

## RESOLUTION NO. 17-269

### **A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AUTHORIZING THE BOROUGH ATTORNEY TO CONDUCT AN INVESTIGATION AND MAKE RECOMMENDATIONS TO THE GOVERNING BODY AS TO POTENTIAL RECOVERY OF AMOUNTS DUE AND/OR LOSSES ARISING FROM SUSPECTED UNMETERED AND/OR MISAPPROPRIATED WATER BY CERTAIN USERS OF THE BOROUGH'S WATER AND SEWER UTILITY**

Councilman Zipprich offered the following resolution and moved its approval:

**WHEREAS**, the Water and Sewer Utility of the Borough of Red Bank, County of Monmouth, State of New Jersey (the "Borough") is governed by Chapter 695 of the Revised General Ordinances of the Borough, and the rules and regulations promulgated therefrom; and

**WHEREAS**, Chapter 695 of the Borough's Municipal Code, and the rules and regulations promulgated therefrom, governs the provision, maintenance, metering, billing, and general regulation of the authorized users of the Borough's Water and Sewer Utility; and

**WHEREAS**, the Borough's Water and Sewer Utility has advised the Governing Body that, as a result of the ongoing installation of new meters throughout the Borough's water and sewer system, the Water and Sewer Utility has discovered potential instances of previously unknown meters and unpermitted users within the Borough; and

**WHEREAS**, potential violations of Chapter 695 of the Borough's Municipal Code, and/or the rules and regulations promulgated therefrom, unduly burdens and unnecessarily raises the cost of water and sewer service to the currently permitted and paying users of the Borough's Water and Sewer Utility; and

**WHEREAS**, it is in the best interests of the currently permitted and paying users of the Borough's Water and Sewer Utility for the Governing Body to pursue remedies in response to potential violations of Chapter 695 of the Borough's Municipal Code, and/or the rules and regulations promulgated therefrom, in order to attempt to recover amounts due and/or losses sustained by the Borough's Water and Sewer Utility;

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey as follows:

1. The Borough Attorney, Gregory J. Cannon, Esq. of Sobel Han, LLP, is hereby authorized and instructed by the Governing Body to conduct an investigation, in conjunction with employees of the Borough's Water and Sewer Utility, regarding potential unmetered and/or misappropriated water utility services within the Borough of Red Bank.

2. The Borough Attorney shall provide a report and recommendation to the Governing Body regarding the findings of the aforementioned investigation, whereupon the Governing Body will consider its potential actions and remedies in response thereto.

3. The name(s) and/or address(es) of the user(s) in potential violation of Chapter 695 of the Borough's Municipal Code, and/or the rules and regulations promulgated therefrom, shall not be disclosed by the Borough until such time as the Borough Attorney deems appropriate under New Jersey law insofar as such information pertains to an ongoing investigation, as defined by the Open Public Records Act.

4. That a certified copy of this resolution be forwarded to the Chief Financial Officer, the Department of Public Utilities, the Borough Administrator, and the Borough Attorney.

Seconded by Councilman Yngstrom and approved on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Yngstrom	( X )	(   )	(   )	(   )
Councilman Zipprich	( X )	(   )	(   )	(   )
Councilwoman Horgan	( X )	(   )	(   )	(   )
Councilwoman Schwabenbauer	( X )	(   )	(   )	(   )
Councilman Taylor	( X )	(   )	(   )	(   )
Councilman Whelan	( X )	(   )	(   )	(   )

Dated:   December 13, 2017