

Merchantville, NJ

December 8, 2008

A regular meeting of Borough Council was held at 7:30 PM, Monday, December 8, 2008. Mayor Frank M. North presided. Pledge of Allegiance and Silent Prayer were observed. Announcement was made that the meeting had been advertised in accordance with the regulations prescribed by the "Open Public Meetings Act".

ROLL CALL:

Council Present: Alloway, Fields, Volkert, Waldron, Perno and Brunton

Borough Clerk Denise Brouse and Attorney Tim Higgins were present.

PUBLIC HEARING ON ORDINANCES-No public spoke on Ordinances 08-09, 08-10, 08-11 and 08-12

ORDINANCE 08-09

**AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST TO
CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND
COMMUNICATIONS SYSTEM IN THE BOROUGH OF MERCHANTVILLE, NEW JERSEY.**

**BE IT ORDAINED BY THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF
MERCHANTVILLE, as follows:**

SECTION 1. PURPOSE OF THE ORDINANCE

The municipality hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the municipality, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the Municipality of a cable television and communications system.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 *et seq.*, and the Cable Communications Policy Act, 47 U.S.C. Section 521 *et seq.*, as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 *et seq.*, and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- a. "Municipality" is the Borough of Merchantville, County of Camden, State of New Jersey.
- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of Garden State, L.P.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, *et seq.*
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS

Public hearings conducted by the municipality, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions

of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the municipality, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Municipality hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE

The non-exclusive Municipal Consent granted herein shall expire 15 years from the date of expiration of the previous Certificate of Approval issued by the Board with a 10-year automatic renewal as provided by N.J.S.A. 48:5A-19 and 25, and N.J.A.C. 14:18-13.6. In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE

Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Municipality two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to the renewal of the franchise shall apply to the entirety of the Municipality and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy of 35 homes per mile.

SECTION 8. CONSTRUCTION REQUIREMENTS

Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.

Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.

Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

SECTION 9. CUSTOMER SERVICE

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the municipality upon written request of the Municipality Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- c. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- d. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

SECTION 10. MUNICIPAL COMPLAINT OFFICER

The Office of Cable Television is hereby designed as the Complaint Officer for the Municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Municipality shall have the right to request copies of records and reports pertaining to complaints by Municipality customers from the OCTV.

SECTION 11. LOCAL OFFICE

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours, and in no event (excepting emergent circumstances) less than 9:00 A.M. to 5:00 P.M., Monday through Friday.

SECTION 12. PERFORMANCE BONDS

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand (\$25,000.00) dollars. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY

- a. The Company shall provide Total Preferred cable television service on one (1) outlet at no cost to each school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets.
- b. The Company shall provide Total Preferred cable television service at no cost on one (1) outlet to Borough Hall, each police, fire, emergency management facility and public library in the Municipality, and the municipal senior center located at Somerset Avenue, provided the facilities are located within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Municipality. Monthly service charges shall be waived on all additional outlets.
- c. The Company shall provide free basic Internet service, via high-speed cable and modem, to one (1) non-networked personal computer in each qualified existing and future school in the municipality, public and private, elementary, intermediate and secondary, at no charge provided the facility is located within 175 feet of active cable distribution plant. The Internet service shall be installed on a personal computer that is accessible to the students and not for administrative use only.
- d. The Company shall provide free basic Internet access via high-speed cable and modem on one (1) non-networked personal computer in each qualified existing and future public library at no charge provided the facility is located within 175 feet of active cable distribution plant. The Internet shall be installed on a personal computer that is accessible to library patrons and not for administrative use only.

- e. Within six (6) months of receipt of a Renewal Certificate of Approval, the Company shall provide the Borough with a one-time technology grant in the amount of eleven thousand (\$11,000) dollars for the Borough's cable and technology related needs.

SECTION 15. EMERGENCY USES

The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.

