

Supervisor
ANTHONY S. COLAVITA

Council Members
LUIGI V. MARCOCCIA
GLENN D. BELLITTO
JOSEPH D. DOOLEY
THERESA V. NICHOLSON

Town Clerk
LINDA D. LAIRD

Receiver of Taxes
ROCCO N. CACCIOLA

Founded  1664

TOWN OF EASTCHESTER
40 Mill Road, Eastchester, New York 10709
www.eastchester.org

Town Attorney
LOUIS J. REDA

Deputy Town Attorney
ROBERT M. TUDISCO

(914) 771-3325
(914) 771-3367 FAX

legal@eastchester.org

October 3, 2018

By E-mail Transmission and Overnight Mail

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, New York 12223-1350

Re: *The Town of Eastchester (County of Westchester,
NY) Application/Petition pursuant Chapter 433 of
the Laws of 2013*

Dear Secretary Burgess:

By way of background, Chapter 433 of the Laws of 2013 provides that a municipality as defined therein may apply to the Public Service Commission to have any costs for infrastructure maintenance and access it is charged by a water-works corporation related to fire hydrant service to instead be charged to all customers across all customer classes located in the municipality provided the municipality has held a public hearing with notice on the matter and has adopted a resolution and determined by a majority vote of the total voting strength of its governing body that it is in the overall public interest to have such costs charged to all customers across all customer classes based upon water usage.

RECEIVED
PUBLIC SERVICE
COMMISSION
EXECUTIVE CLERK
2018 OCT -4 AM 10:47

As provided by that legislation, the Town of Eastchester noticed and held a public hearing and thereafter adopted a Resolution as provided by the above-referenced legislation.

Accordingly, I am writing on behalf of the Town of Eastchester and submit the attached documents requesting that the Public Service Commission issue an order that those costs now be charged to all customers across all customer classes located in the Town of Eastchester based upon water usage.

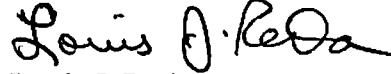
The attachments are as follows:

1. A Resolution Scheduling A Public Hearing On A Resolution In Support Of Chapter 433 Of The Laws Of New York, 2013, Authorizing The Public Service Commission, Upon Application By The Town of Eastchester, To Order Costs For Infrastructure Maintenance And Access To Be Charged To All Customer Classes Located In Such Municipality with original certification by the Eastchester Town Clerk;
2. A Resolution In Support Of Chapter 433 Of The Laws Of New York, 2013, Authorizing The Public Service Commission, Upon Application By The Town Of Eastchester, To Order Costs For Infrastructure Maintenance And Access To Be Charged To All Customer Classes Located In Such Municipality with original certification by the Eastchester Town Clerk;
3. Original affidavit of publication from the Eastchester Rising with Notice of the Public Hearing;
4. A copy of the August 21, 2018 minutes from Town of Eastchester Town Board meeting concerning item number 1 above;
5. A copy of the September 4, 2018 minutes from Town of Eastchester Board meeting concerning item number 2 above; and
6. A copy of Chapter 433 of the Laws of 2013.

We are aware that the Public Service Commission sets the rates and request that such is done in an appropriate and fair manner and as soon as possible within the statute's time limits of up to 120 days to issue the appropriate order.

Kindly advise whether anything further is required with respect to this application. I thank you in advance for your prompt attention to this application.

Very truly yours,



Louis J. Reda
Town Attorney

cc:

Anthony S. Colavita, Supervisor

Linda Laird, Town Clerk

Hector DeLeo, Superintendent of
Highway

Sally Veltidi, Director of Parks and Recreation

Dawn Donovan, Comptroller

Christopher Graziano

Manager, United Water

Via e-mail to: chris.graziano@unitedwater.com

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40 Mill Road, Eastchester, New York 10709
www.eastchester.org

Town Clerk's Office
LINDA D. LAIRD

(914) 771-3351
(914) 771-3366 FAX

townclerk@eastchester.org

I, Linda Laird, hereby certify:

That I am the Town Clerk of the Town of Eastchester with offices at 40 Mill Road, Eastchester, New York.

That at a regular meeting of the Town Board of the Town of Eastchester, Westchester County, New York was held at 40 Mill Road in Eastchester on the 21st day of August 2018, at 8:00 p.m.

That the meeting was called to order by Supervisor Colavita and upon roll call being called, the following were:

Present: Supervisor Anthony Colavita
Councilman Glenn Bellitto
Councilwoman Theresa Nicholson
Councilman Luigi Marcoccia

Absent: Councilman Joseph Dooley

Town Clerk Linda Laird

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve the **INTRODUCTION** of a Resolution in support of Chapter 433 of the Laws of New York, 2013, authorizing the Public Service Commission upon application by The Town of Eastchester, to order cost for infrastructure maintenance and access to be charged to all customer classes located within the Town of Eastchester and to set a date for a public hearing for September 4, 2018 at 8:00pm.

That the approval was duly put to a vote on roll call, with the results as follows:

Councilman Bellitto	VOTING	AYE
Councilwoman Nicholson	VOTING	AYE
Councilman Luigi Marcoccia	VOTING	AYE
Supervisor Colavita	VOTING	AYE

The motion carried, 4-0.

IN WITNESS WHEREOF, I have hereto set my hand and affixed seal of said Town this this third day of October 2018.



Linda Laird
Town Clerk

Supervisor
ANTHONY S. COLAVITA

Council Members
LUIGI V. MARCOCCIA
GLENN D. BELLITTO
JOSEPH D. DOOLEY
THERESA V. NICHOLSON

Town Clerk
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I, Linda Laird, hereby certify:

That I am the Town Clerk of the Town of Eastchester with offices at 40 Mill Road, Eastchester, New York.

That at a regular meeting of the Town Board of the Town of Eastchester, Westchester County, NY was held at 40 Mill Road in Eastchester on the 4th day of September 2018, at 8:00 p.m.

That the meeting was called to order by Supervisor Colavita and upon roll call being called, the following were:

Present: Councilman Glenn Bellitto
Councilman Joseph Dooley
Councilwoman Theresa Nicholson
Councilman Luigi Marcoccia

Deputy Town Clerk Mary T. Swikata

Absent: Supervisor Anthony Colavita

Councilman Dooley offered a motion that was seconded by Councilman Bellitto to Open the Public Hearing. An Affidavit of Publication of the Meeting Notice was received.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

David Levy spoke in opposition to the Resolution suggesting co-op residents would not pay a fair share of hydrant maintenance.

Michael Denning expressed concern regarding the rate increases imposed by Suez (formerly United Water of New Rochelle).

There being no further public comment, Councilman Dooley offered a motion that was seconded by Councilman Bellitto to Close the Public Hearing.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

Councilman Marcoccia offered a motion that was seconded by Councilman Bellitto to approve a Resolution in support of Chapter 433 of the Laws of New York, 2013, authorizing the Public Service Commission upon application by The Town of Eastchester, to order cost for infrastructure maintenance and access to be charged to all customer classes located within the Town of Eastchester.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

That the approval was duly put to a vote on roll call, with the results as follows:

Councilman Dooley	VOTING	AYE
Councilman Bellitto	VOTING	AYE
Councilwoman Nicholson	VOTING	AYE
Councilman Luigi Marcoccia	VOTING	AYE

The motion carried, 4-0.

IN WITNESS WHEREOF, I have hereto set my hand and affixed seal of said Town this this thrid day of October, 2018.



