467.08, specifically to provide further for the additional repairs and maintenance at an additional cost of $33,195.25, raising the final contract price to $641,662.33.
Which was received.

By the Clerk:

Letter dated June 27, 2013, from the Director of Public Works recommending the award of a contract to Hatch Mott MacDonald, 27 Bleeker Street, Millburn, NJ, to provide civil engineering services in connection with the Elizabeth River Flood Control Project, Emergency Maintenance contract, Design Services at a cost not to exceed $1,130,000.00.
Which was received.

By the Clerk:

Letter dated June 27, 2013, from the Director of Public Works recommending the award of a contract to Hatch Mott MacDonald, 27 Bleeker Street, Millburn, NJ, to provide design and construction management services for the cleaning and CCTV inspection of the Western Interceptor at a cost not to exceed $105,000.00, plus reimbursables.
Which was received.

By the Clerk:

Letter dated June 28, 2013, from the Director of Public Works recommending the award of a contract to Black Rock Enterprises, LLC, 1316 Englishtown Road, Old Bridge, NJ, for the milling and resurfacing of Broad Street, North Broad Street and West Jersey Street, at a cost of $529,871.05.
Which was received.

By the Clerk:

Letter dated July 1, 2013, from the Director of Recreation requesting authorization for the proper City officials to apply, accept and sign all appropriate documents for the Union County Open Space, Recreation & Historic Preservation - Kids Recreation Trust Fund Grant; anticipated funding will allow the Department of Recreation to work with the Elizabeth Conservancy to construct an Environmental Education Center on Third Avenue and Doyle Street to include interpretive displays, a "green" reference library, multi-purpose room, green house and office space.
Which was received.

[redacted]

[redacted]

By the Clerk:

Letter dated June 25, 2013, from the Police Director requesting the deletion of handicapped parking spaces from in front of the premises located at: 601 Third Avenue, 648 Jefferson Avenue, 926 ½ South Street and 917 McLain Street.
Which was received.

By the Clerk:

Letter dated June 20, 2013, from the Elizabeth Latin Chamber of Commerce, in conjunction with Melly Mell Productions, Inc., requesting permission to conduct the 31st annual CARNAVAL ELIZABETH to be held on Labor Day Weekend, Sept. 1 to Sept 2, 2013 from 1 p.m. to 9 p.m. on Elizabeth Avenue from New Point Road to Fourth Street; music from stages will cease at 7 p.m., beer at 8 p.m. and vendors at 9 p.m.; rain date for August 31, 2013.
Which was received.

REPORTS OF CITY OFFICERS

By the Clerk:

Letter dated July 23, 2013, from the Finance Department submitting a list of all bills, claims and vouchers which have been paid as of the close of business on Friday, July 19, 2013.
Which was received.

ORDINANCES ON FIRST READING

Council President Gallman announced that the next business in order would be the introduction of **Ordinance No. 4398**, which was seconded by Councilman Gonzalez, entitled:

AN ORDINANCE TO RESCIND ORDINANCE NO. 4094, ADOPTED ON JANUARY 12, 2010, WHICH AUTHORIZED THE ESTABLISHMENT OF A PERSONALIZED HANDICAPPED PARKING SPACE JOSEPH CORTES CEDENO, 601 THIRD AVENUE, ELIZABETH, NEW JERSEY.

The Clerk read the foregoing ordinance.

The ordinance was then adopted on its first reading by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the introduction of **Ordinance No. 4399** , which was seconded by Councilman Gonzalez, entitled:

AN ORDINANCE TO RESCIND ORDINANCE NO. 3487, ADOPTED ON JANUARY 28, 2003, WHICH AUTHORIZED THE ESTABLISHMENT OF A PERSONALIZED HANDICAPPED PARKING SPACE FOR MERCEDES DELATE, 926 ½ SOUTH STREET,ELIZABETH, NEW JERSEY.

The Clerk read the foregoing ordinance.

The ordinance was then adopted on its first reading by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, ~~Torres~~, ~~Gonzalez~~, Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the introduction of **Ordinance No. 4400** , which was seconded by Councilman Gonzalez, entitled:

AN ORDINANCE TO RESCIND ORDINANCE NO. 3798, ADOPTED ON FEBRUARY 28, 2006, WHICH AUTHORIZED THE ESTABLISHMENT OF A PERSONALIZED HANDICAPPED PARKING SPACE FOR SANDRA M. MAYERS-ALLMOND, 917 MCLAIN STREET, ELIZABETH, NEW JERSEY.

The Clerk read the foregoing ordinance.

The ordinance was then adopted on its first reading by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, ~~Torres~~, ~~Gonzalez~~, Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the introduction of **Ordinance No. 4401** , which was seconded by Councilman Gonzalez, entitled:

AN ORDINANCE RESCINDING ORDINANCE NUMBER 4332 APPROVING A PAYMENT IN LIEU OF TAXES (PILOT) FINANCIAL AGREEMENT FOR A LONG TERM TAX EXEMPTION WITH E'PORT FAMILY HOMES URBAN RENEWAL, L.P. FOR CONSTRUCTION OF A SCATTERED SITE NEW CONSTRUCTION DEVELOPMENT LOCATED AT 158-168 FIRST STREET (BLOCK 2, LOTS 369, 371, 372 AND 112); 212-214 THIRD STREET (BLOCK 3, LOT 1023) AND 200-206 THIRD STREET (BLOCK 1, LOT 1026), ELIZABETH, NEW JERSEY

The Clerk read the foregoing ordinance.

The ordinance was then adopted on its first reading by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, ~~Torres~~, ~~Gonzalez~~, Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that public notice will be published fixing Tuesday, August 27, 2013 , at 7:30 p.m., City Council Chambers, City Hall, Elizabeth, N.J., as the time and place that City Council will conduct a public hearing and further consider the foregoing Ordinance Nos. 4398, 4399, 4400, and 4401, adopted on first reading.

ORDINANCES ON FINAL PASSAGE

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4387 (AS AMENDED)**, which was seconded by Councilman Gonzalez.

AN ORDINANCE TO AUTHORIZE THE CREATION OF A SPECIAL IMPROVEMENT DISTRICT IN THE CITY TO PROMOTE TOURISM AND TO DESIGNATE THE ELIZABETH DESTINATION MARKETING ORGANIZATION AS THE MANAGEMENT CORPORATION

WHEREAS, there exists a need and desire to increase and improve the marketing and development of the City of Elizabeth as a year round destination and to avail itself of and leverage its geographic location relative to Newark International Airport, New York City and the greater northeast region of the country; and

WHEREAS, Elizabeth has experienced some recent investments and development, such as The Outlet Collection | Jersey Gardens, that has had a measurable impact in attracting tourism; and

WHEREAS, the City Council of the City of Elizabeth has concluded there is a need to take affirmative and significant steps to continue such efforts and to further support the investments that have taken place so far through careful and considered marketing and development efforts and to facilitate supporting businesses and industries to capitalize and expand upon such improvements and that meeting the challenge of attracting tourism can best be met by the creation of a special improvement district and the designation of a district management corporation to manage the affairs of the district; and

WHEREAS, the hotel industry is a crucial aspect to such efforts to expand upon and improve the marketing and development of Elizabeth as a year-round destination in the region and the establishment of a funding mechanism and a program of self-help initiatives especially benefitting the hotel industry is expected to result in the promotion of the above goals for the overall betterment of the City of Elizabeth as well; and

WHEREAS, this ordinance is authorized by state statute under N.J.S.A. 40:56-65, et seq.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH as follows:

Section 1: Definitions.

a. "Management Corporation" means the "Elizabeth Destination Marketing Organization," as Trustee for the Special Improvement District, a non-profit entity of New Jersey, hereby designated by this Ordinance to receive funds collected by a special assessment within the District, as authorized by this Ordinance and any amendatory supplemental ordinances, and to maintain such funds in a separate account to be used exclusively for the District and solely in connection with and furtherance of the purposes of this Ordinance.

b. "Hotel" is an establishment that provides lodging and meals, and other services for travelers and other paying guests. It shall also include motels.

c. "Hotelier" means an owner or manager of a hotel or motel, or its designated representative.

d. "Special Improvement District" (sometimes referred to as the "District"), means the properties set forth in Schedule A of this Ordinance as the area in which a special assessment on the property set forth therein shall be imposed for the purposes of promoting the economic and general welfare of the District and the City of Elizabeth.