The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

SECTION 16. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

SECTION 17. INCORPORATION OF THE APPLICATION

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

SECTION 18. COMPETITIVE EQUITY

Should the Municipality grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

SECTION 19. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 20. THIRD PARTY BENEFICIARIES

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 21. EFFECTIVE DATE

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

ORDINANCE 08-10

ORDINANCE OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, STATE OF NEW JERSEY, CANCELLING CERTAIN FUNDED APPROPRIATION BALANCES HERETOFORE PROVIDED FOR VARIOUS CAPITAL PROJECTS AND REAPPROPRIATING SUCH FUNDED APPROPRIATION BALANCES FOR OTHER CAPITAL PROJECTS

BE IT ORDAINED by the Borough Council of the Borough of Merchantville, County of Camden, New Jersey ("Borough") (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The following appropriations remaining as a balance in Bond Ordinances 32795, 41497, 61499, 00-04, 01-05, and 04-05 (collectively, the "Bond Ordinances") heretofore adopted by the Borough Council are hereby cancelled:

Ordinance	Amount of Funded Appropriation to be Cancelled	Amount of Unfunded Appropriation to be Cancelled
32795 (Firehouse Renovation)	\$2,522.80	\$0
32795 (Recreation Equipment)	762.00	0
41497 (Fire Radios)	260.95	0
61499 (Building Renovation)	6,283.60	0
00-04 (Court Office Equipment)	523.61	0
01-05 (Building Improvements)	8,941.89	0
01-05 (Public Works Vehicles)	55,504.07	0
01-05 (Garage Renovations)	10,192.24	0
01-05 (EMS Equipment)	2,543.00	0
01-05 (Engineering Fees)	349.64	0
04-05 (Parking Meter Replacement)	583.70	0
Total	\$88,467.50	\$0

Section 2. The sum of \$88,467.50, which represents the funded appropriation cancelled in Section 1 hereof, is hereby reappropriated from the Bond Ordinances for: (i) the installation of speed humps in the Borough in the amount of \$33,427.56; (ii) the replacement of the Municipal Building Driveway in the amount of \$55,039.94, together with the acquisition of all materials and equipment and completion of all work necessary therefore or related thereto.

Section 3. The period of usefulness of the purposes referred to in Section 2, within the limitations of the Local Bond Law and according to the reasonable life thereof, is not less than ten (10) years.

Section 4. The Capital Budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Municipal Clerk and available for inspection.

Section 5. The improvements authorized hereby are not current expenses and are general improvements that the Borough may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 6. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 7. This ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

08-11**ORDINANCE OF THE BOROUGH OF MERCHANTVILLE,
COUNTY OF CAMDEN AND STATE OF NEW JERSEY
DETERMINING POSITIONS ELIGIBLE FOR THE DEFINED
CONTRIBUTION RETIREMENT PROGRAM**

WHEREAS, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials; and,

WHEREAS, N.J.S.A. 43:15C-2 requires the governing body of each county, municipality, and other local entity to adopt, as appropriate, either a resolution or ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed to such positions shall be eligible for and shall participate in the Defined Contribution Retirement Program, subject to the provisions of law; and,

WHEREAS, the Mayor and Borough Council of the Borough of Merchantville has considered the guidelines issues by the Local Finance Board;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Merchantville that, pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- a. Borough Solicitor;
- b. Borough Engineer;
- c. Members of Merchantville Planning Board;

BE IT FURTHER ORDAINED that individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S.A. 43:15C-2:

- a. Certified Health Officer;
- b. Tax Collector;
- c. Chief Financial Officer;
- d. Construction Code Official;
- e. Qualified Purchasing Agent;
- f. Tax Assessor;
- g. Municipal Planner;
- h. Registered Municipal Clerk;
- i. Licensed Uniform Subcode Inspector;
- j. Principal Public Works Manager.

BE IT FURTHER ORDAINED that:

a. This Ordinance shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.

b. Should any part or parts of this Ordinance be held to be invalid by any competent court of law, such invalidity shall only affect the part or parts held to be invalid, and all other parts shall remain in effect.

c. A copy of this Ordinance shall be filed with the Director of the Division of Pensions & Benefits of the New Jersey Department of the Treasury.

d. This Ordinance shall take effect immediately upon its passage and publication according to law.