Linda Laird
Town Clerk

TOWN OF EASTCHESTER
LEGAL NOTICE

PLEASE TAKE NOTICE that the Supervisor and the Town Board of the Town Of Eastchester, will hold a public hearing at Eastchester Town Hall, 40 Mill Road, Eastchester, New York on TUESDAY, SEPTEMBER 4, 2018 at 8:00 o'clock p.m., to consider the adoption of a proposed special resolution in support of Chapter 433 of the Laws Of New York, 2013, authorizing the Public Service Commission upon the application by the Town Of Eastchester to order cost for Infrastructure Maintenance and access to be charged to all customer classes located within the Town Of Eastchester.

All interested parties are urged to attend this hearing, at which time, they will be given an opportunity to express their opinion for or against the above special resolution.

BY THE ORDER OF THE SUPERVISOR AND
THE TOWN BOARD OF THE TOWN
OF EASTCHESTER, NEW YORK
LINDA LAIRD
TOWN CLERK

#2409 08/31/2018

AFFIDAVIT OF PUBLICATION

County of Westchester
State of New York
City of Yonkers

Bayan Baker being duly sworn, deposes and says that she is the principal clerk of the publisher of the Eastchester Rising, a weekly newspaper printed and published in the Town of Eastchester, in said County and that the notice, of which the annexed is a printed copy, has been published in said newspapers on the following dates:

August 31, 2018

Bayan Baker

Sworn to before me this⁵

Day ofSEPTEMBER 2018

D
Notary Public

Daniel J. Murphy
Notary Public, State Of New York
No. 01MU5056337
Qualified in Westchester County
Commission Expires June 16, 2019

TOWN OF EASTCHESTER

LEGAL NOTICE

PLEASE TAKE NOTICE that the Supervisor and the Town Board of the Town Of Eastchester, will hold a public hearing at Eastchester Town Hall, 40 Mill Road, Eastchester, New York on **TUESDAY, SEPTEMBER 4, 2018** at 8:00 o'clock p.m., to consider the adoption of a proposed special resolution in support of Chapter 433 of the Laws Of New York, 2013, authorizing the Public Service Commission upon the application by the Town Of Eastchester to order cost for Infrastructure Maintenance and access to be charged to all customer classes located within the Town Of Eastchester.

All interested parties are urged to attend this hearing, at which time, they will be given an opportunity to express their opinion for or against the above special resolution.

**BY THE ORDER OF THE SUPERVISOR AND
THE TOWN BOARD OF THE TOWN
OF EASTCHESTER, NEW YORK
LINDA LAIRD
TOWN CLERK**

**TOWN OF EASTCHESTER
MINUTES OF THE TOWN BOARD
August 21, 2018**

Minutes of a Meeting of the Town Board of the Town of Eastchester held on August 21, 2018 at 8:00 p.m., at the Town Hall, 40 Mill Road, Eastchester, New York.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Present: Supervisor Anthony Colavita
Councilman Luigi Marcoccia
Councilwoman Theresa Nicholson

Absent: Councilman Glenn Bellitto
Councilman Joseph Dooley

Present: Town Clerk Linda Laird
Comptroller Dawn Donovan
Deputy Town Attorney Robert Tudisco

IV. SPECIAL PRESENTATION

A) SWEARING IN CEREMONY – EASTCHESTER POLICE OFFICERS

Supervisor Colavita issued the Oath of Office to newly appointed Police Officers Armena Marku, Dominick De Benedictis, Anthony Persico, Michael Louros, Patrick Bryson and Adam Said-Worede.

V. PUBLIC HEARINGS

A) PUBLIC HEARING TO CONSIDER THE ADOPTION OF LOCAL LAW 2-2018 REGULATING TELECOMMUNICATIONS FRANCHISING AND LICENSING LAW WITHIN THE TOWN OF EASTCHESTER

Supervisor Colavita explained the purpose of the Local Law 2-2018 is to establish and regulate the licensing of any person seeking to use the public streets or lands to construct, operate, replace, add or maintain equipment to provide telecommunication services.

Councilman Marcoccia offered a motion that was seconded by Supervisor Colavita to open the Public Hearing.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

Keith Bloomfield asked if a licensing would offer a revenue opportunity. Supervisor Colavita responded the Town Board will determine the licensing fee on a per unit basis.

There being no further public comment, Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to close the Public Hearing.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to ADOPT Local Law 2-2018.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

**LOCAL LAW NO. -2018
A LOCAL LAW KNOWN AS
"THE Telecommunications Franchising and Licensing Law"
WITHIN THE UNINCORPORATED TOWN OF EASTCHESTER**

DEFINITIONS: WORD USAGE

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number.

AFFILIATED PERSON

Each person who falls into one or more of the following categories: each person having, directly or indirectly, a controlling interest in the applicant; each person in which the applicant has, directly or indirectly, a controlling interest; each officer, director, joint venturer or joint venture partner of the applicant; and each person, directly or indirectly, controlling, controlled by or under Town control with the applicant; provided that affiliated person shall in no event mean the Town or any creditor of the applicant solely by virtue of its status as a creditor and which is not otherwise an affiliated person by reason of owning a controlling interest in, being owned by or being under Town ownership, Town management or Town control with the applicant.

CABLE SERVICES

As defined in the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as may be further amended from time to time (the Cable Act). In the event that cable services is no longer defined in the Cable Act or the definition in the Cable Act otherwise becomes inapplicable, cable services shall mean cable services as defined in the Cable Act immediately prior to such term no longer being defined in the Cable Act or such definition otherwise becoming inapplicable.

CHAPTER This chapter and all modifications and amendments thereto.

TOWN The Town Of Eastchester, New York.

TOWN BOARD The Town Board of the Town and its designee or any successor thereto.

CONTROL or CONTROLLING INTEREST

Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the applicant or the equipment in the streets. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or group of persons acting in concert, of more than 10%, of any person (which person or group of persons is hereinafter referred to as "controlling person"). Control or controlling interest as used herein may be held simultaneously by more than one person or group of persons.

EQUIPMENT

Poles, wires, electrical conductors, transmitters, conduits, subways, manholes, boxes, fixtures, appliances and appurtenances that are used to provide telecommunications services.

FRANCHISE

Initial authorization, or renewal thereof, issued by the Town in accordance with the provisions of this chapter, which authorizes the occupation and use of the streets to provide telecommunications services.

PERSON

Any individual or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for profit or not for profit, but shall not mean the Town of Eastchester.

REVOCABLE LICENSE

Initial authorization or renewal thereof, issued by the Town in accordance with the provisions of this chapter, which authorizes the limited occupation and use of specifically identified streets, provided that a revocable license shall be issued only in the limited circumstances set forth in § II-B and § II-G of this chapter.

STREETS

The surface of, as well as the spaces above and below, any and all streets, alleyways, avenues, highways, boulevards, driveways, bridges, tunnels, parks, parkways, public grounds or waters and other public areas or rights-of-way within or belonging to the Town.

TELECOMMUNICATIONS

All transmissions, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS PROVIDER

Any person who owns, constructs, operates or maintains equipment in the streets used to provide telecommunications services, regardless of whether such telecommunications services originate or terminate in the Town; or provides telecommunications services that originate or terminate in the Town by means of: specifically identifiable equipment in the streets, which equipment is owned by such person or made available to such person under a lease or any other arrangement for a period longer than 120 days; or equipment in the streets if the use of such equipment is continuing and substantial, and the Town has determined that it is necessary and appropriate to impose the requirements of this chapter in order to preserve the application of this chapter on a competitively neutral and nondiscriminatory basis consistent with applicable law.

TELECOMMUNICATIONS SERVICES

The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. The term "telecommunications services" shall not include cable services.

TELECOMMUNICATIONS SYSTEM

The plant, equipment, real property (including interests in real property), tangible and intangible personal property, buildings, offices, furniture, customer lists, cable, wires, optical fibers, amplifier, antenna and all other electronic devices, equipment and facilities used to provide telecommunications services.