Section 2: **Findings.**

Pursuant to N.J.S.A. 40:56-65, et seq. (the "Act"), the City Council of the City of Elizabeth hereby determines the following:

a. That the enhancement of business and leisure tourism present are not fully tapped source of employment opportunities and tax revenues which can enhance the economic well-being of the City of Elizabeth and its residents.

b. That the hotel industry properties and businesses described by Lot and Block and street address as set forth in Schedule A of this Ordinance are an integral, vital economic and social component within the City of Elizabeth and that the creation of a special improvement district including and benefitting such properties and businesses will serve to enhance the safety, welfare and economic growth of the District and, consequently, the residents of the City of Elizabeth as a whole.

c. That through designation of a Management Corporation to provide administrative and other services, the hotel property and businesses owners and operators of the District, and residents and consumers, will benefit, and the City of Elizabeth will have added ability to promote tourism and economic growth and employment.

d. That all costs for the administration and management of the District should be funded by a license fee assessment imposed and collected by the City of Elizabeth on the hotel properties set forth in Schedule A who benefit from and facilitate tourism within the District and within the City of Elizabeth. Such levy shall be collected by the City of Elizabeth and shall be transferred to the Management Corporation to effectuate the purposes of this Ordinance and to exercise the powers granted to it pursuant to this Ordinance.

e. That it is in the best interests of the City of Elizabeth and the public to create a Special Improvement District and designate a Management Corporation to administer the District.

f. That the hotel industry and business community should be encouraged to provide self-help and self-financing programs to meet local and regional needs, goals and objectives through the designation of an independent Management Corporation.

Section 3. **Establishment of the District.**

a. Based upon the findings hereinabove set forth and the interests of the hotel business owners, merchants and property owners comprising the District, there is hereby established the Special Improvement District within the City of Elizabeth pursuant to the provisions of the Act.

b. The District shall consist of all hotel properties within the City of Elizabeth, which are identified by street address and by Lot and Block designation in Schedule A hereto. Included among such properties identified in Schedule A are properties that are currently under construction, which properties shall not be subject to license fee assessment until after obtaining a certificate of occupancy. Schedule A may be amended by Ordinance to add new hotel properties or to delete properties which have a change of use from hotel to other uses.

c. Nothing contained herein shall affect the operations and assessments in any of the existing Special Improvement Districts within the City of Elizabeth as of the date of this Ordinance.

d. Should a Hotel be built within the boundaries of any existing Special Improvement District, the special improvement assessments must first be paid in full to that existing District before any license fees may be deposited in the license fee assessment fund herein provided.

Section 4. **License Fee Assessments.**

a. All costs of improvements, maintenance and programs of the District, other than those costs of improvements and maintenance normally incurred by the City of Elizabeth out of general funds, shall be financed through a business license fee, pursuant to N.J.S.A. 40:56-85, determined by the Management Corporation and approved pursuant to N.J.S.A. 40:56-80. Hotel owners in the District shall pay a license fee assessment of one percent (1.0%) of the hotel room rate charged and actually paid. For example, if a hotel has 50 rooms and rents out 30 of those rooms at a rate of $100 per room, the hotel shall pay a license fee assessment of $30 for that day. However, hotels that are subject to payment of a Franchise Assessment, pursuant to N.J.S.A. 40:56-72 shall pay a license fee assessment of half of one percent (0.5%) of the hotel room rate charged and actually paid, so long as such hotel remains subject to the payment of the Franchise Assessment. The license fee assessment rate may only be changed by an ordinance of the City Council of the City of Elizabeth.

b. No license fee assessment shall be due based upon rates collected on stays in rooms from 91 days and thereafter for any rooms rented for a stay of greater than ninety (90) days, but there shall be license fee assessments due for the initial ninety (90) day period. No license fee assessment shall be charged based upon any room occupancy that was booked or reserved and paid for prior to the effective date of this Ordinance.

c. In view of the policy reflected in N.J.A.C. 18:24-3.6 whereby the New Jersey Department of Treasury in adopting such regulation, has recognized that the importance of certain industries to the economy of the State out-weighs the benefit that would flow from imposition of sales taxes on such business, if a business is exempt from hotel taxes pursuant to N.J.A.C. 18:24-3.6 then such businesses shall be exempt from the Special Improvement District assessment hereby imposed and participating hotels shall not be expected, nor required to collect Special Improvement District assessments from any business exempt from hotel taxes and the hotels shall not be required, nor responsible to pay over any monies based upon hotel stays by businesses that are exempt from the hotel tax pursuant to N.J.A.C. 18:24-3.6.

d. License fee assessments shall be collected by each hotel owner or operator as a regular additional "room charge" imposed upon such hotel owners and operators based upon actual room rentals. Hotel owners and operators shall pay all such license fee assessments in quarterly installments due with regular real property tax payments, which payments shall be received by the Tax Collector of the City of Elizabeth and paid over to the Management Corporation at the end of the month in which the license fee assessments are collected. The Tax Collector of the City of Elizabeth shall withhold from each payment an Administrative Fee of .0025% of the amount actually collected by the Tax Collector of the City of Elizabeth. All license fee assessment payments collected by the Tax Collector of the City of Elizabeth shall be placed and maintained in a special account that shall at all times be segregated from general municipal funds.

e. Unpaid license fee assessments shall become a lien against the underlying property and shall be collectible in the same manner as any other municipal property taxes and assessments as provided by the laws of the State of New Jersey.

f. Nothing herein shall affect any other taxes imposed under Chapter 3.40 "Hotel and Motel Room Occupancy Tax" and Chapter 3.41 "Hotel Use and Occupancy Tax" of the Code of the City of Elizabeth.

Section 5. **Designation of the Management Corporation.**

a. There shall be established and designated the Elizabeth Destination Marketing Organization ("Management Corporation") who shall serve as Trustee for the

District. As the Management Corporation shall maintain the fees received pursuant to this Ordinance in an account, and shall use such fees exclusively for the District and solely in connection with and furtherance of the purposes of this Ordinance.

b. There shall be established a Board of Directors to conduct the business of the Management Corporation which shall consist of Fifteen (15) Directors, which persons shall, in the first instance, be selected by the City Council of the City of Elizabeth. Thereafter, the Board of Directors shall be responsible for the appointment of future and replacement Board members consistent with this Ordinance. The representatives of the Board of Directors shall be comprised of the following groups:

(i) **Hotelier Representatives**. This group shall be comprised of eight (8) members, each of which shall be a Hotelier or the designee of a hotel or motel located within the City of Elizabeth.

(ii) **Non-Hotelier Representatives**. This group shall be comprised of seven (7) members and shall include:

(a) the Mayor or his designee,

(b) a member of Elizabeth City Council;

(c) a representative of The Outlet Collection | Jersey Gardens;

(d) a member of the Elizabeth Avenue Partnership;

(e) a member of the Historic Midtown Elizabeth Special Improvement District;

(f) a member of the Elizabeth Development Corporation; and

(g) a person who is an owner of a business located within the City of Elizabeth, or if the owner is a corporation or other legal entity, a representative of the corporation or legal entity;

c. The Board of Directors shall, upon appointment, assume the management of the District and shall adopt bylaws governing the procedures of the Board. The bylaws shall in no way augment the size or composition of the Board of Directors.

d. The Management Corporation shall have all powers necessary and requisite to effectuate the purposes of this Ordinance and the District. Such powers shall include, without limitation:

(i) Adoption of bylaws for the regulation of the affairs of Management Corporation and the conduct of its business and the prescribing of rules, regulations and policies in connection with the performance of its functions and duties, except that the bylaws shall in no way augment the size or composition of the Board of Directors.

(ii) Employment of such persons as may be required to carry out the business of Management Corporation and to fix and pay their compensation from funds available to the management entity.

(iii) Retention of legal counsel.

(iv) Apply for, accept, administer, and comply with requirements respecting an appropriation of funds or a gift, grant or donation of property or money.

(v) Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the Management Corporation, including contracts with any person, firm, corporation, government agency or other entity.

(vi) Administer and manage its own funds and accounts and payment of its own obligations.

(vii) Borrowing money from private lenders and from government entities.

(viii) Enforcing the conditions of any loan, grant, sale or lease made by the Management Corporation.

(ix) Undertaking improvements designed to increase the safety or attractiveness of the District.

(x) Publicizing and promoting the District and the businesses included within the District.

(xi) Taking any other actions that are necessary and proper to achieve the purposes of this Ordinance and that are otherwise permitted by law.

e. The Management Corporation shall utilize affirmative action goals and guidelines in its hiring and expenditures whenever possible. Pursuant to N.J.A.C. 17:27-5.2, the Management Corporation will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, nationality, gender identity or expression, disability or sex. The Management Corporation will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, nationality, gender identity or expression, disability or sex.