ORDINANCE 08-12

A BOND ORDINANCE AUTHORIZING IMPROVEMENTS TO THE SANITARY SEWER SYSTEM IN THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, NEW JERSEY; APPROPRIATING THE SUM OF \$1,845,000 THEREFORE; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$1,845,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

BE IT ORDAINED by the Borough Council of the Borough of Merchantville, County of Camden, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The purposes described in Section 7 hereof are hereby authorized as general improvements to be made or acquired by the Borough of Merchantville, County of Camden, New Jersey ("Borough").

Section 2. It is hereby found, determined and declared as follows:

- (a) the estimated amount to be raised by the Borough from all sources for the purposes stated in Section 7 hereof is \$1,845,000; and
- (b) the estimated amount of bonds or bond anticipation notes to be issued for the purposes stated in Section 7 hereof is \$1,845,000;

Section 3. The sum of \$1,845,000, to be raised by the issuance of bonds or bond anticipation notes is hereby appropriated for the purposes stated in this bond ordinance ("Bond Ordinance").

Section 4. The issuance of negotiable bonds of the Borough in an amount not to exceed \$1,845,000 to finance the costs of the purposes set forth in Section 7 hereof, is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law. All or a portion of the bonds authorized to be issued hereunder may evidence one (1) or more loans from the New Jersey Environmental Infrastructure Trust and/or the New Jersey Department of Environmental Protection.

Section 5. In order to temporarily finance the purposes described in Section 7 hereof, the issuance of bond anticipation notes of the Borough in an amount not to exceed \$1,845,000 is hereby authorized. Pursuant to the Local Bond Law, the Chief Financial Officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this Bond Ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 6. The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, *N.J.S.A. 40A:2-20*, shall not exceed the sum of \$185,000.

Section 7. The improvements hereby authorized and the purposes for which said obligations are to be issued; the estimated costs of each said purpose; the amount of down payment for each said purpose; the maximum amount of obligations to be issued for each said purpose and the period of usefulness of each said purpose within the limitations of the Local Bond Law are as follows:

<u>Purpose/Improvement</u>	<u>Estimated Total Cost</u>	<u>Down Pay ment</u>	<u>Amount of Obligations</u>	<u>Period of Usefulness</u>
A Various Improvements to the Borough's Sanitary Sewer System, including the Rehabilitation, Reconstruction and/or Replacement of Sewerage Conveyance Lines and Manholes throughout the Borough, together with the acquisition of all materials and equipment and completion of all work necessary project necessary therefore or related thereto all as more particularly described in the information prepared by the Borough's Consulting Engineer, on file and available for inspection in the office of the Borough Clerk.	\$1,845,000	\$0	\$1,845,000	40 years

Section 8. Grants or other monies received from any governmental entity, if any, will be applied to the payment of, or repayment of obligations issued to finance, the costs of the purposes described in Section 7. above.

Section 9. The supplemental debt statement provided for in Section 9 of the Local Bond Law, *N.J.S.A.* 40A:2-10, was duly filed in the office of the Borough Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. The supplemental debt statement shows that the gross debt of the Borough, as defined in Section 43 of the Local Bond Law, *N.J.S.A.* 40A:2-43, is increased by this Bond Ordinance by \$1,845,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. The full faith and credit of the Borough are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance, and to the extent payment is not otherwise provided, the Borough shall levy *ad valorem* taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

Section 11. The Capital Budget is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Borough Clerk and available for inspection.

Section 12. The Borough hereby declares its intent to reimburse itself from the proceeds of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code"), for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the Borough prior to the issuance of such bonds or bond anticipation notes.

Section 13. The Borough hereby covenants as follows:

(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes authorized by the Bond Ordinance is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable

arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 14. The improvements authorized hereby are not current expenses and are improvements that the Borough may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 15. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 16. In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

PUBLIC:

Robert Disch, 23 E. Chestnut Avenue, will flags be ½ staff on December 7 & September 11? Chief Bauer will tell Fred to have it done.

ENGINEER'S REPORT: Consulting Engineer Services provided a written copy of the Engineer's report.