II. GRANTING AUTHORITY.

A. No person shall use or occupy the streets as a telecommunications provider, or construct, operate, replace, add or maintain equipment in the streets used to provide telecommunications, without a franchise or revocable license granted by the Town. A franchise or revocable license granted in accordance with the provisions of this chapter shall not be construed to grant any rights or authorization to provide cable services in the Town, and any person seeking to provide cable services in the Town shall first obtain a separate franchise.

B. Any person seeking to use the streets to construct, operate, replace, add or maintain equipment to provide telecommunications for or in connection with the internal or external operations of such person's business, residence or employment and not for or in connection with the provision or offering of telecommunications services for sale or resale to any person in the Town shall first obtain a revocable license in accordance with the provisions of this chapter.

C. The Town Board may grant one or more franchises and revocable licenses in accordance with this chapter, provided that the Town Board reserves the right to modify any provision of this chapter by amendment hereof.

D. The grant of any franchise or revocable license shall be made by adoption of a separate resolution by the Town Board and shall be on such terms and conditions as shall be specified in said separate resolution and/or a franchise or license agreement between the Town and the franchisee or licensee.

E. Any franchise or revocable license granted shall be nonexclusive. The Town specifically reserves the right to grant, at any time, such additional franchises, revocable licenses or other authorizations for use of the streets by any means, as the Town deems appropriate.

F. A franchise may be granted for all or any defined portion of the Town.

G. A revocable license is intended to be a limited grant of authority to use and occupy specifically identified streets to provide telecommunications services, construct, replace, add or to maintain equipment to provide telecommunications and shall be granted only if: the use or occupation of such streets, together with all revocable licenses previously granted to such person and affiliated persons, shall not exceed 2,500 linear feet; or the use or occupation of such streets does not involve the offering or provision of telecommunications services to any person within the Town. In the event that an application for a revocable license would cause a telecommunications provider to exceed or fail to comply with the limits specified in this § II-G, then such telecommunications provider must apply for a franchise in accordance with the provisions of this chapter, and the use of specifically identified streets pursuant to all previously granted revocable licenses shall thereafter be pursuant to and in accordance with any such franchise that may be granted.

H. Any franchise or revocable license granted shall require payment of a fee payable to the Town in such amount as shall be determined by the Town Board.

III. COMPLIANCE WITH RULES; PERMITS REQUIRED

A. Subject to the provisions of this chapter, the Town may adopt rules, policies and requirements to carry out the purposes and provisions of this chapter. Each applicant, franchisee and licensee shall comply with such rules, policies and requirements.

B. No person shall construct or install any equipment in the streets used to provide telecommunications services without first obtaining such permits or other authorizations as may be required by the Town. No permits or other authorizations for such construction or installation shall be issued prior to the granting of a franchise or a revocable license pursuant to this chapter or such other authorization as may be required by applicable law.

IV. SUBMISSION OF APPLICATION

A. Applications for franchises and revocable licenses shall be submitted to the Supervisor, Superintendent of Highways with a copy also to be submitted to the Town Attorney.

B. An application shall contain the following information with respect to the proposed franchise or revocable license and such other information with respect to the proposed franchise or revocable license as the Town may deem necessary or appropriate, consistent with applicable law:

(1) The name, address, telephone number and e-mail address of the applicant and the person the Town may contact concerning the application.

(2) A description of the telecommunications services proposed to be provided, including, without limitation, a description of facilities and equipment, along with the size, shape, color and detailed specification of such facilities and equipment.

(3) A description of the proposed franchise area or, in the case of a revocable license, the specifically identified streets and/or portions thereof proposed to be used.

(4) A proposed construction schedule and sequence.

(5) A map showing the proposed location of the applicant's telecommunications system.

(6) Ownership of the applicant and identification of all affiliated persons.

V. RESPONSIBILITIES OF APPLICANTS

It shall be the responsibility of each applicant for a franchise or revocable license to comply with all applicable laws, ordinances, resolutions, rules, regulations and other directives of the Town and any federal, state or local governmental authority having jurisdictions.

VI. NEGOTIATION OF AGREEMENT

If an application is complete and otherwise complies with applicable law, ordinances, resolutions, rules, regulations and other directives of the Town, including the provisions of this chapter, the Town shall enter into negotiations with the applicant to determine whether such applicant and the Town are able to reach agreement on the terms of the proposed franchise or revocable license in accordance with § IX and § X of this chapter. The Town may reject any application which is incomplete or otherwise fails to comply with applicable law, ordinances, resolutions, rules, regulations and other directives of the Town and any federal, state or local authority having jurisdiction.

VII. FACTORS FOR REVIEW OF APPLICATION

A. In making any determination hereunder as to any application for a franchise or revocable license, the Town Board may consider such factors as it deems appropriate and in the public interest, provided that such factors are consistent with applicable law, including without limitation:

- (1) The adequacy of the proposed compensation to be paid to the Town, including the value of any facilities and telecommunications services offered by the applicant to the Town.
- (2) Any services or uses of the streets that may be precluded by the grant of the franchise or revocable license; and the adverse impact of the proposed franchise or revocable license on the efficient use of the streets or utilities at present and in the future.
- (3) The willingness and ability of the applicant to meet construction and physical requirements and to abide by all lawful conditions, limitations, requirements and policies with respect to the franchise or the revocable license.
- (4) The adequacy of the terms and conditions of the proposed franchise or revocable license agreement to protect the public interest, consistent with applicable law.
- (5) Any other public interest factors or considerations that the Town has a lawful right to consider and that are deemed pertinent by the Town for safeguarding the interests of the Town and the public.

B. Consistent with applicable law, the Town may develop and implement policies and requirements to ensure that the streets have sufficient capacity reasonably to accommodate existing and future uses in a rational and efficient manner. In evaluating an applicant for a franchise or revocable license, the Town may consider an applicant's proposals for addressing capacity needs and compliance with Town policies and requirements.

VIII. PROCEDURE FOR CONSIDERATION OF AND ACTION ON APPLICATIONS

A. The Town Board may make such investigations and take or authorize the taking of such other steps as the Town Board deems necessary or appropriate to consider and act on applications for franchises and revocable licenses and to determine whether a franchise or revocable license should be granted to an applicant and may require the applicant to furnish additional information and data for this purpose. In considering applications, the Town Board may seek advice from Town officials, departments, agencies, boards, commissions or bodies, from such other advisory bodies as it may establish or determine appropriate or from the public and may request the preparation of one or more reports to be submitted to the Town Board, which may include recommendations with respect to such applications.

B. Consistent with applicable law, upon completion of the steps deemed appropriate by the Town Board, the Town Board may grant or deny the franchise or revocable license and may specify the conditions under which the franchise or revocable license is granted.

IX. TERMS AND CONDITIONS OF FRANCHISE

A. The terms and conditions applicable to any franchise granted pursuant to this chapter shall be set forth in the separate resolution granting the franchise and/or in a separate written agreement. A franchise granted pursuant to this chapter shall not become effective until said separate resolution becomes effective and any separate agreement is executed by both parties. Such separate resolution or written agreement, among other things, shall address the following subjects:

- (1) The term of the franchise.
- (2) The franchise area and the telecommunications services to be offered.
- (3) The compensation to be paid to the Town, which shall include the payment of fees and/or the provision of facilities or services.