Section 6: **Fiscal Year, Annual Budgets; Reports.**

a. The Management Corporation shall operate on a calendar year basis, January 1 through December 31, inclusive.

b. Not later than December 1 of each year, the Management Corporation shall submit a detailed business plan and budget for the upcoming year, for approval by the City Council of the City of Elizabeth pursuant to N.J.S.A. 40:56-84. The budget shall be accompanied by a report explaining how the budget contributes to the goals and objectives for the District.

c. The budget shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the City Council of the City of Elizabeth.

d. The Management Corporation shall cause an annual audit of its books, accounts and financial sections to be made and filed with the City Council of the City of Elizabeth. Such audit shall be completed and delivered to the City Council of the City of Elizabeth within four months after the close of the fiscal year. A certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the State Department of Community Affairs within five days of the filing with the City of Elizabeth. The Management Corporation shall employ a certified public accountant licensed by and practicing within the State of New Jersey to perform the required audit.

e. The Management Corporation shall submit an annual report to the City Council of the City of Elizabeth pursuant to N.J.S.A. 40:56-80 within 30 days of the close of

the fiscal year. The report shall consist of a narrative covering the previous year's operation and detailed financial statements.

Section 7: Municipal Powers Retained.

Notwithstanding the creation of the Special Improvement District, the City of Elizabeth expressly reserves and retains all its police powers and other rights and powers related to the properties within the District.

Section 8: No Limitation of Power.

Nothing contained herein shall prevent the City Council of the City of Elizabeth at any time, subsequent to the adoption of this ordinance, by ordinance abandoning the operation of this Special Improvement District, changing the extent of the Special Improvement District, supplementing or amending the description of the District, changing or repealing any plan, rules, requisitions or limitations adopted for the operation of the District or rescinding the designation of or re-designating a Management Corporation.

Section 9: Severability.

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency only. Should any section, paragraph, clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

Section 10: Effective Date.

This Ordinance shall take effect upon final passage and publication according to law, but shall in no event take effect prior to August 1, 2013.

NOTE: The above referenced "attached Schedule A" is on file in the City Clerk's Office.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held **June 25, 2013.**

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **July 1, 2013.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta. Grova, ~~Torres, Gonzalez~~, Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4388**, which was seconded by Councilman Gonzalez:

AN ORDINANCE TO AMEND CHAPTER 13.16.120, 13.16.130 (B) (1), 13.16.130 (B) (2), 13.16.130 (B) (3) (a), 13.16.130 (B) (3) (b) 13.16.130 (B) (3) (c,), (C), AND H OF THE CODE OF ELIZABETH TO INCREASE THE SEWER RATES IN THE CITY OF ELIZABETH AND TO AUGMENT THE LANGUAGE THEREOF.

Councilman Grova then **MOVED** that the foregoing ordinance be **TABLED,** seconded by Councilman Cuesta and then CARRIED by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None.

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4392**, which was seconded by Councilman Gonzalez:

AN ORDINANCE AMENDING CHAPTER 17.52 OF THE CODE OF THE CITY OF ELIZABETH ENTITLED "FEES," SPECIFICALLY TO AMEND SECTION 17.52.040 TO CONFORM TO STATE STATUTE.

WHEREAS, it has come to the attention of the City Council that provisions of the Code of the City of Elizabeth Section 17.52.040 are inconsistent with N.J.S.A. 40:55D-12; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. That Section 17.52.040 of the Code of the City of Elizabeth entitled "List of adjoining property owners" be amended to read as follows:

The fee for a list of property owners to be notified of a public hearing shall be a sum not to exceed twenty-five cents ($0.25) per name, or ten dollars ($10.00), whichever is greater.

SECTION 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 3. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 4. The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held **June 25, 2013.**

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **July 1, 2013.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta. Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - X 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4393**, which was seconded by Councilman Gonzalez:

AN ORDINANCE TO AUTHORIZE THE RENEWAL AND EXECUTION OF A LEASE AGREEMENT FOR THE RENTAL OF SPACE AT 1018 EAST GRAND STREET, ELIZABETH, NEW JERSEY, FOR THE PERIOD OF JUNE 18, 2013 THROUGH JUNE 18, 2014, BY THE ELIZABETH NEW JERSEY CORPS OF THE SALVATION ARMY, A NEW YORK CORPORATION, 1005 EAST JERSEY STREET, ELIZABETH, NEW JERSEY, TO PROVIDE EMERGENCY SHELTER FOR HOMELESS INDIVIDUALS AT THE ANNUAL RENTAL FEE OF ONE DOLLAR ($1.00) PER YEAR.

BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. The lease agreement is hereby renewed and authorization for the proper City Officials to execute the necessary documents to renew the lease between the City of Elizabeth and the Elizabeth New Jersey Corps of the Salvation Army, a New York Corporation, for the rental of space at 1018 East Grand Street, Elizabeth, New Jersey to provide Emergency Shelter for Homeless Individuals for the period June 18, 2013 though June 18, 2014 at a rental fee of One-Dollar ($1.00) per year.

SECTION 2. All other provisions of the lease agreement shall remain the same as previously authorized by Ordinance.

SECTION 3 . All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 4 . If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 5 . The effective date of this Ordinance shall be twenty days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held **June 25, 2013.**

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **July 1, 2013.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta. Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4394**, which was seconded by Councilman Gonzalez:

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF CHAPTER 17.44 OF THE CODE OF THE CITY OF ELIZABETH ENTITLED, "FLOOD DAMAGE PREVENTION," SPECIFICALLY TO ADOPT NEW LANGUAGE CONTAINED IN THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION MODEL FLOOD DAMAGE PREVENTION ORDINANCE.

WHEREAS, by resolution dated April 24, 2013, the City Council of the City of Elizabeth authorized the Planning Board to Review the New Jersey Department of Environmental Projection's Model Flood Damage Prevention Ordinance to provide recommendations regarding adoption of the changes to Chapter 17.44 of The Code of the City of Elizabeth; and

WHEREAS, the Planning Board has recommended that changes to Chapter 17.44 of The Code of the City of Elizabeth be adopted; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. Section 17.44.010 of The Code of the City of Elizabeth entitled "Statutory authorization, findings of fact, purpose and objectives" is hereby amended to read as follows:

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1,et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry.

1.2 FINDINGS OF FACT

[1] The flood hazard areas of the City of Elizabeth are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

[1] Protect human life and health;

[2] Minimize expenditure of public money for costly flood control projects;

[3] Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

[4] Minimize prolonged business interruptions;

[5] Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;

[6] Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

[7] Ensure that potential buyers are notified that property is in an area of special flood hazard; and

[8] Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this chapter includes methods and provisions for:

[1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

[2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;

[3] Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

[4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,

[5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

SECTION 2. Section 17.44.020 of The Code of the City of Elizabeth entitled "Definitions" is hereby amended to read as follows:

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Advisory Base Flood Elevation (ABFE) —The elevation shown on a community's Advisory Flood Hazard Map that indicates the advisory stillwater elevation plus wave effect (ABFE = SWEL + wave effect) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Advisory Flood Hazard Area (AFHA) —The land in the floodplain within a community subject to flooding from the 1% annual chance event depicted on the Advisory Flood Hazard Map.

Advisory Flood Hazard Map - The official map on which the Federal Emergency Management Administration has delineated the areas of advisory flood hazards applicable to the community.

Appeal — A request for a review of the Construction Offical's interpretation of any provision of this chapter or a request for a variance.

Area of Shallow Flooding — A designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard — The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood — The flood having a one percent chance of being equaled or exceeded in any given year.

Basement — Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Coastal High Hazard Area — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Development — Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Digital Flood Insurance Rate Map (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Elevated Building — A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor or, in the case of a building in a Coastal High-Hazard Area, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the base flood elevation by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

Erosion — The process of the gradual wearing away of land masses.

Flood or Flooding — A general and temporary condition of partial or complete inundation of normally dry land areas from:

[1] The overflow of inland or tidal waters and/or

[2] The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

Floodplain Management Regulations — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination

storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

Recreational Vehicle — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand Dunes — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of Construction — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

[1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

[2] Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance — A grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodway — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure — Any structure that is:

[a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in States without approved programs.