APPROVAL OF MINUTES-On the motion of Mr. Brunton and a second of Mr. Waldron, Council approved the August 11, 2008, August 25, 2008 and the September 8, 2008 (as amended) regular meeting minutes.

CORRESPONDENCE: none

COUNCIL REPORTS:

Pat Fields-discussed personnel manual, EMS will have a meeting with John Alloway to discuss requirement for new year, 19 W. Chestnut may go on abandoned property list, working of the lot at Clip Joint. Chief will set up meeting. Neighborhood Preservation Program received a \$25,000 planning grant.

Shawn Waldron-reported that Shade Tree meets on December 11. Public Events held tree lighting and parade, thanks to police & public works, worked well with 1st Friday.

Mark Brunton-reported on Public Works, 8 trees cut down, stumps were marked , Office of Emergency Management met and Mayor made a list for appointments.

Anthony Perno-reported on CDBG money needs to be spent, talking with Bill Lammey, Community Center had leak and working on repairing inside ceiling. TMobile hook up should be able to be done on roof, 25000 DEP grant will be submitted for Bike Path grant.

Steve Volkert-gave Fire Department report, 9 calls , Kevin will be out for 10 days for birth of new baby.

John Alloway-reported on the Police Dept, 243 calls, 175 traffic, Bus shelter review for grant, read a letter regarding Police Operations, also reported on Court, 285 cases added, 417 disposed.

REPORT: Reorganization meeting, Holiday Luncheon on December 19, Evaluations due tonight, records destruction 200 boxes.

OLD BUSINESS: Ordinance for second reading and adoption

Mr. Brunton has a question regarding Ordinance 08-11, who is eligible and who should be on this list? Is it correct?

ORDINANCE ADOPTION-On the motion of Mr. Perno and second of Mr. Brunton, council adopted the following Ordinances.

ORDINANCE 08-09

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE BOROUGH OF MERCHANTVILLE, NEW JERSEY.

BE IT ORDAINED BY THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MERCHANTVILLE, as follows:

SECTION 1. PURPOSE OF THE ORDINANCE

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SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- j. "Municipality" is the Borough of Merchantville, County of Camden, State of New Jersey.
- k. "Company" is the grantee of rights under this Ordinance and is known as Comcast of Garden State, L.P.
- l. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, et seq.
- m. "FCC" is the Federal Communications Commission.
- n. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- o. "Office" or "OCTV" is the Office of Cable Television of the Board.
- p. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- q. "Application" is the Company's Application for Renewal of Municipal Consent.
- r. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS

Public hearings conducted by the municipality, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the municipality, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Municipality hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

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The non-exclusive Municipal Consent granted herein shall expire 15 years from the date of expiration of the previous Certificate of Approval issued by the Board with a 10-year automatic renewal as provided by N.J.S.A. 48:5A-19 and 25, and N.J.A.C. 14:18-13.6. In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE

Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Municipality two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to the renewal of the franchise shall apply to the entirety of the Municipality and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy of 35 homes per mile.

SECTION 8. CONSTRUCTION REQUIREMENTS

Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.

Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.

Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

SECTION 9. CUSTOMER SERVICE

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the municipality upon written request of the Municipality Administrator or Clerk.

- e. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- f. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- g. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- h. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

SECTION 10. MUNICIPAL COMPLAINT OFFICER

The Office of Cable Television is hereby designed as the Complaint Officer for the Municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Municipality shall have the right to request copies of records and reports pertaining to complaints by Municipality customers from the OCTV.

SECTION 11. LOCAL OFFICE

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours, and in no event (excepting emergent circumstances) less than 9:00 A.M. to 5:00 P.M., Monday through Friday.