- (4) The circumstances upon which the franchise may be terminated or cancelled.
- (5) The mechanisms, such as performance bonds, security funds or letters of credit, to be put in place to ensure the performance of the franchisee's obligations under the franchise.
- (6) The Town's right to inspect the facilities and records of the franchisee.
- (7) Insurance and indemnification requirements applicable to the franchisee.
- (8) The obligation of the franchisee to maintain complete and accurate books of account and records, and the Town's inspection rights with respect thereto.
- (9) Provisions to ensure quality workmanship and construction methods.
- (10) Provisions to ensure that the Franchisee will comply with all applicable Town, state and federal laws, regulations, rules and policies.
- (11) The obligation of the franchisee to supply an engineering site plan showing the proposed location of the applicant's telecommunications system, including any manholes or overhead poles, the size, type and proposed depth of any conduit or other enclosures, and the relationship of the system to all existing poles, utilities, sidewalks, pavement, telecommunications systems, and other improvements in the streets, all of which shall be subject to approval by the appropriate Town departments.
- (12) Provisions to restrict the assignment or other transfer of the franchise without the prior written consent of the Town.
- (13) Remedies available to the Town to protect the Town's interest in the event of the franchisee's failure to comply with terms and conditions of the franchise.
- (14) Provisions to ensure that the franchisee will obtain all necessary licenses and permits from, and comply with, all laws, regulations, rules and policies of any governmental body having jurisdiction over the franchisee, including the Federal Communications Commission.
- (15) Provisions to ensure that the franchisee will protect the property of the Town and the delivery of public services from damage or interruption of operations resulting from the construction, operation, maintenance, repair or removal of improvements related to the franchise.
- (16) Provisions designed to minimize the extent to which the public use of the streets of the Town are disrupted in connection with the construction of improvements relating to the franchise.
- (17) Such other provisions as the Town determines are necessary or appropriate in furtherance of the public interest, consistent with applicable law.

X. TERMS AND CONDITIONS OF REVOCABLE LICENSE

A. The terms and conditions applicable to any revocable license granted pursuant to this chapter shall be set forth in the separate resolution granting the revocable license and/or in a separate written agreement. A revocable license granted pursuant to this chapter shall not become effective until the separate resolution granting the license becomes effective and any separate written agreement is executed by both parties. Such separate resolution and/or written agreement shall address the same subjects listed in § IX of this chapter, subject to the following limitations:

- (1) The revocable license shall be for a term not to exceed 1 year from the date that the ordinance granting the revocable license becomes effective.
- (2) The revocable license shall be revocable at any time by the Town for cause or for the Town's purposes.
- (3) The revocable license, together with all revocable licenses previously granted to the applicant or affiliated persons, shall not authorize the occupation and use of more than 2,500 linear feet of specifically identified streets, unless the use or occupation of the streets does not involve the offering or provision of telecommunications services to any person in the Town.

B. In the event that an application for a revocable license would cause a telecommunications provider to exceed or fail to comply with the limits specified in § X-A(3) above, then such telecommunications provider must apply for a franchise in accordance with the provisions of this chapter, and the use of specifically identified streets pursuant to all previously granted revocable licenses shall thereafter be pursuant to and in accordance with any such franchise that may be granted.

XI. SEVERABILITY

If any section, subsection, sentence, clause, phrase or other portion of this chapter is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

XII. DELEGATION

A. The Town Board shall have the right to delegate and redelegate, and to revoke any such delegation or redelegation, from time to time, any of its rights or obligations under this chapter to any body, organization or official of the Town. Any such delegation, redelegation or revocation, no matter how often made, shall not be deemed an amendment to this chapter or to require the consent of any applicant for a franchise or revocable license or franchisee or licensee.

B. To the extent permitted by law, the Town may determine to apply all or certain provisions of this chapter to telecommunications providers and franchises and other right-of-way authorizations existing on the effective date of this chapter.

VI. OPPORTUNITY TO ADDRESS THE BOARD ON AGENDA ITEMS - none

VII. APPOINTMENTS

A) APPOINTMENT – SOCIAL WORKER (SR. CITIZENS PROGRAM)

Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to approve a RESOLUTION to approve Jenny McFadden as Social Worker (Sr. Citizen Program) effective August 22, 2018 at the annual salary of \$60,904.

Jenny has successfully completed the examination and her name appears on the Westchester County Civil Service list # 64-734. She is currently in this position as a provisional appointment. She will be required to serve a probationary period of not less than twelve weeks and not more than fifty two weeks.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

B) APPOINTMENT - RECREATION DEPARTMENT

Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to approve a RESOLUTION to approve the probationary appointment of Jeffrey Graniero to the full time position of Sr. Recreation Leader (Group VI, Step 4) \$57,119 plus a \$5,000 stipend effective August 29, 2018.

Jeffrey has successfully completed the examination for Sr. Recreation Leader and his name appears on the Westchester County Civil Service exam # 67-324. If approved he will be required to serve a probationary period which will run not less than twelve weeks and not more than fifty-two weeks. Funds are provided in the 2018 budget.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

VIII. APPROVAL OF MINUTES

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve the Minutes of the June 19, 2018 and the July 10, 2018 Regular Town Board Meetings and the August 7, 2018 Special Town Board Meeting as prepared by Town Clerk Linda Laird.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

IX. REPORTS OF DEPARTMENTS, BOARDS AND COMMISSIONS

A) POLICE DEPARTMENT REPORT

The Board reviewed and approved for filing the following reports for June 2018 and July 2018 of Parking Summonses, Citation Activity Report, Patrol Activity Report, Statement of Accounts and the Traffic Accident Report.

Chief Bonci reported the two newly appointed Sergeants have completed a six week training course, Police Officer Marku is in field training while Police Officer Candidates; Dominick De Benedictis, Anthony Persico, Michael Louros, Patrick Bryson and Adam Said-Worede are doing well at the Police Academy.

Referencing the Parking Summonses, Citation Activity Report and Patrol Activity Report; Chief Bonci commended the members of the Police Department on the increase in activity over the same period of 2017.

B) LAW DEPARTMENT REPORT

1. RESOLUTION AUTHORIZING THE SETTLEMENT OF 2016 SMALL CLAIMS ASSESSMENT REVIEW CASES

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve a **RESOLUTION** authorizing the settlement of the following 2016 Small Claims Assessment Review cases in the total sum of \$22,365.09.

Parcel ID	Legal Address	REFUND DUE
1./2/16	31 PARKWAY RD	\$ 31.59
23./1/4	1 OAK AVE	\$ 53.23
34./2/15	61 CIRCUIT AVE	\$ 8.87
34./10/12	59 WALLACE ST	\$ 7.10
39./4/1.G	15 VERDI AVE	\$ 7.09
47./3/8	57 WARREN AVE	\$ 8.87
7.D/1/3	5 HILLTOP RD	\$ 879.82
51./3/28	69 ANDERSON AVE	\$ 626.02
58./3/1	2 ALIDA ST	\$ 135.36
60./1/7	115 GAYLOR RD	\$ 175.98
60./1/9	113 GAYLOR RD	\$ 248.72
61./1/46	65 WILMOT RD	\$ 101.53
63.G/1/45	14 WINDING LA	\$ 169.19
63.G/1/45.A	16 GREENVALE PL	\$ 67.68
71./1/30	8 BROTHERS CIRCLE	\$ 94.76
66.F/4/94	54 LONGVIEW DR	\$ 203.05
71./2/39	75 HIGHLAND AVE	\$ 329.94
76./7/16	173 BEECH ST	\$ 186.13
77./3/105	109 MIDDLETON PL	\$ 236.88
65.B/1/2.Q	8 APPLE COURT	\$ 380.69
31./4/101	2 EVERETT ST	\$ 10.64
52./1/12	88 DUNWOODIE ST	\$ 519.43
64.A/4/1	1 D'ALESSIO COURT	\$ 307.95
64.C/1/3	10 WILDWAY	\$ 406.07
64.C/5/3	61 VERNON DR	\$ 98.14
64.D/3/31	48 ANPELL DR	\$ 203.04
66.F/5/118	65 HICKORY HILL RD	\$ 111.67
66.J/2/283	28 HOWARD AVE	\$ 138.74
73./2/3	5 BARBARA PL	\$ 182.74
85./2/4	11 LA BELLE RD	\$ 426.38
7.D/5/7	145 ELMSMERE RD	\$ 972.88
80.B/2/11	8 CENTRAL DR	\$ 478.82
56./3/34	50 WHITE RD	\$ 135.37
59./4/6	124 WOODRUFF AVE	\$ 519.44
63.B/6/16.A	36 SCARSDALE AVE	\$ 211.49
63.C/1/4	9 BRONSON AVE	\$ 206.43
64.C/4/7	42 VERNON DR	\$ 693.70
64.D/4/20	193 OLD WILMOT RD	\$ 262.25
64.K/1/86	41 COUNTRY CLUB RD	\$ 426.37
65.K/3/59	75 MILL RD	\$ 262.24