Lowest Floor — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

Manufactured Home — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Primary Frontal Dune — A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal

SECTION 3. Section 17.44.030 of The Code of the City of Elizabeth entitled "General Provisions" is hereby amended to read as follows:

3.1 LANDS TO WHICH THIS CHAPTER APPLIES

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Elizabeth, Union County, New Jersey.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the City of Elizabeth, Community No. 345523, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

a) A scientific and engineering report "Flood Insurance Study, Union County, New Jersey (All Jurisdictions)" dated September 20, 2006.

b) Flood Insurance Rate Map for Union County, New Jersey (All Jurisdictions) as shown on Index and panel(s) 0014, 0015, 0022, 0023, 0024, 0025, 0026, 0034, 0035, 0036, 0037, whose effective date is September 20, 2006.

c) Advisory Base Flood Elevations and Advisory Flood Hazard Maps titled Elizabeth NE dated January 15, 2013; Elizabeth NW dated December 7, 2012; Elizabeth SE dated February 22, 2013; Elizabeth SW dated February 22, 2013; and Roselle SE dated December 7, 2012. These documents shall take precedence over previous panels and FIS in construction and development regulations only. Where the Special Flood Hazard Area (SFHA) and the Advisory Flood Hazard Area (AFHA) maps conflict or overlap, whichever imposes the more stringent requirement shall prevail.

The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study, maps and advisory documents are on file at City Hall, 50 Winfield Scott Plaza, Elizabeth, New Jersey 07201. Where there is a conflict between the more recent maps and previous studies or reports, the most recent map shall govern.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand two hundred fifty dollars ($1,250.00) or imprisoned for not more than ninety (90) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Elizabeth, from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this chapter, all provisions shall be:

[1] Considered as minimum requirements;

[2] Liberally construed in favor of the governing body; and,

[3] Deemed neither to limit nor repeal any other powers granted under State statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This chapters hall not create liability on the part of the City of Elizabeth, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

SECTION 4. Section 17.44.040 of The Code of the City of Elizabeth entitled "Administration" is hereby amended to read as follows:

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in SECTION 3.2. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

[1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

[2] Elevation in relation to mean sea level to which any structure has been floodproofed.

[3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in SECTION 5.2-2; and,

[4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Offical shall include, but not be limited to:

4.3-1 PERMIT REVIEW

[1] Review all development permits to determine that the permit requirements of this chapter have been satisfied.

[2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

[3] Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 5.3 [1] are met.

[4] Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.

[5] Review plans for walls to be used to enclose space below the base flood level in accordance with SECTION 5.4-2 [4].

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with SECTION 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer SECTIONS 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

[1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation (in relation to mean sea level); and

[ii] maintain the floodproofing certifications required in SECTION 4.1 [3].

[3] In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 5.4-2[1] and 5.4-2[2](i) and (ii) are met.

[4] Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 APPEAL BOARD

[1] The Zoning Board of Adjustment as established by the City of Elizabeth shall hear and decide appeals and requests for variances from the requirements of this chapter as per N.J.S.A. 40:55D-70.

[2] The Zoning Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this chapter as per N.J.S.A. 40:55D-70.

[3] Those aggrieved by the decision of the Zoning Board of Adjustment, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided by law.

[4] In passing upon such applications, the Zoning Board of Adjustment, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of SECTION 4.4-1 [4] and the purposes of this chapter, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

[6] The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

4.4-2 CONDITIONS FOR VARIANCES

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 4.4-1[4] have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in SECTION 4.4- 1[4], or conflict with existing local laws or ordinances.

[6] Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 5. Section 17.44.050 of The Code of the City of Elizabeth entitled "Provisions for flood hazard reductions" is hereby amended to read as follows:

5.1 GENERAL STANDARDS

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

5.1-1 ANCHORING

[1] All new construction to be placed or substantially improved and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 SUBDIVISION PROPOSALS

[1] All site plans, subdivision proposals, and other proposed new development shall be consistent with the need to minimize flood damage;

[2] All site plans, subdivision proposals, and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All site plans, subdivision proposals, and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in SECTION 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

[1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated at or above the base flood elevation or advisory base flood elevation whichever is more restrictive, plus one foot;

[2] Require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade one foot above the depth number specified in feet (at least three feet if no depth number is specified) or at or above the advisory base flood elevation plus one foot, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

5.2-2 NONRESIDENTIAL CONSTRUCTION

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall

have the lowest floor, including basement together with the attendant utilities and sanitary facilities:

EITHER

[1] Elevated to or above the base flood elevation or advisory base flood elevation whichever is more restrictive, plus one foot; and

[2] Require within any AO zone on the municipality's DFIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade one foot above the depth number specified in feet (at least three feet if no depth number is specified) or at or above the advisory base flood elevation plus one foot, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

OR

[3] Be floodproofed so that below the base flood level plus one foot, or advisory base flood elevation plus one foot, (whichever is more restrictive) the structure is watertight with walls substantially impermeable to the passage of water;

[4] Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

[5] Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 4.3-3 [2] [ii].

5.2-3 MANUFACTURED HOMES

[1] Manufactured homes shall be anchored in accordance with SECTION 5.1-1 [2].

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation or advisory base flood elevation, plus one foot (whichever is more restrictive).

5.3 FLOODWAYS

Located within areas of special flood hazard established in section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

[1] Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

[2] If section 5.3[1] is satisfied, all new construction and substantial improvements must comply with section 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.

[3] In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

5.4 COASTAL HIGH HAZARD AREA

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in SECTION 3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

5.4-1 LOCATION OF STRUCTURES

[1] All buildings or structures shall be located landward of the reach of the mean high tide.

[2] The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

5.4-2 CONSTRUCTION METHODS

[1] ELEVATION

All new construction and substantial improvements shall be elevated on piling or columns so that:

(i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation, advisory base flood elevation or as required by the Uniform Construction Code (N.J.A.C. 5:23), whichever is more restrictive,

and,

(ii) with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in SECTION 5.4-2 [4].

[2] STRUCTURAL SUPPORT

(i) All new construction and substantial improvements shall be securely anchored on piling or columns.

(ii) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(iii) There shall be no fill used for structural support.

[3] CERTIFICATION

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of SECTION 5.4-2 [1] and 5.4-2 [2] (i) and (ii).

[4] SPACE BELOW THE LOWEST FLOOR

(i) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this chapter shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.

(ii) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

(a) breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,

(b) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

(iii) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(iv) Prior to construction, plans for any breakaway wall must be submitted to the Building Sub-Code Official for approval.

5.4-3 SAND DUNES

Prohibit man-made alteration of sand dunes within Zones VE and V on the community's DFIRM which would increase potential flood damage.

SECTION 6. All ordinances and parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 7. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 8. The effective date of this ordinance shall be twenty (20) days after its final passage by the City Council and approval by the Mayor at the time and in the manner provided by law.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held **June 25, 2013.**

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **July 1, 2013.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta. Grova, [redacted], [redacted] Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4395**, which was seconded by Councilman Gonzalez:

AN ORDINANCE GRANTING AN ENCROACHMENT PERMIT TO GROUNDWATER & ENVIRONMENTAL SERVICES, 1340 CAMPUS PARKWAY, NEPTUNE, N.J., 07753, TO PERFORM ENVIRONMENTAL WORK CONSISTING OF ONE (1) GROUND-WATER MONITORING WELL WITHIN THE PUBLIC RIGHT-OF-WAY ON DENTON STREET CROSS FROM 654 SOUTH BROAD STREET.

WHEREAS, the Department Public Works, Division of Engineering, has reviewed the application for environmental work within the Right-of-Way of Denton Street. **Groundwater & Environmental Services** is performing environmental assessment activities related to the former gasoline service station at 669 South Broad Street that requires the installation of one (1) off-site groundwater monitoring well within the sidewalk on Denton Street across the street from the subject property; and

WHEREAS, Groundwater & Environmental Services, 1340 Campus Parkway, Neptune, N.J. 07753, has submitted all necessary documentation and the application is considered administratively complete with the exception of a two (2) year maintenance bond in the amount of $1,500.00. The bond and current insurance policy should be submitted one week in advance of the proposed work. An insurance policy will need to be provided yearly until the well is properly abandoned; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. - That an encroachment permit be granted to **Groundwater Environmental Services, 1340 Campus Parkway, Neptune, N.J. 07753,** to perform environmental work consisting of one (1) groundwater monitoring well within the public right-of-way along the north side of Denton street in the sidewalk across the street from the property in question as depicted on a plan entitled "Figure 2, Site Plan, Former Exxon Facility #30129" prepared by Kleinfelder, dated March 2009, which is on file in the Municipal Engineer's Office.

SECTION 2. – A copy of the plans and application package will be kept in the Division of Engineering files for reference along with the two (2) year maintenance bond and current insurance policy when received. The insurance policy submitted expires July 1, 2013.

SECTION 3. - The Permittee shall provide a liability insurance certificate in the aggregate amount determined by the City Engineer for property damage and personal injury naming the City of Elizabeth as an additional insured and giving the City a thirty (30) day notice of cancellation of policy. The Permittee shall also be responsible for all maintenance with regard to the encroachment.