SECTION 12. PERFORMANCE BONDS

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand (\$25,000.00) dollars. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY

- f. The Company shall provide Total Preferred cable television service on one (1) outlet at no cost to each school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets.
- g. The Company shall provide Total Preferred cable television service at no cost on one (1) outlet to Borough Hall, each police, fire, emergency management facility and public library in the Municipality, and the municipal senior center located at Somerset Avenue, provided the facilities are located within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Municipality. Monthly service charges shall be waived on all additional outlets.
- h. The Company shall provide free basic Internet service, via high-speed cable and modem, to one (1) non-networked personal computer in each qualified existing and future school in the municipality, public and private, elementary, intermediate and secondary, at no charge provided the facility is located within 175 feet of active cable distribution plant. The Internet service shall be installed on a personal computer that is accessible to the students and not for administrative use only.
- i. The Company shall provide free basic Internet access via high-speed cable and modem on one (1) non-networked personal computer in each qualified existing and future public library at no charge provided the facility is located within 175 feet of active cable distribution plant. The Internet shall be installed on a personal computer that is accessible to library patrons and not for administrative use only.
- j. Within six (6) months of receipt of a Renewal Certificate of Approval, the Company shall provide the Borough with a one-time technology grant in the amount of eleven thousand (\$11,000) dollars for the Borough's cable and technology related needs.

SECTION 15. EMERGENCY USES

The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.

The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

SECTION 16. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or

other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

SECTION 17. INCORPORATION OF THE APPLICATION

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

SECTION 18. COMPETITIVE EQUITY

Should the Municipality grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

SECTION 19. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 20. THIRD PARTY BENEFICIARIES

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 21. EFFECTIVE DATE

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

08-10

ORDINANCE OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, STATE OF NEW JERSEY, CANCELLING CERTAIN FUNDED APPROPRIATION BALANCES HERETOFORE PROVIDED FOR VARIOUS CAPITAL PROJECTS AND REAPPROPRIATING SUCH FUNDED APPROPRIATION BALANCES FOR OTHER CAPITAL PROJECTS

BE IT ORDAINED by the Borough Council of the Borough of Merchantville, County of Camden, New Jersey ("Borough") (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The following appropriations remaining as a balance in Bond Ordinances 32795, 41497, 61499, 00-04, 01-05, and 04-05 (collectively, the "Bond Ordinances") heretofore adopted by the Borough Council are hereby cancelled:

Ordinance	Amount of Funded Appropriation to be Cancelled	Amount of Unfunded Appropriation to be Cancelled
32795 (Firehouse Renovation)	\$2,522.80	\$0
32795 (Recreation Equipment)	762.00	0

41497 (Fire Radios)	260.95	0
61499 (Building Renovation)	6,283.60	0
00-04 (Court Office Equipment)	523.61	0
01-05 (Building Improvements)	8,941.89	0
01-05 (Public Works Vehicles)	55,504.07	0
01-05 (Garage Renovations)	10,192.24	0
01-05 (EMS Equipment)	2,543.00	0
01-05 (Engineering Fees)	349.64	0
04-05 (Parking Meter Replacement)	583.70	0
Total	\$88,467.50	\$0

Section 2. The sum of \$88,467.50, which represents the funded appropriation cancelled in Section 1 hereof, is hereby reappropriated from the Bond Ordinances for: (i) the installation of speed humps in the Borough in the amount of \$33,427.56; (ii) the replacement of the Municipal Building Driveway in the amount of \$55,039.94, together with the acquisition of all materials and equipment and completion of all work necessary therefore or related thereto.

Section 3. The period of usefulness of the purposes referred to in Section 2, within the limitations of the Local Bond Law and according to the reasonable life thereof, is not less than ten (10) years.

Section 4. The Capital Budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Municipal Clerk and available for inspection.

Section 5. The improvements authorized hereby are not current expenses and are general improvements that the Borough may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 6. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 7. This ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

08-11

ORDINANCE OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY DETERMINING POSITIONS ELIGIBLE FOR THE DEFINED CONTRIBUTION RETIREMENT PROGRAM

WHEREAS, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials; and,

WHEREAS, N.J.S.A. 43:15C-2 requires the governing body of each county, municipality, and other local entity to adopt, as appropriate, either a resolution or ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed to such positions shall be eligible for and shall participate in the Defined Contribution Retirement Program, subject to the provisions of law; and,

WHEREAS, the Mayor and Borough Council of the Borough of Merchantville has considered the guidelines issues by the Local Finance Board;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Merchantville that, pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- d. Borough Solicitor;
- e. Borough Engineer;
- f. Members of Merchantville Planning Board;

BE IT FURTHER ORDAINED that individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S.A. 43:15C-2:

- k. Certified Health Officer;
- l. Tax Collector;
- m. Chief Financial Officer;
- n. Construction Code Official;
- o. Qualified Purchasing Agent;
- p. Tax Assessor;
- q. Municipal Planner;
- r. Registered Municipal Clerk;
- s. Licensed Uniform Subcode Inspector;
- t. Principal Public Works Manager.