66.C/4/10	36 FORBES BLVD	\$	27.06
69./4/11	6 RIDGE ST	\$	595.57
69./4/11.A	4 RIDGE ST	\$	727.60
76./1/37	59 OVERLOOK AVE	\$	321.47
76./6/19	188 BEECH ST	\$	120.13
79.D/2/6	3 RITTENHOUSE RD	\$	626.02
80.A/2/6	2 ALLAN PL	\$	241.96
80.B/1/34	14 PARKVIEW DR	\$	150.58
80.C/2/56	62 LOCKWOOD AVE	\$	417.91
80.G/1/12	2 PASADENA RD	\$	241.96
80.H/1/1	45 LISPENARD AVE	\$	697.08
81./4/7.A	37 NORTHWAY	\$	142.14
65.B/2/18	5 PARK DR	\$	324.86
7.G/1/6	5 MIDDLE RD	\$	283.91
64.H/1/34	64 LAKE SHORE DR	\$	900.12
65.B/1/2B	158 PARK DR	\$	126.91
66.B/1/60	23 FORBES BLVD	\$	304.55
75./2/1	21 RIDGE ST	\$	580.34
28./8/6	24 FAIRVIEW AVE	\$	14.19
63.E/4/11	155 PARK DR	\$	145.51
76./1/25	71 OVERLOOK AVE	\$	101.50
79.A/2/16	90 RIDGE ST	\$	135.36
80.F/3/5.E	447 CALIFORNIA RD	\$	497.42
68./4/14	207 MAIN ST	\$	575.27
62./4/18	48 MADISON RD	\$	428.08
66.B/2/50	23 INTERLAKEN DR	\$	1,488.92
66.D/1/42	16 CLAUDET WAY	\$	575.27
66.D/1/48	49 INTERLAKEN DR	\$	287.63
38./5/28	83 BELLA VISTA ST	\$	31.94
56./2/11	99 CLARENCE RD	\$	118.44
65.N/6/47	11 LAMESA AVE	\$	270.71
79.D/2/1	11 RITTENHOUSE RD	\$	135.35
66.D/1/45	22 CLAUDET WAY	\$	203.04

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

2. RESOLUTION AUTHORIZING THE SUPERVISOR OF THE TOWN OF EASTCHESTER TO EXECUTE THE INTERMUNICIPAL AGREEMENT WITH THE VILLAGE OF BRONXVILLE, THE VILLAGE OF TUCKAHOE AND THE EASTCHESTER AND TUCKAHOE UNION FREE SCHOOL DISTRICTS WITH RESPECT TO STREET RESURFACING

Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to approve a RESOLUTION authorizing the Supervisor of the Town of Eastchester to execute the Intermunicipal Agreement with the Village of Bronxville, the Village of Tuckahoe and the Eastchester and Tuckahoe Union Free School District with respect to Street Resurfacing.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

3. RESOLUTION AUTHORIZING THE SETTLEMENT OF A CERTIORARI PROCEEDING BY SCARSDALE MANOR OWNERS, INC. – 178 GARTH ROAD

Councilman Marcoccia offered a motion that was seconded by Supervisor Colavita to approve a **RESOLUTION** authorizing the settlement of a certiorari proceeding instituted by Scarsdale Manor Owners, Inc., affecting premises known as Section 49-A, Block 1, Lots 1-A/B & D, 178 Garth Road as follows:

Section 49A, Block 1, Lot 1A

ASSESSMENT YEAR	TAX YEAR	ASSESSED VALUATION	PROPOSED SETTLEMENT	AMOUNT OF REDUCTION
2010	2011	\$255,600	\$217,250	\$38,350
2011	2012	\$255,600	\$217,250	\$38,350
2012	2013	\$255,600	\$217,250	\$38,350
2013	2014	\$255,600	\$217,250	\$38,350
2014	2015	\$255,600	\$217,250	\$38,350
2015	2016	\$255,600	\$212,150	\$43,450
2016	2017	\$255,600	\$214,700	\$40,900

Eastchester School approved

Total:\$ 90,165.80

Section 49A, Block 1 Lot 1B

ASSESSMENT YEAR	TAX YEAR	ASSESSED VALUATION	PROPOSED SETTLEMENT	AMOUNT OF REDUCTION
2010	2011	\$325,650	\$276,400	\$49,250
2011	2012	\$325,650	\$276,400	\$49,250
2012	2013	\$325,650	\$276,400	\$49,250
2013	2014	\$325,650	\$276,400	\$49,250
2014	2015	\$325,650	\$276,400	\$49,250
2015	2016	\$325,650	\$269,800	\$55,850
2016	2017	\$325,650	\$273,100	\$52,550

Eastchester School approved

Total:\$ 115,694.04

Section 49A, Block 1 Lot 1D

ASSESSMENT YEAR	TAX YEAR	ASSESSED VALUATION	PROPOSED SETTLEMENT	AMOUNT OF REDUCTION
2010	2011	\$2,900	\$2,900	\$ 0
2011	2012	\$2,900	\$2,900	\$ 0
2012	2013	\$2,900	\$2,900	\$ 0
2013	2014	\$2,900	\$2,900	\$ 0
2014	2015	\$2,900	\$2,900	\$ 0
2015	2016	\$2,900	\$2,900	\$ 0
2016	2017	\$2,900	\$2,900	\$ 0

Eastchester School approved

Total Due:\$ -0-

TOTAL DUE:\$ 205,859.84

TO BE BONDED AT A LATER DATE

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

4. RESOLUTION AUTHORIZING THE SETTLEMENT OF A CERTIORARI PROCEEDING BY MAVIS TIRE SUPPLY CORP. - 345 WHITE PLAINS ROAD

Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to approve a **RESOLUTION** authorizing the settlement of a certiorari proceeding instituted by Mavis Tire Supply Corp., affecting premises known as Section 67, Block 7, Lots 1, 3, 345 White Plains Road as follows:

ASSESSMENT YEAR	TAX YEAR	ASSESSED VALUATION	PROPOSED SETTLEMENT	AMOUNT OF REDUCTION
2011	2012	\$20,700	\$18,455	\$2,245
2012	2013	\$20,700	\$18,455	\$2,245
2013	2014	\$20,700	\$18,850	\$1,850

2014	2015	\$20,700	\$20,345	\$355.00
2015	2016	\$20,700	\$18,480	\$2,220
2016	2017	\$20,700	\$17,750	\$2,950
2017	2018	\$20,700	\$17,120	\$3,580

Eastchester School approved

Total Due:\$4,883.91

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

5. RESOLUTION AUTHORIZING THE SETTLEMENT OF THE LAWSUIT IN THE MATTER OF THE TOWN OF EASTCHESTER AND THE EASTCHESTER FIRE DEPARTMENT IN RELATION TO MAINTENANCE OF FIRE HYDRANTS

Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to approve a **RESOLUTION** authorizing the settlement of the lawsuit in the matter of the Town of Eastchester v. The Eastchester Fire Department whereby the fire department shall pay the Town the amount of \$160,000.00 (one hundred and sixty thousand dollars) for money owed to the Town in relation to the maintenance of the fire hydrants.