SECTION 4. - All ordinances or parts of ordinance inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 5. - If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 6. - The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held **June 25, 2013.**

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **July 1, 2013.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta. Grova, [redacted], [redacted] Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4396**, which was seconded by Councilman Gonzalez:

AN ORDINANCE GRANTING AN ENCROACHMENT PERMIT TO KLEINFELDER OF 3 AAA DRIVE , FIRST FLOOR, HAMILTON, NJ 08691, TO PERFORM ENVIRONMENTAL WORK CONSISTING OF TWO (2) TEMPORARY MONITORING POINTS IDENTIFIED AS TP-3 AND TP-4 WITHIN THE PUBLIC RIGHT-OF-WAY OF 400 ELIZAETH AVENUE, ELIZABETH, NJ.

WHEREAS, the Department Public Works, Division of Engineering, has reviewed the application for environmental work within the Right-of-Way of Elizabeth Avenue. **Kleinfelder** is performing environmental assessment activities related to the former gasoline service station at 460 Elizabeth Avenue that requires the installation of two (2) off-site temporary monitoring points identified as TP-3 and TP-4 within the sidewalk of Elizabeth Avenue in front of the property; and

WHEREAS, Kleinfelder of 3 AAA Drive, First Floor, Hamilton, NJ 08691, has submitted most necessary documentation, however, an endorsement to the General Liability Policy must be provided before this application can be considered administratively complete. A two (2) year maintenance bond in the amount of $3,000.00 and current endorsed insurance policy should be submitted one week in advance of the proposed work. An insurance policy will need to be provided yearly until the monitoring points are properly abandoned; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. - That an encroachment permit be granted to **Kleinfelder of 3 AAA Drive, First Floor, Hamilton, NJ 08691,** to perform environmental work consisting of two (2) temporary monitoring pointes identified as TP-3 and TP-4 within the right-of-way along the west side of Elizabeth Avenue in the sidewalk in front of the property as depicted on a plan entitled "Proposed Remedial Activities, Former Exxon Facility #36177 prepared by Kleinfelder, dated April 2013, which is on file in the Municipal Engineer's Office.

SECTION 2. – the plans and application package will be kept in the Division of Engineering files for reference along with the two (2) year maintenance bond and current insurance policy when received. The insurance policy submitted expires April 1, 2014.

SECTION 3. - The Permittee shall provide a liability insurance certificate in the aggregate amount determined by the City Engineer for property damage and personal injury naming the City of Elizabeth as an additional insured and giving the City a thirty (30) day notice of cancellation of policy. The Permittee shall also be responsible for all maintenance with regard to the encroachment.

SECTION 4. - All ordinances or parts of ordinance inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 5. - If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 6. - The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held **June 25, 2013.**

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **July 1, 2013.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta. Grova, [redacted] Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

Council President Gallman announced that the next business in order would be the adoption of **Ordinance No. 4397**, which was seconded by Councilman Gonzalez:

AN ORDINANCE GRANTING AN ENCROACHMENT PERMIT TO TYREE ENVIRONMENTAL CORPORATION, 3000 MIDLANTIC DRIVE, MOUNT LAUREL, NJ 08054, TO PERFORM ENVIRONMENTAL WORK CONSISTING OF ONE (1) GROUNDWATER MONITORING WELL IDENTIFIED AS PMW-10 WITHIN THE PUBLIC RIGHT-OF-WAY ALONG EAST JERSEY STREET IN THE SIDEWALK WEST OF WINFIELD SCOTT PLAZA.

WHEREAS, the Department Public Works, Division of Engineering, has reviewed the application for environmental work within the Right-of-Way of East Jersey Street. **Tyree Environment Corp.** is performing environmental assessment activities related to the former gasoline service station at 1101 East Jersey Street that requires the installation of one (1) off-site groundwater monitoring well identified as PMW-10 within the sidewalk on the opposite side of East Jersey Street from the property; and

WHEREAS, Tyree Environment Corp, 3000 Midlantic Drive, Suite 105, Mount Laurel, NJ 08054, has submitted all necessary documentation and the application is considered administratively complete. The attached encroachment Permit shall be submitted to the Division of Engineering for approval accompanied by a two (2) year maintenance bond in the amount of $1,500.00 and current insurance policy in compliance with City requirements. An insurance policy will need to be provided yearly until the well is properly abandoned; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. - That an encroachment permit be granted to **Tyree Environment Corp., 3000 Midlantic Drive, Suite 105, Mount Laurel, NJ 08050,** to perform environmental work consisting of one (1) groundwater monitoring well identified as PMW-10 within the Right-of-Way along the southern side of East Jersey Street in the sidewalk approximately 10 feet to the west of Winfield Scott Plaza as depicted on a plan entitled "Proposed Monitoring Well Location Map, Getty Service Station #56075" prepared by Tyree Environmental Corp. dated March 14, 2013 and which is on file in the Municipal Engineer's Office.

SECTION 2. – The plans and application package will be kept in the Division of Engineering files for reference along with the approved Encroachment Permit, two (2) year maintenance bond and current insurance policies as received. The insurance policy submitted expires January 31, 2014.

SECTION 3. - The Permittee shall provide a liability insurance certificate in the aggregate amount determined by the City Engineer for property damage and personal injury naming the City of Elizabeth as an additional insured and giving the City a thirty (30) day notice of cancellation of policy. The Permittee shall also be responsible for all maintenance with regard to the encroachment.

SECTION 4. - All ordinances or parts of ordinance inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 5. - If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 6. - The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held **June 25, 2013.**

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **July 1, 2013.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta. Grova, [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

Councilman Keenan **MOVED** for a Suspension of the Rules to consider an ordinance and resolutions which did not appear on the Agenda, seconded by Councilman Grova and

Which was carried unanimously.

Council President Gallman announced that the next business in order would be the introduction of **Ordinance No. 4402** , which was seconded by Councilman Gonzalez, entitled:

AN ORDINANCE APPROVING A PAYMENT IN LIEU OF TAXES (PILOT) FINANCIAL AGREEMENT FOR A LONG TERM TAX EXEMPTION WITH E'PORT FAMILY HOMES URBAN RENEWAL, L.P. FOR A NEW CONSTRUCTION DEVELOPMENT LOCATED AT 158-168 FIRST STREET (BLOCK 2, LOTS 369, 371, 372) AND 106 COURT STREET (BLOCK 2, LOT 112) ELIZABETH, NEW JERSEY

The Clerk read the foregoing ordinance.

The ordinance was then adopted on its first reading by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, ~~Torres~~, ~~Gonzalez~~, Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Director of the Department of Health and Human Services has requested authorization for the proper City officials to make application and execute all appropriate documents and accept grant funds awarded for the continuation of the Housing Opportunities for People with Aids (H.O.P.WA.) Program for the calendar year January 1, 2014 to December 31, 2014; now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth authorizes the proper City officials to make application and execute all appropriate documents and accept grant funds awarded for the continuation of the Housing Opportunities for People with Aids (H.O.P.WA.) Program for the calendar year January 1, 2014 to December 31, 2014.

Which was adopted by the following vote:

AFFIRMATIVE:	Perkins-Auguste, Cuesta, Grova, [redacted], [redacted] Keenan, Cedeno, Mazza, and President Gallman - 7
NEGATIVE:	None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Director of the Department of Planning and Community Development has requested that your Honorable Body to support 313-315 Second Street Project's application for funding to the NJ Department of Community Affairs (NJDCA) under the Neighborhood Enhancement Program (NEP) for the project located at 313-315 Second Street Project. This request is made in order to comply with the NEP program application process; and

WHEREAS, the developer, **MAR Acquisition Group, LLC,** is seeking funding from NJDCA in an amount not to exceed $975,000.00 or the maximum amount allowed in accordance with the NEP guidelines; and

WHEREAS, the principals of **MAR Acquisition Group, LLC** are as follows:

Name	Address	Ownership
Ralph Salermo	22 Indian Rock Rd. Warren, NJ 07059	51%
Mario Santagata	20 Fishel Rd. Edison, NJ 08820	49%

WHEREAS, these funds, if approved shall be used to convert an existing vacant mixed-use structure containing two (2) residential units into a 100% residential structure containing six (6) residential units. Each unit will have two bedrooms. The total project cost is anticipated to be $1,252,000.00. The resulting units will benefit tenants earning 50% to 80% of area median income.