BE IT FURTHER ORDAINED that:

a. This Ordinance shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.

b. Should any part or parts of this Ordinance be held to be invalid by any competent court of law, such invalidity shall only affect the part or parts held to be invalid, and all other parts shall remain in effect.

c. A copy of this Ordinance shall be filed with the Director of the Division of Pensions & Benefits of the New Jersey Department of the Treasury.

d. This Ordinance shall take effect immediately upon its passage and publication according to law.

08-12

A BOND ORDINANCE AUTHORIZING IMPROVEMENTS TO THE SANITARY SEWER SYSTEM IN THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, NEW JERSEY; APPROPRIATING THE SUM OF \$1,845,000 THEREFORE; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$1,845,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

BE IT ORDAINED by the Borough Council of the Borough of Merchantville, County of Camden, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The purposes described in Section 7 hereof are hereby authorized as general improvements to be made or acquired by the Borough of Merchantville, County of Camden, New Jersey ("Borough").

Section 2. It is hereby found, determined and declared as follows:

- (a) the estimated amount to be raised by the Borough from all sources for the purposes stated in Section 7 hereof is \$1,845,000; and
- (b) the estimated amount of bonds or bond anticipation notes to be issued for the purposes stated in Section 7 hereof is \$1,845,000;

Section 3. The sum of \$1,845,000, to be raised by the issuance of bonds or bond anticipation notes is hereby appropriated for the purposes stated in this bond ordinance ("Bond Ordinance").

Section 4. The issuance of negotiable bonds of the Borough in an amount not to exceed \$1,845,000 to finance the costs of the purposes set forth in Section 7 hereof, is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law. All or a portion of the bonds authorized to be issued hereunder may evidence one (1) or more loans from the New Jersey Environmental Infrastructure Trust and/or the New Jersey Department of Environmental Protection.

Section 5. In order to temporarily finance the purposes described in Section 7 hereof, the issuance of bond anticipation notes of the Borough in an amount not to exceed \$1,845,000 is hereby authorized. Pursuant to the Local Bond Law, the Chief Financial Officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this Bond Ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 6. The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, *N.J.S.A. 40A:2-20*, shall not exceed the sum of \$185,000.

Section 7. The improvements hereby authorized and the purposes for which said obligations are to be issued; the estimated costs of each said purpose; the amount of down payment for each said purpose; the maximum amount of obligations to be issued for each said purpose and the period of usefulness of each said purpose within the limitations of the Local Bond Law are as follows:

<u>Purpose/Improvement</u>	<u>Estimated Total Cost</u>	<u>Down Payment</u>	<u>Amount of Obligations</u>	<u>Period of Usefulness</u>
A. Various Improvements to the Borough's Sanitary Sewer System, including the Rehabilitation, Reconstruction and/or Replacement of Sewerage Conveyance Lines and Manholes throughout the Borough, together with the acquisition of all materials and equipment and completion of all work necessary project necessary therefore or related thereto all as more particularly described in the information prepared by the Borough's Consulting Engineer, on file and available for inspection in the office of the Borough Clerk.	\$1,845,000	\$0	\$1,845,000	40 years

Section 8. Grants or other monies received from any governmental entity, if any, will be applied to the payment of, or repayment of obligations issued to finance, the costs of the purposes described in Section 7. above.