Supervisor Colavita explained the Town and the Fire District have shared in the cost of fire hydrant maintenance since before 1950. A few years ago the Fire District stopped reimbursing the town for their portion of the maintenance expense. Councilman Marcoccia thanked Fire Commissioner Peter Incledon for his leadership in helping to settling the matter between the town and the fire district.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

6. INTRODUCTION OF A RESOLUTION IN SUPPORT OF CHAPTER 433 OF THE LAWS OF NEW YORK, 2013, AUTHORIZING THE PUBLIC SERVICE COMMISSION UPON THE APPLICATION BY THE TOWN OF EASTCHESTER TO ORDER COST FOR INFRASTRUCTURE MAINTENANCE AND ACCESS TO BE CHARGED TO ALL CUSTOMER CLASSES LOCATED WITHIN THE TOWN OF EASTCHESTER AND TO SET A DATE FOR A PUBLIC HEARING

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve the **INTRODUCTION** of a Resolution in support of Chapter 433 of the Laws of New York, 2013, authorizing the Public Service Commission upon application by The Town of Eastchester, to order cost for infrastructure maintenance and access to be charged to all customer classes located within the Town of Eastchester and to set a date for a public hearing for September 4, 2018 at 8:00pm.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

7. RESOLUTION AUTHORIZING THE SETTLEMENT OF A CLAIM BY JOSEPH RODRIGUEZ

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve a **RESOLUTION** authorizing the settlement of a claim by Joseph Rodriguez against the Town of Eastchester in the amount of \$950.00 for damages sustained to Mr. Rodriguez's vehicle when it was accidentally struck by a Town of Eastchester vehicle on July 24, 2018.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

8. RESOLUTION AUTHORIZING THE SETTLEMENT OF A CLAIM BY JOHN DEMATTEO

Councilman Marcoccia offered a motion that was seconded by Supervisor Colavita to approve a **RESOLUTION** authorizing the settlement of a claim by John DeMatteo against the Town of Eastchester in the amount of \$966.05 for damages sustained to Mr. DeMatteo's vehicle when it was accidentally struck by a Town of Eastchester Highway Department vehicle on June 28, 2018.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

B) HIGHWAY DEPARTMENT REPORT for July 2018 was received for filing.

Superintendent of the Highway Department Hector DiLeo reported on the completion of the Street Resurfacing Project during which 20 streets were resurfaced, as well as the creation of a parking area on Crawford Street near the Tuckahoe Schools. Currently the Sidewalk and Curb Replacement Project is underway throughout town.

D) BUILDING DEPARTMENT REPORTS for May, June and July 2018 was received for filing.

E) TOWN CLERK'S REPORT for June and July, 2018 was received for filing.

X. CORRESPONDENCE

A) MEMORANDUM FROM COMPTROLLER RE: BUDGET TRANSFERS/REVISIONS

Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to approve the following Budget Transfers and Budget Revisions:

Transfers

From:	Personal Services	B3120.100	\$ 100,000.00
To:	Overtime	B3120.103	\$ 100,000.00
From:	Training	B3120.430	\$ 4,500.00
To:	Small Equipment	B3120.203	\$ 4,500.00
From:	Telecommunications	B3120.428	\$ 5,000.00
To:	Equipment	B3120.201	\$ 5,000.00
From:	Maint. & Repairs	B3620.414	\$ 1,000.00
To:	Telecommunications	B3620.428	\$ 1,000.00
From:	Personal Services	B3620.100	\$ 55,000.00
To:	Consulting Services	B3620.458	\$ 55,000.00
From:	Contingencies	E3600.499	\$ 8,000.00
To:	Telecommunications	E3300.401	\$ 8,000.00
From:	Equipment	E3250.201	\$ 6,500.00
To:	Small Equipment	E3250.203	\$ 3,000.00
To:	Materials & Supplies	E3300.401	\$ 9,500.00
From:	Personal Services	L7410.100	\$ 20,000.00
To:	Overtime	L7410.102	\$ 20,000.00
From:	Copy Machine Maint.	L7410.445	\$ 150.00
To:	Programing Materials	L7410.422	\$ 150.00
From:	Food	A6872.407	\$ 8,000.00
To:	Materials & Supplies	A6872.401	\$ 5,000.00
To:	Equipment	A6872.201	\$ 3,000.00
From:	Certiorari Proceeding	A1420.455	\$ 2,000.00
To:	Materials & Supplies	A1420.401	\$ 2,000.00
From:	Taxes of Town Property	A1900.427	\$ 11,282.00
To:	Contractual Services	A1315.450	\$ 11,282.00
From:	Salaries P/T	A6770.102	\$ 500.00
To:	Rent	A6770.423	\$ 500.00
From:	Utilities	A7150.435	\$ 10,000.00
To:	Overtime	A7150.103	\$ 10,000.00

From:	Social Security	A9000.803	\$ 2,000.00
To:	Unemployment Insurance	A9000.805	\$ 2,000.00

Revisions

Increase:	Police Outside Service Fees	B01523	\$ 100,000.00
Increase:	Overtime- Private Pay	B3120.103P	\$ 100,000.00
Increase:	State Aid Public Safety	B03389	\$ 25,000.00
Increase:	Equipment	B3120.201	\$ 25,000.00

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

B) MEMORANDUM FROM COMPTROLLER RE: PART TIME SEASONAL EMPLOYEES

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve the following Part Time and Seasonal Appointments:

NAME	JOB TITLE	APPT TYPE	RATE	EFFECTIVE DATE	**RATE CHG	DEPT.
					N-NEW R-RATE/	
Apollo, Miachael	Rec Attendant	Seasonal	12.00	8/22/2018	New	Lake Isle
Balacia, Skylar	Rec Attendant	PTA	\$10.00	8/20/2018	New	Seniors
Dell'Aera, Thomas	Lifeguard	Seasonal	\$11.00	8/22/2018	New	Lake Isle
Graham, Ashley	Rec Attendant	Seasonal	\$9.00	6/20/2018	Rate Change	Recreation
Kocher, Marilyn	Rec Attendant	PTA	\$10.00	8/20/2018	New	Seniors
LaRocca, Barbara	Rec Attendant	PTA	\$10.00	8/20/2018	New	Seniors
Loukas, Christopher	Rec Attendant	Seasonal	\$11.00	6/20/2018	Rate Change	Recreation
Meduri, Justin	Rec Attendant	Seasonal	\$9.50	6/20/2018	Rate Change	Recreation
Paz del Castillo, Rowena	Rec Attendant	PTA	\$10.00	8/20/2018	New	Seniors
Robert, Betty	Rec Attendant	PTA	\$10.00	7/1/2018	Rate Change	Seniors
Walzer, Ryan	Rec Attendant	Seasonal	\$9.00	6/20/2018	Rate Change	Recreation
Zito, Alexander	Lifeguard	Seasonal	11.00	8/22/2018	New	Lake Isle

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

C) MEMORANDUM FROM SUPERINTENDENT OF HIGHWAYS RE: APPROVAL OF AMENDMENT B – TO CHANGE ESTIMATED EXPENDITURE FOR SNOW AND ICE AGREEMENT 2017/2018 SNOW AND ICE SEASON

Councilman Marcoccia offered a motion that was seconded by Councilwoman Nicholson to approve a RESOLUTION to approve and execute Amendment B, to revise the Estimated Expenditure of the Municipal Snow and Ice Agreement for the 2017/2018 snow season.