WHEREAS, this project is consistent with the City's Consolidated Plan, which outlines the City of Elizabeth's housing related needs; now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth supports the application of **MAR Acquisition Group, LLC,** seeking funding from NJDCA in an amount not to exceed $975,000.00 or the maximum amount allowed in accordance with the NEP guidelines to convert an existing vacant mixed-use structure containing two (2) residential units into a 100% residential structure containing six (6) residential units. Each unit will have two bedrooms. The total project cost is anticipated to be $1,252,000.00. The resulting units will benefit tenants earning 50% to 80% of area median income.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Director of the Department of Planning and Community Development has requested that your Honorable Body support **82 First Street, Elizabeth Housing, LLC,'s** application for funding to the NJ Department of Community Affairs (NJDCA) under the Neighborhood Enhancement Program (NEP) for the project located at 82 First Street. This request is made in order to comply with the NEP program application process; and

WHEREAS, the developer, **82 First Street, Elizabeth Housing, LLC, (an entity related to MAR Acquisition Group, LLC, and owned by the principals of same),** is seeking funding from NJDCA in an amount not to exceed $1,000,000.00 or the maximum amount allowed in accordance with the NEP guidelines; and

WHEREAS, the principals of **82 First Street, Elizabeth, Housing, LLC** are as follows:

Name	Address	Ownership
Ralph Salermo	22 Indian Rock Rd. Warren, NJ 07059	51%
Mario Santagata	20 Fishel Rd. Edison, NJ 08820	49%

WHEREAS, these funds, if approved shall be used to demolish an existing vacant three (3) unit apartment building and construct a new six (6) unit apartment building. The total project cost is anticipated to be $1,132,661.00. The resulting units will benefit tenants earning 50% to 80% of area median income; and

WHEREAS, this project is consistent with the City's Consolidated Plan, which outlines the City of Elizabeth's housing related needs; now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth supports the application of **82 First Street, Elizabeth Housing, LLC, (an entity related to MAR Acquisition Group, LLC,** seeking funding from NJDCA in an amount not to exceed $1,000,000.00 or the maximum amount allowed in accordance with the NEP guidelines. to demolish an existing vacant three (3) unit apartment building and construct a new six (6) unit apartment building. The total project cost is anticipated to be $1,132,661.00. The resulting units will benefit tenants earning 50% to 80% of area median income.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

The regular order of business was then resumed.

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Mayor has appointed, Candido Rodriquez, Jr., Esq. and Diene Hernandez-Rodriguez, Esq., of the firm of Candido Rodriguez, Jr., Diene Hernandez-Rodriguez, LLC, Attorneys at Law, 442 Westfield Avenue, First Floor, Elizabeth, New Jersey 07208; and Chanima K. Odoms, Esq., 1812 Front Street, Scotch Plains, New Jersey 07076; and Deirdre M. Mason, Esq., The Mason Law Firm, 1812 Front Street, Scotch Plains, New Jersey 07076; Celeste Dudley-Smith, Esq., The Dudley-Smith Law Firm, LLC, 2810 Morris Avenue, Suite 311, Union, New Jersey 07083; and Nuno Afonso, Esq., and Jubilo L. Afonso, Esq., of Afonso & Afonso, LLC, 546-548 Elizabeth Avenue, First Floor, Elizabeth, New Jersey 07206; and Lindal Scott Foster, Esq., of Scott Foster, LLC, 1139 East Jersey Street, Suite 401, Elizabeth, New Jersey 07201; Maria M. Dias, Attorney at Law, 701 Westfield Avenue, Elizabeth, New Jersey 07208; and Lisa M. Perez, Esq., Cottrell Solensky & Semple, 550 Broad Street, Newark, NJ 07201-4599 to serve as Municipal Public Defenders for the Municipal Court for the period covering July 1, 2013 to June 30, 2014 at a rate of $300.00 per session, and Candido Rodriguez, Jr., is designated as the Chief Municipal Public Defender and will receive a stipend of $5,000.00 a year for serving as same, for a total amount not to exceed $140,000.00; and

WHEREAS, these appointments/contracts are being made pursuant to a fair and open procedure pursuant to **N.J.S.A**. 19:44A-20.5, et seq.; and

WHEREAS, the above appointments were made by the Mayor subject to the confirmation, advise and consent of the City Council; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; now, therefore, be it ,

RESOLVED that City Council of the City of Elizabeth hereby confirms, advises and consents to the appointed Candido Rodriquez, Jr. Esq. and Diene Hernandez-Rodriguez, Esq., of the firm of Candido Rodriguez, Jr., Diene Hernandez-Rodriguez, LLC, Attorneys at Law, 442 Westfield Avenue, First Floor, Elizabeth, New Jersey 07208; and Chanima K. Odoms, Esq., 1812 Front Street, Scotch Plains, New Jersey 07076; and Deirdre M. Mason, Esq., The Mason Law Firm, 1812 Front Street, Scotch Plains, New Jersey 07076; Celeste Dudley-Smith, Esq., The Dudley-Smith Law Firm, LLC, 2810 Morris Avenue, Suite 311, Union, New Jersey 07083; and Nuno Afonso, Esq., and Jubilo L. Afonso, Esq., of Afonso & Afonso, LLC, 546-548 Elizabeth Avenue, First Floor, Elizabeth, New Jersey 07206; Lindal Scott Foster, Esq., of Scott Foster, LLC, 1139 East Jersey Street, Suite 401, Elizabeth, New Jersey 07201; Maria M. Dias, Attorney at Law, 701 Westfield Avenue, Elizabeth, New Jersey 07208; and Lisa M. Perez, Esq., Cottrell Solensky & Semple, 550 Broad Street, Newark, NJ 07201-4599 to serve as Municipal Public Defenders for the Municipal Court for the period covering July 1, 2013 to June 30, 2014 at a rate of $300.00 per session, and Candido Rodriguez, Jr., is designated as the Chief Municipal Public Defender and will receive a stipend of $5,000.00 a year for serving as same, for a total amount not to exceed $140,000.00.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted] Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

MIDTOWN ELIZABETH SPECIAL IMPROVEMENT DISTRICT BUDGET NOTICE

Midtown Elizabeth Special Improvement District of the City of Elizabeth, County of Union, for the calendar year 2013.

BE IT RESOLVED that the following statements of revenue and appropriations shall constitute the Midtown Elizabeth Special Improvement District Budget for the calendar year 2013.

BE IT FURTHER RESOLVED that said Budget be published in The Star-Ledger in the issue of August 16, 2013.

NOW THEREFORE, BE IT RESOLVED that the governing body of the City of Elizabeth does hereby approve the following as the Midtown Elizabeth Special Improvement District Budget for 2013.

~~YES~~ ~~NAYS:~~

~~Recorded vote:~~

Notice is hereby given that the Midtown Elizabeth Special Improvement District Budget was approved by the City Council of the City of Elizabeth, County of Union, on July 23, 2013

A hearing on said budget will be held at Elizabeth City Hall on August 27, 2013, at 7:30 P.M. at which time and place objections to said Budget for the year 2013 may be presented by Midtown Elizabeth Special Improvement District taxpayers or other interested persons.

REVENUES	
Surplus Anticipated	$0.00
UEZ Funds	$57,059.00
Miscellaneous	$15,000.00
Amount to be Raised by Special Improvement District	$200,000.00
Total Revenues	$272,059.00

APPROPRIATIONS	
Promotions & Marketing	$16,100.00
Safe and Clean	$28,009.00
Administration & Operations	$227,950.00
Total Appropriations	$272,059.00

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted] Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

55

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Chief Financial Officer has prepared a Corrective Action Plan for the 2012 State Fiscal Year (2012 SFY) that covers all findings and recommendations in the 2012 SFY Audit Report including state, federal, and general findings, as well as the status of all prior year findings and recommendations in accordance with the Single Audit Act, United States Office of Management and Budget Circular A-133, New Jersey Office of Management and Budget Circular Letter #04-04, Local Finance Notice #92-15, and Division of Local Government Services Regulations; and

WHEREAS, the Governing Body must accept and approve the 2012 SFY Corrective Action Plan within 60 days (8/5/13) from the date the 2012 SFY Audit Report was received (6/5/13) by said Governing Body and that the Chief Financial Officer shall submit said Plan to the Division of Local Government Services; now, therefore, be it

RESOLVED by City Council of the City of Elizabeth, that the 2012 SFY Corrective Action Plan is hereby accepted and approved; and be it

FURTHER RESOLVED, that the Chief Financial Officer shall submit the 2012 SFY Corrective Action Plan to the Division of Local Services by August 5, 2013, which is 60 days from the date the 2012 SFY Audit Report was received by the Governing Body.