Section 9. The supplemental debt statement provided for in Section 9 of the Local Bond Law, *N.J.S.A. 40A:2-10*, was duly filed in the office of the Borough Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. The supplemental debt statement shows that the gross debt of the Borough, as defined in Section 43 of the Local Bond Law, *N.J.S.A. 40A:2-43*, is increased by this Bond Ordinance by \$1,845,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. The full faith and credit of the Borough are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance, and to the extent payment is not otherwise provided, the Borough shall levy *ad valorem* taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

Section 11. The Capital Budget is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Borough Clerk and available for inspection.

Section 12. The Borough hereby declares its intent to reimburse itself from the proceeds of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code"), for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the Borough prior to the issuance of such bonds or bond anticipation notes.

Section 13. The Borough hereby covenants as follows:

(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes authorized by the Bond Ordinance is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 14. The improvements authorized hereby are not current expenses and are improvements that the Borough may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 15. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 16. In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

NEW BUSINESS:

DISCUSSION-Leaf collection- Ms. Disch spoke regarding 34 W. Walnut Avenue, wrote to Mayor regarding leaf collection. Wall of leaves on street, they are everywhere they should not be. Our town looks sloppy. Mayor North responded that machine was broken. Public Work's is picking large limbs from the leaf piles.

Mr. Brunton had a resident request to alternate the zone list each year for pick up.

DISCUSSION-Personnel Manual

RECEIPT of Fair and Open Qualifications

PROCLAMATION-Supporting the Over the Limit Under Arrest 2008 Year End Crackdown

DISCUSSION-Almost Home Animal Shelter Contract increase 25% FOR 2009

RESOLUTION 08-128 Amending R08-68 for Professional Service for Special Council- On the motion of Mr. Brunton and second of Mrs. Fields Council unanimously approved the following resolution:

R08-128

RESOLUTION OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AMENDING PROFESSIONAL SERVICES CONTRACT TO JAMES B. EVANS, JR.

WHEREAS, N.J.S.A. 40:87-15 authorizes appointments as the Borough Council may deem necessary; and

WHEREAS, there exists a need for Special Council;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Merchantville, as follows:

(1) The Mayor and Borough Clerk are hereby authorized and directed to execute an agreement with James B. Evans, Jr. in an amount not to exceed \$7,632.00. The Chief Financial Officer has certified as to the availability of funds;

(2) This contract is awarded without competitive bidding as a "professional service" under the provision of the Local Public Contracts Law because the services to be rendered pursuant thereto are performed by a person authorized by law to practice a recognized profession;

(3) A copy of this resolution shall be published in the Retrospect as required by law within ten (10) days of its passage.

PAYMENT OF BILLS- On the motion of Mr. Alloway and second of Mr. Volkert, Council unanimously approved the following resolution:

**R08-129
RESOLUTION**

RESOLVED that the Report of the Department of Accounts and Auditing be accepted and spread upon the minutes and the Treasurer be is hereby authorized to pay bills approved therein.

**Borough of
Merchantville
Current Fund**

**Bill List
Summary**

December 8, 2008

Checks Current Fund

2008 Budget	\$56,013.25
State / Federal Grants	\$888.06
Debt Service	
Board of Education	
Checks Delivered	\$73,837.15
Total Current	\$130,738.46

Sewer Utility Fund

2008 Budget	\$76,621.66
Debt Service	
Checks Delivered	\$5071.16
Total Sewer	\$81,692.82

Recreation Commission

2008 Budget	\$836.96
Checks Delivered	
Total Recreation	\$836.96

General Capital Fund

2008 Budget	
Checks Delivered	
Total Capital	

Trust-Other Fund

2008 Budget	
Checks Delivered	
Total Trust	

**Animal Trust
Unemployment**

2008 Budget	
2008 Budget	
Checks Delivered	
Total	
Total Bill list	\$213,268.24

DIRECTOR OF ACCOUNTS & AUDITING
PATRICIA FIELDS

ATTEST:

DENISE L. BROUSE
BOROUGH CLERK

December 8, 2008

APPROVED:

FRANK M. NORTH
MAYOR

ANNOUNCEMENTS:

ADJOURNMENT:

On the motion of Mr. Alloway and second of Mr. Volkert, the meeting was adjourned at 9:00 PM.

DENISE L. BROUSE
BOROUGH CLERK