Supervisor Colavita explained that due to the severity of the winter during 2017/2018 the actual expenditures to plow State Roadways exceed the estimates; therefore, the New York State Department of Transportation will adjust their estimates and submit to the Town an additional \$17,197.20 (bring the total to \$32,998.80).

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

D) MEMORANDUM FROM SENIOR PROGRAMS AND SERVICES RE: COMMUNITY SERVICES FOR THE ELDERLY (CSE) CONTRACT FOR EASTCHESTER'S CASE MANAGEMENT SERVICES

Supervisor Colavita offered a motion that was seconded by Councilman Marcoccia to approve a RESOLUTION authorizing the Supervisor to sign the Agreement with Westchester County Department of Senior Programs and Services for Case Management Services under the Community Services and Elderly Act (CSE), including Schedules A, B and C.

The funding of \$29,860 is being awarded to provide in-home services to 133 senior residents and many other residents with information and referrals. Case Management, done by a social worker, consists of full needs assessment, care planning, setting up services, regular follow-up and monitoring, maintaining compliance and contractual regulations of NYSOFA and recording of client information in the NYSOFA database.

On the roll call, all voted "AYE," except Councilman Bellitto and Councilman Dooley who were "ABSENT." Motion carried.

XI. MISCELLANEOUS BUSINESS - none

XII. COUNCIL MEMBER REPORTS

Councilman Marcoccia wished all students a successful year as they head back to school and off to college.

Mr. Marcoccia announced Lake Isle will hold Friday Late Night Swim on August 24th and 31st from 7:30 to 9:00 and encouraged members to lock-in the 2018 rate by submitting their 2019 Membership Application and fee before Labor Day.

Councilwoman Nicholson announced several programs being offered in September:

- Eastchester Historical Society, *Evening with Edgar Allan Poe*, on Friday, September 28th from 6-10pm,
- Eastchester Environmental Committee's 10th Annual Green Festival will be held on Saturday, September 29th,
- Eastchester 5K Run will be held on Sunday, September 30th

Mrs. Nicholson congratulated Juan Gonzalez and Karina Wyllie - the newly appointed Co-Presidents of the Eastchester/Tuckahoe Chamber of Commerce.

Supervisor Colavita had no report.

XIII. SECOND OPPORTUNITY TO ADDRESS THE BOARD – none

There being no further public business, the meeting was adjourned at 8:45 p.m.

Minutes prepared by;

Linda Laird
Town Clerk

**TOWN OF EASTCHESTER
MINUTES OF THE TOWN BOARD
September 4, 2018**

Minutes of a Meeting of the Town Board of the Town of Eastchester held on September 4, 2018 at 8:00 p.m., at the Town Hall, 40 Mill Road, Eastchester, New York.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Present: Councilman Glenn Bellitto
Councilman Joseph Dooley
Councilman Luigi Marcoccia
Councilwoman Theresa Nicholson

Absent: Supervisor Anthony Colavita

Present: Deputy Town Clerk Mary Swikata
Comptroller Dawn Donovan
Town Attorney Louis Reda

IV. PUBLIC HEARINGS

A) PUBLIC HEARING TO CONSIDER THE ADOPTION OF A RESOLUTION IN SUPPORT OF CHAPTER 433 OF THE LAWS OF NEW YORK, 2013, AUTHORIZING THE PUBLIC SERVICE COMMISSION UPON THE APPLICATION BY THE TOWN OF EASTCHESTER

Councilman Dooley offered a motion that was seconded by Councilman Bellitto to Open the Public Hearing. An Affidavit of Publication of the Meeting Notice was received.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

Councilman Marcoccia explained that in 2013 the NYS Legislature adopted Legislation that authorized municipalities to transfer the payment of Fire Protection, in the form of hydrant maintenance, from the municipality to the rate payer. At that time both the Village of Tuckahoe and the Village of Bronxville elected to do so and as a result, the Fire District halted submitting their portion of the maintenance costs to the town. At this time, the Town is considering an application to the Public Service Commission to order the cost for infrastructure maintenance and access to be charged to all customer classes located within the Town of Eastchester.

David Levy spoke in opposition to the Resolution suggesting co-op residents would not pay a fair share of hydrant maintenance.

Michael Denning expressed concern regarding the rate increases imposed by Suez (formerly United Water of New Rochelle).

There being no further public comment, Councilman Dooley offered a motion that was seconded by Councilman Bellitto to Close the Public Hearing.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

Councilman Marcoccia offered a motion that was seconded by Councilman Bellitto to approve a Resolution in support of Chapter 433 of the Laws of New York, 2013, authorizing the Public Service Commission upon application by The Town of Eastchester, to order cost for infrastructure maintenance and access to be charged to all customer classes located within the Town of Eastchester.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

V. OPPORTUNITY TO ADDRESS THE BOARD ON AGENDA ITEMS

David Levy presented a book for donation to the Eastchester Public Library that was penned by ironworkers regarding their experiences in the aftermath of September 11, 2001.

Michael Denning inquired as to the name of the Hearing Officer that will be appointed as part of the Law Agenda as well as the rate at which he/she will be paid.

Town Attorney Lou Reda responded by explained the Investigator being considered is Robert Ponzini at the rate of \$250 per hour. Mr. Reda provided an overview of Mr. Ponzini's experience as a Village Attorney, Village Prosecutor, Town Attorney, Town Prosecutor, Special Counsel and Hearing Officer for various municipalities in Westchester and Putnam Counties. The following are among his clients: the Villages of Ardsley, Hastings-on-Hudson, Elmsford, Rye Brook, Tarrytown, Sleepy Hollow as Village Attorney, the Town of Somers as Town Attorney, and the Town of Eastchester and the Village of Tuckahoe and the Archville Fire Department as Special Counsel additionally, he has served as special counsel for the County of Westchester, Hearing Officer for the County of Westchester, the Westchester County Department of Health, the Westchester County Taxi and Limousine Commission, City of Yonkers, City of New Rochelle and the City of White Plains, and Hearing Officer for the Town of Kent.

Councilman Marcoccia explained the Town Board will ask Mr. Ponzini to investigate a matter involving a gun that was stolen from Police Chief Timothy Bonci's home by his adult son. Mr. Ponzini is being hired to review the internal investigation that has occurred, conduct an independent investigation and to advise the Town Board accordingly.

Mr. Denning spoke in opposition to hiring Mr. Ponzini and suggested the investigation be conducted by the State or County Police.

Peter DeFelice asked Mr. Reda to provide information on the laws that govern gun storage. Mr. Reda responded that he will not discuss hypothetical scenarios and suggested the investigation be allowed to commence.

Francine Barbaro questioned the impartiality of an investigator who has worked for the Town in the past.

Janet Harrison stated the severity of the matter requires Chief Bonci to be suspended while the investigation is conducted.

Lou Reda responded the law does not require suspension and that the matter is being dealt with in the same manner as other incidences that have occurred over the past 14 years.

VI. APPROVAL OF MINUTES

Councilman Dooley offered a motion that was seconded by Councilwoman Nicholson to approve the Minutes of the August 21, 2018 Town Board Meeting as prepared by Town Clerk Linda Laird.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

VI. LAW DEPARTMENT REPORT

1. RESOLUTION AUTHORIZING THE TOWN BOARD TO DELEGATE THE INVESTIGATION OF THE MATTER CONCERNING THE POLICE CHIEF TO AN INVESTIGATOR

Councilman Marcoccia offered a motion that was seconded by Councilman Bellitto to approve a RESOLUTION authorizing the Town Board to delegate the investigation of the matter concerning Police Chief Timothy Bonci to Robert Ponzini, Esq., and be it further resolved that Robert Ponzini shall be compensated at the rate of \$25.00 per hour.