NOTE: 2012 SFY CORRECTIVE ACTION PLAN on file in the City Clerk's Office

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Division of Local Government Services in compliance with the Appropriations Act (P.L. 2011, c.85) requires that the Honorable City Council approve all payments related to accumulated/uncompensated absence benefits; and

WHEREAS, at July 1, 2013, the following employee's are entitled to the payment of accumulated/uncompensated absence benefits;

Marie I. Pinheiro	$17,278.60
Frank Osnato	$14,096.71
Robert Inderwies	$35,908.58

; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elizabeth hereby approves the payments for accumulated/uncompensated absence benefits to the following employee's;

Marie I. Pinheiro	$17,278.60
Frank Osnato	$14,096.71
Robert Inderwies	$35,908.58

; and

FURTHER RESOLVED, that a certified copy of this resolution be recorded in full upon the minutes of City Council.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted]s, [redacted], Keenan, Cedeno, Mazza, and President Gallman - X 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator has recommended that the City of Elizabeth enter into an agreement with the Elizabeth Parking Authority for the rental of 25 parking spaces in Lot No. 6 and the rental of 300 parking spaces in Lot No. 2, for a one (1) year period effective July 1, 2013 through June 30, 2014, at a rate of $25.00 per parking space per month, for the monthly cost of $8,125.00, and at a total annual cost of $97,500.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available and appropriated for this purpose and Certification No. 14-00408 charging the amount of $97,500.00 to Account No. 4-01-30-411-002-000 of the Municipal Budget is on file in the Office of the City Clerk; and

WHEREAS, this contract is awarded without competitive bidding since it is excepted under the provisions of **N.J.S.A**. 40A:11-5 (2) in that it is to be entered into with a subdivision of the City of Elizabeth; now, therefore, be it

RESOLVED by City Council of the City of Elizabeth that the proper City officials are hereby authorized to execute an agreement with the Elizabeth Parking Authority for the rental of 25 parking spaces in Lot No. 6 and 300 parking spaces in Lot No. 2 for a period of one (1) year effective July 1, 2013 through June 30, 2014 at a rate of $25.00 per parking space per month, for the monthly cost of $8,125.00, and at a total annual cost of $97,500.00.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator and the Purchasing Agent have recommended per the request of the Director of the Department of Public Works the award of a contract to **American Hose & Hydraulics Co., 700 21st Ave., Paterson, NJ 07513,** for the purchase of miscellaneous automotive and hydraulic truck parts and for repairs for various departments for the period of June 24, 2013 through October 28, 2013 at a cost not to exceed $50,000.00 under their State Contract #69730; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract #69730 requiring approval by this Governing Body in accordance with the provisions of **N.J.A.C.**5:34-1.2; now, therefore, be it,

RESOLVED that City Council of the City of Elizabeth hereby awards a contract to **American Hose & Hydraulics Co., 700 21st Ave., Paterson, NJ 07513,** for the purchase of miscellaneous automotive and hydraulic truck parts and for repairs for various departments for the period of June 24, 2013 through October 28, 2013 at a cost not to exceed $50,000.00 under their State Contract #69730.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

BY CITY COUNCIL AS WHOLE:

WHEREAS, the Bureaus of Construction and Zoning are looking to implement software that will encompass an automated system of permits, violations, inspection notices, Zoning applications, agendas escrow and billing; and

WHEREAS, the Business Administrator and the Purchasing Agent have recommended the award of a contract to **SHI International, 290 Davidson Avenue, Somerset, NJ 08873,** for the purchase of software, licensing and training for the Bureaus of Construction and Zoning at a total cost of $24,531.00 under State Contract #77560; and

WHEREAS, the State Contract requires that the proper City Officials sign a Third Party Agreement with the software provider, SHI, and the software publisher, Mitchell Humphrey, as well as a Participating Addendum; which is a part of the Third Party Agreement; and

WHEREAS, in addition to these documents, the State Contract permits, and the software publisher requires, the signature of a Licensing Agreement and a Service Level Agreement, as long as these agreements do not conflict with the terms and conditions of the contract set by the State of New Jersey. All copies of the contract have been reviewed and are in compliance with the State's terms and conditions; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available and appropriated for this purpose and Certification No. 13-08140, charging the amount of $14,484.00 to Account No. 3-01-22-195-CON-325, Certification No. 13-08137, charging the amount of $10,047.00 to Account No. 3-01-20-170-PZO-325 of the Municipal Budget is on file in the Office of the City Clerk; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract No. 77560 requiring approval by this Governing Body in accordance with the provisions of **N.J.A.C.**5:34-1.2; now, therefore, be it,

RESOLVED that City Council of the City of Elizabeth hereby awards a contract to **SHI International, 290 Davidson Avenue, Somerset, NJ 08873,** for the purchase of software, licensing and training for the Bureaus of Construction and Zoning at a total cost of $24,531.00 under State Contract #77560.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, ~~Torres~~, ~~Gonzalez~~, Keenan, Cedeno, Mazza, and President Gallman - ~~8~~ 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, there exists a need to provide a HMO Dental Insurance Program to provide coverage without limit and deductible for employees of the City of Elizabeth; and

WHEREAS, the Business Administrator has requested authorization to award a contract for the HMO Dental Insurance Program option awarded to **International Healthcare Services, Inc., c/o Dimensional Management, 333 Earle Ovington Blvd., Suite 300, Uniondale, NY 11553,** for a period of three (3) years commencing July 1, 2013 to June 30, 2016 in an amount not to exceed $245,000.00; and

WHEREAS, there has been an increase in rates over the previous contract year as noted in the comparison below:

Monthly Charge	Present Rate	New Renewal Rate
Super Composite	$64.26	$66.12
COBRA		
Single	$26.16	$26.94
Family	$77.96	$80.30

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available and appropriated for the first year of the contract and Certification No. 14-00002, charging the amount of $65,000.00 to Account No. 4-01-23-733-C02, of the Municipal Budget is on file in the Office of the City Clerk; and

WHEREAS, the Chief Financial Officer will issue a Certificate of Availability of Funds for the second and third year of the contract prior to commencement thereof and the second and third year of the contract is explicitly conditioned upon the issuance of same by the Chief Financial Officer; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Extraordinary, Unspecifiable Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, insurance companies are exempt from the provisions of Chapter 2.92.of the code of the City of Elizabeth; and

WHEREAS, quotations were not solicited for this contract because it was determined that International Health Care Servcies was the most qualified firm and is presently providing HMO dental services to the City of Elizabeth; and

WHEREAS, the Business Administrator has certified that this meets the statute and regulations governing the award of said contract; now, therefore, be it

RESOLVED by City Council of the City of Elizabeth, New Jersey as follows:

1. The Mayor and the Municipal Clerk are hereby authorized and directed to execute an agreement with **International Healthcare Services, Inc., c/o Dimensional Management, 1030 St. George Avenue, Avenel, New Jersey 07011,** for a period of three (3) years July 1, 2013 through June 30, 2016 in an amount not to exceed $245,000.00 subject to the condition setforth hereinabove.

2. Quotations were not solicited for this contract because it was determined that the above company was the most qualified firm and is presently providing dental services in the City of Elizabeth. The recommendation to award the contract to International Healthcare Services, Inc., c/o Dimensional Management.

3. Insurance is specialized in nature inasmuch as the companies issuing same are limited in number and must be approved by the State of New Jersey, through the Department of Insurance Banking, in order to qualify to do business within this State. **N.J.S.A**. 40A:11-5(1)(m) exempts the purchasing of insurance coverage for advertising for bids and bidding, which exception shall be in accordance with the requirements therefore.

4. This cannot be described by written specifications because of the special nature of the services as described in Paragraph three (3).

5. A notice of this action shall be published in **The Star Ledger.**

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, there exists a need for the services of a physician for the Elizabeth Police Department; and

WHEREAS, the Business Administrator and the Police Director have recommended that a contract be awarded to **Dr. Michael R. Zaboski, 240 Williamson Street, Suite 204, Elizabeth, New Jersey 07207,** to provide the professional services of a physician for the Elizabeth Police Department for a period of one year commencing July 1, 2013 through June 30, 2014 at a cost not to exceed $20,000.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available and appropriated for this purpose and Certification No. 14-00405 charging the amount of $20,000.00 to Account No. 4-01-25-240-POL-302, of the Municipal Budget is on file in the Office of the City Clerk; and

WHEREAS, the Local Public Contracts Law **N.J.S.A**. 40A:11-5(1)(a) et seq. requires that the resolution authorizing the award of contracts for "Professional Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, pursuant to **N.J.S.A.** 19:44A-20.5 et seq., this contract is being awarded under a fair and open procedure; and

WHEREAS, the services are being performed by a physician operating under Medical License MA 55077 of the State of New Jersey; now, therefore, be it

RESOLVED by City Council of Elizabeth as follows:

1. The Mayor and the City Clerk are hereby authorized and directed to execute a contract with **Dr. Michael R. Zaboski, 240 Williamson Street, Suite 204, Elizabeth, New Jersey 07207,** to provide the professional services of a physician for the Elizabeth Police Department for a period of one year commencing July 1, 2013 through June 30, 2014 at a cost not to exceed $20,000.00.

2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with **N.J.S.A.** 40A:11-5(1) (a) of the Local Public Contracts Law because these services are being performed by a physician operating under Medical License MA55077 State of New Jersey.

3. Also, the performance of these services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training.

4. A notice of this action shall be printed once in **The Star Ledger**.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - # 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator has requested authorization to execute a contract with **Kean University, 1000 Morris Avenue, Union, New Jersey 07083,** for computer consulting services for a one year period commencing on July 1, 2013 to June 30, 2014 at a cost not to exceed $50,500.00; and

WHEREAS, Kean University will provide the following data processing and telecommunication technical service:

1. Design and integration of the complete implementation of the Geographic Information System; design and implementation of a fully integrated public safety (EPIC) human resources/payroll system; completing design interfaces of the financial system; preliminary design of a payroll system; implementing the design of an emergency response system; and design specifications for tax collection and related assessment systems.

2. Office automation needs assessment and program implementation for all Departments. Support for standard applications in word processing spreadsheet and database management.

3. Designing new information subsystems as needed, redesign of existing systems, operation system, and major application upgrade and training of DP staff to implement new designs and maintain the state-of-the-art concurrency of all subsystems. Technical assistance in developing system procedures and application and training documentation for better utilization of system resources. Design on special management reports and reconfigurations as may be needed to reorganize and realignment.

4. Development of hardware, software, telecommunication and system specification, generating bid specifications on above and maintenance contract and review of bid specification for acquisition of upgrades and additional data processing equipment and providing recommendations.

5. Technical assistance in designing networking and telecommunication for data transmission to local cluster and local area City-owned networks; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available and appropriated for this purpose and Certification No. 14-00404 charging the amount of $50,500.00 to Account No. 4-01-20-100-ADM-302 of the Municipal Budget is on file in the Office of the City Clerk; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Extraordinary, Unspecifiable Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, this contract is exempt from the requirements of Chapter 2.92 of the Code of the City of Elizabeth as it is a contract with a state body, agency or authority; and

WHEREAS, the Business Administrator has certified that this meets the statute and regulations governing the award of said contract; now, therefore, be it

RESOLVED by City Council of the City of Elizabeth, New Jersey as follows:

1. The Mayor and the City Clerk are hereby authorized and directed to execute a contract with **Kean University, 1000 Morris Avenue, Union, New Jersey 07083** for computer consulting services for a one year period commencing on July 1, 2013 to June 30, 2014, at a cost not to exceed $50,500.00 based on the Universities specialized expertise in data processing and technical telecommunication field qualifying them to perform the requested services.
2. The services to be performed by Kean University are of such a technical nature as to make a description of all actions to be taken unfeasible.
3. This cannot be described by written specifications because of the special nature of the service to be provided.
4. A notice of this action shall be published in The Star Ledger

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, there exists a need to provide the City of Elizabeth with a coordinated and consistent means of meeting its unemployment compensation at the lowest possible cost by minimizing benefit payments and the cost of internal Administration; and

WHEREAS, the Business Administrator has recommended the execution of an agreement for Unemployment Insurance Cost Control Services with **EQUIFAX WORKFORCE SOLUTIONS, 1845 Borman Ct, St. Louis, MO 63146,** for Unemployment Cost Control Services, to provide the City of Elizabeth with a coordinated and consistent means of meeting its unemployment compensation at the lowest possible cost by minimizing benefits payments and the cost of internal administration for the period of July 1, 2013 through June 30, 2015 at a cost of $3,760.00 per year for two years. The total cost of the two year contract is $7,520.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available and appropriated for this purpose and Certification No. 14-00407, charging the amount of $3,760.00 to Account Number 4-01-23-210-INS (07/01/13 to 06/30/14) of the Municipal Budget, is on file in the Office the City Clerk; and

WHEREAS, the Chief Financial Officer will issue a Certificate of Availability of funds for each succeeding contract year and the same is specifically is specifiable conditioned upon the issuance of said certificate; and

WHEREAS, the Local Public Contracts Law (**N.J.S.A**. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Extraordinary, Unspecifiable Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, the Business Administrator has certified that this meets the statute and regulations governing the award of said contract; now, therefore, be it

RESOLVED by City Council of the City of Elizabeth, New Jersey as follows:

1. The Mayor and the City Clerk are hereby authorized and directed to execute a contract with for Unemployment Cost Control Services, to provide the City of Elizabeth with **EQUIFAX WORKFORCE SOLUTIONS, 1845 Borman Ct, St. Louis, MO 63146,** a coordinated and consistent means of meeting its unemployment compensation at the lowest possible cost by minimizing benefits payments and the cost of internal administration for the period of July 1, 2013 through June 30, 2015 at a cost of $3,760.00 per year for two years. The total cost of the two year contract is $7,520.00.

2. Insurance is specialized in nature inasmuch as the companies issuing same are limited In number and must be approved by the State of New Jersey, through the Department of Insurance and Banking in order to qualify to do business within this state. New Jersey Statue 40A:11-5(m) exempts the purchasing of insurance coverage from advertising for bids and bidding, which exception shall be in accordance with the requirements for Extraordinary, Unspecifiable Service in accordance with the requirements thereof.

3. This cannot be described by written specifications because of the special nature of the services as described above.

4. A notice of this action shall be published in **The Star Ledger.**

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], [redacted] Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, there exists a need for a Dental Insurance Program for employees of the City of Elizabeth; and

WHEREAS, the City of Elizabeth administers a self-insured dental program and its obligation is based on claims processed. The Business Administrator has recommended that an award of contract for a two-year term be made to **Horizon Healthcare Dental Services, 1427 Wyckoff Road, Farmingdale, New Jersey 07727,** in a total amount not to exceed $925,000.00 per year or a total amount not to exceed $1,850,000.00 covering the two-year period July 1, 2013 to June 30, 2015. This total amount incorporates the City's Traditional Plan, Managed Dental Choice, and Total Care option; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before the City incurs a contractual liability on its part; and

WHEREAS, the Chief Financial Officer will issue a Certificate of Availability of Funds for the second year of the contract prior to commencement thereof and the second year of the contract is explicitly conditioned upon the issuance of same by the Chief Financial Officer; now, therefore, be it

WHEREAS, insurance companies are exempt from the provisions of Chapter 2.92 of the code of the City of Elizabeth; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Extraordinary, Unspecifiable Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, quotations were not solicited for this contract because it was determined that **Horizon Healthcare Dental Services** was the most qualified firm and is presently providing their services to the City of Elizabeth; and

WHEREAS, the Business Administrator has certified that this meets the statute and regulations governing the award of said contract; now, therefore, be it

RESOLVED by City Council of the City of Elizabeth, New Jersey as follows:

1. The Mayor and the City Clerk are hereby authorized and directed to execute an agreement with **Horizon Healthcare Dental Services, 1427 Wyckoff Road, Farmingdale, NJ 07727,** in a total amount not to exceed $925,000.00 per year or a total amount not to exceed $1,850,000.00 covering the two-year period July 1, 2013 to June 30, 2015. This total amount incorporates the City's Traditional Plan, Managed Dental Choice, and Total Care option.

2. Quotations were not solicited for this contract because it was determined that Horizon Healthcare Dental Services was the most qualified firm and is presently providing their services to the City of Elizabeth. The recommendation to award the contract to Horizon Healthcare Dental Services Incorporates the City's Traditional; Plan, Managed Dental Choice and Total Care option.

3. Insurance is specialized in nature inasmuch as the companies issuing same are limited in number and must be approved by the State of New Jersey, through the Department of Insurance and Banking, in order to qualify to do business within this State. **N.J.S.A.** 40A:11-5(1)(m) exempts the purchase of insurance coverage for advertising for bids and bidding, which exception shall be in accordance with the requirements for Extraordinary, Unspecifiable Service.

4. This cannot be described by written specifications because of the special nature of insurance coverage and as specifically exempted from the bidding requirements of **N.J.S.A.** 40A:11-5(1)(m).

5. A notice of this action shall be published in The **Star Ledger.**

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Cuesta, Grova, [redacted], Keenan, Cedeno, Mazza, and President Gallman - 7

NEGATIVE: None