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

VII. CORRESPONDENCE

A) MEMORANDUM FROM COMPTROLLER RE: BUDGET TRANSFERS/REVISIONS

Councilman Bellitto offered a motion that was seconded by Councilman Dooley to approve the following Budget Transfers and Revisions:

Transfers

From:	Assoc. Dues & Meeting	B3120.402	\$ 2,500.00
From:	Training	B3120.430	\$ 3,500.00
To:	Small Equipment	B3120.203	\$ 6,000.00
From:	Contractual Services	A7310.450	\$ 3,050.00
To:	Salaries –P/T- Seasonal	A7310.102	\$ 3,050.00
From:	Maint. & Repairs	A3320.414	\$ 300.00
To:	Material & Supplies	A3320.401	\$ 300.00
From:	Contingencies	E3600.499	\$ 1,000.00
To:	Contractual Services	E3300.450	\$ 1,000.00

Revisions

Increase:	Equipment	A6770.201	\$25,505.00
Increase:	Recreation Fees- Seniors	A02000	\$25,505.00

On the roll call, all voted "AYE," except Supervisor Colavita who was "ABSENT." Motion carried.

VIII. MISCELLANEOUS BUSINESS - none

IX. COUNCIL MEMBER REPORTS

Councilman Marcoccia stated the pools at Lake Isle would be open this weekend with abbreviated hours. During the week, the pool is open from 4-6pm and 12-6 pm on the weekend.

Council Marcoccia reported on the progress of the Community Senior Center at Lake Isle, and stated permits have been given for Phase I of the project.

Councilman Bellitto reported that the Board of Elections has changed some town polling locations for the September 13th Primary Election as well as for the General Election on Tuesday, November 6th. Those voters in election Districts 18,19 and 21 will now vote at the Bronxville Firehouse, and those voters that live in election districts 31-35 will vote at the Cottle School.

Councilman Bellitto stated that beginner's tennis lessons are available for 3 to 14 year olds to be held at the Leewood Tennis Courts, Also there is a sports squirts program for children ages 2-5 years old for soccer and multiple sports. For more information, please visit www.eastchester.org.

Councilman Dooley stated that the Eastchester's 10th Annual Green Festival will be held on Saturday, September 29th from 11am – 2pm at Anne Hutchinson School. He also reminded all that the Eastchester Irish American Social Club and the Eastchester Italian America Citizens Club are having their Annual Golf Outing on Monday Oct 1st at Lake Isle. For more information, please email the eastchestercup@gmail.com.

Councilman Dooley reminded the residents that school is open, and asks that everyone drives safely.

Councilwoman Nicholson stated that the Eastchester Historical Society Fall event is "Dinner with Edgar Allan Poe" on September 28th from 6-10pm. Admission is \$100 which includes a catered dinner and show. For more information please contact smmarcotte5@gmail.com or visit the website at www.eastchesterhistoricalsociety.org.

Councilwoman Nicholson stated the 5th Annual Eastchester 5K will be held on, Sunday September 30th at 9:am starting at Eastchester Town Hall. To register, please visit www.eastchester5K.org.

X. SECOND OPPORTUNITY TO ADDRESS THE BOARD

Jeff Meyer explained that during 21 years as a Eastchester Police Officer and 11 years as PBA President he is unaware of a single instance when an unsecure fire arm or loss of a weapon did not result in a disciplinary action. Mr. Meyer expressed concern that a "breakdown of management" in the Eastchester Police Department has resulted in the transfer of several Officers. In closing, Mr. Meyer discussed the reduction in manpower to the Anti-Drug Task Force.

Councilman Marcoccia stated 3 Officers have transferred to other Departments and there have been 8 retirements. In response many new Police Officers have been hired, including 6 since the start of summer.

Councilman Bellitto spoke in support of the neighboring Police Departments joining force and redoubling efforts for a "robust" effort that focuses on opioid and substance.

Councilman Dooley stated the Town Board takes its role seriously and is focused on hiring and promoting within the Police Department.

Councilman Marcoccia agreed that BESTADE has been dormant and should be reactivated.

Janet Harrison spoke in opposition to the Town's defense in the 'fair justice lawsuit.'

Ray Rosado suggested Chief Bonci is receiving preferential treatment and that anyone else, who lost control of a weapon, would have been suspended without pay.

Michael Denning suggested all of Chief Bonci's weapons, including those used for hunting should be confiscated and that the continuation of the investigation should be conducted by either the State or County Police.

Police Lt. Jeff Hunter reported on the Bronxville, Eastchester, Scarsdale, Tuckahoe Alcohol and Drug Enforcement Task Force (BESTADE). The multi-jurisdictional Task Force works to battle illegal drugs and combats underage drinking. BESTADE is a program designed to serve the specific community in which we live and to best utilize the collective efforts of the four separate local police departments. Lt. Hunter reported that between 2014 and 2017 the task force, on average annually, made 35 arrests for the sale or possession of marijuana and 12 arrests for controlled substance.

Councilman Bellitto responded to Lt. Hunter's report of 12 arrests a year involving a control substance stating; "that isn't enough."

Anthony Cerasi reported that from 2005 to 2008, when the Drug and Alcohol Task Force was staffed with Officers on a full time basis, there had been '30 arrests per month.'

Ralph Ferraioli stated he feels safe in town and commended the Eastchester Police Department on their efforts

There being no further business, the meeting was adjourned at 9:33 p.m.

Minutes prepared by;

Mary T. Swikata
Deputy Town Clerk

LAWS OF NEW YORK, 2013

CHAPTER 433

AN ACT in relation to authorizing the public service commission, upon application by a municipality, to order costs for infrastructure maintenance and access to be charged to all customer classes located in such municipality

Became a law October 23, 2013, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. 1. Notwithstanding any law to the contrary, a municipality may apply to the public service commission to have any costs for infrastructure maintenance and access it is charged by a water-works corporation to instead be charged to all customers across all customer classes located in the municipality provided the municipality has held a public hearing with notice on the matter and has adopted a resolution and determined by a majority vote of the total voting strength of its governing body that it is in the overall public interest to have such costs charged to all customers across all customer classes. Any savings achieved as a result of this action shall be applied to the property tax levy of the municipality which has adopted such a resolution in an amount equal to such savings in the following fiscal year. Within 120 days after receiving an application pursuant to this act, the public service commission is empowered and directed to issue an order requiring that costs for infrastructure maintenance and access be included in the rates charged to all customer classes and apportioned among all customers located in the municipality and that such municipality shall not be charged separately or additionally for costs for infrastructure maintenance and access. The public service commission shall have the power to request any information that it may deem necessary from the water-works corporation or municipality so that it may issue an order as required by this section and may require that such information or application be in the form and manner as the commission may request.

2. Definitions. For purposes of this act:

a. "costs for infrastructure maintenance and access" means all costs associated with maintenance and operation of infrastructure and equipment used in connection with the sale, furnishing, transmission and distribution of water for domestic, commercial, public and emergency purposes and shall also mean costs or charges associated with municipal access to infrastructure or equipment.

b. "municipality" shall mean a city, town or village located in the county of Westchester.

c. "water-works corporation" shall have the same meaning as that term is defined in section 2 of the public service law.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

CHAP. 433

2

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

DEAN G. SKELOS
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly