

# **TENTATIVE AGENDA FOR WORK SESSION MEETING APRIL 5, 2016, 4:00 P.M.**

## **1. ROLL CALL**

Salute to the Flag

Open Public Meetings Statement by Mayor Michael Santiago

"This meeting is being conducted in accordance with the Open Public Meetings Act of 1975, was advertised, posted, and made available to the public as required by Statute. The Municipal Clerk is directed to include a statement in the minutes of this meeting."

## **2. CITY CLERK TO REVIEW CHANGES TO THE AGENDA**

## **3. PUBLIC COMMENT ON AGENDA ITEMS ONLY**

## **4. OLD BUSINESS**

### **4.I. Old Business Item (WS1)**

Millville Housing Authority- Update

### **4.II. Old Business Item (WS2)**

Appointment of liaison to the DRBA in the absence of the Mayor- Update

### **4.III. Old Business Item (WS3)**

Four Seasons- Update

### **4.IV. Old Business Item (WS4)**

An ordinance repealing Article VI of Chapter 33 ("Secondhand Good") and Article XIII ("Pawnbrokers") and enacting new amended Article VI ("Secondhand Goods Licensing")- Update

## **5. REPORTS OF COMMISSIONERS**

## **6. DEPARTMENT OF PUBLIC WORKS**

### **6.I. Department Of Public Works**

Engineering/Public Works Project Status Report- Update

## **7. DEPARTMENT OF PUBLIC AFFAIRS**

## **8. DEPARTMENT OF REVENUE & FINANCE**

## **9. DEPARTMENT OF PARKS & PUBLIC PROPERTY**

## **10. DEPARTMENT OF PUBLIC SAFETY**

### **10.I. Department Of Public Safety (WS1)**

Discussion - Order of roll call votes at Commission Meetings

## **11. NEW BUSINESS**

### **11.I. New Business Item (WS1)**

Lease agreement between the City of Millville and 2nd & Main Petroleum, LLC for the continued use of Block 463, Lot 5 as a parking lot for a one year term beginning April 5, 2016 and ending on April 4, 2017- Discussion

Documents: [RES 2ND MAIN PETROLEUM LLC 3 17 16.PDF](#), [LEASE 2ND MAIN PETROLEUM INC 3 29 16.PDF](#)

## **12. PUBLIC COMMENT PORTION**

"We have now reached the public comment portion of our meeting. Anyone who would like to address the Commission, please go to the podium, state your name and address your concerns. Please limit your comments to approximately 5 minutes."

Open Public Portion

Close Public Portion

Comments by Commissioners

### **13. RESOLUTION**

#### **13.I. Resolution No. R111 - 2016**

Resolution authorizing executive session regarding the following matters:

- 1) Contract Negotiations: Cumberland County Improvement Authority PILOT Agreement
  - 2) Contract Negotiations: Levoy Theatre Preservation Society
- Motion-  
Second-

Documents: [RES - CLOSED SESSION - 4-5-16.PDF](#)

### **14. COMMISSIONERS RETURN FROM CLOSED SESSION**

#### **15. MOTION TO ADJOURN**

Motion-  
Second-

CITY OF MILLVILLE  
COUNTY OF CUMBERLAND  
STATE OF NEW JERSEY

RESOLUTION NO.

WHEREAS, the City of Millville, James and Rochelle Maul and Trademark Properties, LLC previously entered into an easement agreement on November 16, 2009 for the mutual use of each of them as a parking lot located in part, on Block 463, Lot 5 as well as on certain other lots; and

WHEREAS, said agreement provided for a duration of ten years but allowed any party to cancel the same on two years notice; and

WHEREAS, said agreement was never recorded with the County Clerk's Office; and

WHEREAS, Riggins, Inc. which owns the adjoining gas station property at 129 Main Street acquired 119-127 Main Street (Lot 5) under the name of 2<sup>nd</sup> & Main Petroleum Inc. in July of 2013 allegedly without notice of the aforesaid 2009 easement agreement; and

WHEREAS, 2<sup>nd</sup> & Main Petroleum Inc. and/or Riggins, Inc. subsequently purchased the mortgage held against Lot 5 owned by a New York investment group and is taking the position that a foreclosure judgment obtained by said group has made the aforesaid easement agreement null and void; and

WHEREAS, the City, Jim and Rochelle Maul and Paul Riggins, the CEO of Riggins, Inc. met in an effort to arrive at a mutually acceptable agreement that would allow the City and the Mauls to continue to use that part of the parking lot on Lot 5 now owned by 2<sup>nd</sup> & Main Petroleum, Inc., but at the same time provide indemnification to said companies and requiring the City to pay rent in an amount equal to the current property taxes; and

WHEREAS, the City finds it is necessary to preserve the right of city residents to have the use of the aforesaid parking lot inasmuch as it provides overflow parking to the nearby Police and Municipal Court and City Hall facilities; and

WHEREAS the Chief Financial Officer has certified the availability of funds.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MILLVILLE, THAT:

1. The aforesaid lease agreement between the City and 2<sup>nd</sup> & Main Petroleum, LLC for the continued use of Block 463, Lot 5 as a parking lot is hereby approved for a term of one year effective April 5, 2016.
2. The Mayor and City Clerk are hereby authorized to execute the agreement.

Moved By: \_\_\_\_\_

Seconded By: \_\_\_\_\_

<u>VOTING</u>	<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
Michael Santiago				
Lynne Porreca Compari				
David W. Ennis				
Joseph Sooy				

CERTIFICATION

I certify that the foregoing is a true copy of a Resolution adopted by the Board of Commissioners, of the City of Millville in the County of Cumberland, at a meeting thereof held on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Susan G. Robostello, City Clerk

## LEASE

Whereas the City of Millville entered into an agreement with James and Rochelle Maul and Trademark Properties, LLC on November 16, 2009 to create a common parking area on the Premises;

Whereas Trademark Properties LLC lost title to the Premises in a 2011 foreclosure;

It is the intent of 2<sup>nd</sup> & Main Petroleum LLC., the current property owner, the City of Millville and James and Rochelle Maul to terminate said agreement and replace it with this Lease.

THIS LEASE is made as of the \_\_\_\_ day of April, 2016

BETWEEN the Tenant, City of Millville, whose address is 12 S. High St. Millville, New Jersey 08332, hereinafter referred to as the "Tenant",

AND the Landlord, 2<sup>nd</sup> & Main Petroleum LLC., a Corporation of the State of New Jersey, whose address is 3938 S Main Rd., Vineland, New Jersey 08360, hereinafter referred to as the "Landlord".

1. **Definitions.** Wherever the words defined in this paragraph or pronouns used in their stead occur in this Lease they shall have the following meanings:
  - a. The words "Owner," "Landlord" and "Lessor" are used interchangeably and shall mean the Landlord above designated or any agency or officer or representative duly authorized to act in its place in the performance the requirements of this Lease.
  - b. The words "Lessee" and "Tenant" are used interchangeably and shall mean the Tenant above designated entering into this Lease and the legal representatives of said party or agents appointed to act for the said party in the performance of the requirements of this Lease.
  - c. The words "Lease," "Agreement" and "Contract" all are used interchangeably and shall mean, collectively, all of the covenants, terms and stipulations in this Lease.
  - d. The words "Premises", "Property," "Leased Premises" and "Leased Property" are used interchangeably and shall mean the property identified on the official Tax Map of the City of Millville as Block 463, Lots 5, that is the subject of this Lease unless an alternate meaning clearly is ascertainable from the context wherein the term is used.
  - e. Wherever in the Lease the words "directed," "required," "permitted," "ordered," "instructed," "designated," "considered necessary" or words of like import are used, it shall be understood that the direction, requirement, permission, order, instruction, designation or decision of the Landlord is intended and, similarly, the words

"approved," "acceptable" or "satisfactory" or words of like import shall mean approved by or acceptable to the Lessor unless another meaning is plainly intended.

2. **Property.** The Tenant agrees to rent from the Landlord and the Landlord agrees to lease to the Tenant the Property.
3. **Term.** The term of this Lease is for the period of one (1) year commencing April 5, 2016 and ending on April 4, 2017. This Lease will automatically renew for an additional term unless terminated by either party prior to the start of the new term.
4. **Rent.** The Tenant agrees to pay an amount equal to the property taxes for entire lot as rental. The Rent will be due 15 days before the property tax payment is due to the City.
5. **Security Deposit.** The Landlord shall not require the Tenant to post a security deposit.
6. **Use of Property.** The Tenant may use the Property only for the following purposes: public parking lot. All other uses, including, but limited to, activities deemed to be unlawful or deemed by the Landlord to be hazardous, shall be strictly prohibited.
7. **Care of the Premises.**
  - a. **Tenant.** The Tenant has inspected the Premises and is satisfied with the present physical condition thereof. The Tenant agrees to maintain the Premises in as good a condition as existed at the start of this Lease. As to any Improvements constructed or erected upon the Premises, the Tenant agrees to and shall be responsible for the maintenance thereof and shall maintain the same in good condition, reasonable wear and tear expected and, as to any said Improvements, the Tenant must pay for the maintenance thereof and repairs thereto. The Tenant shall maintain the Premises in a clean condition, free from overgrown, grass, trees and shrubs, and free from debris, trash and refuse. Lawns, shrubbery, flowers and greenery are to be watered regularly as may be needed. The Tenant shall be responsible for the prompt removal and lawful disposal of any hazardous waste that is accumulated upon the Premises as a result of any of the activities conducted upon the Premises by the Tenant its members and their guests. The Tenant shall be responsible for the removal of any construction debris that is generated in connection with Tenant's construction or erection of any improvements upon the Premises. The Tenant shall be responsible for removal of ice and snow from walkways, driveways and parking areas located or constructed upon the Premises.
8. **Utilities.** The Tenant shall be responsible for the payment of all utilities, including, but not limited to, fuel (gas and/or oil), electricity, telephone, water, sewer and all other utility bills incurred.
9. **Tenant's Right to Construct Signatures and Other Improvements.** It is agreed that any buildings or Structures (singularly and collectively referred to throughout as

"Improvements") shall be subject to the prior approval of the Landlord as to size, design, architecture, site and construction. The Landlord shall not have any liability for any costs or expenses in connection with the construction of Improvements on the Leased Premises. It is agreed that upon termination of the Lease of the Premises, the Tenant will be permitted to remove any Structures erected thereon by the Tenant provided that the same can be removed without damage to the Premises including the landscaping thereon.

10. **Insurance.** The Tenant acknowledges that the Landlord has insurable interests under the Tenant's insurance policies. As a condition precedent to the Landlord's obligation to execute this Lease, the Tenant is required to submit to the Landlord evidence (consisting of Certificates of Insurance and copies of the insurance policies with all endorsements) satisfactory to the Landlord showing that the Tenant has obtained all insurance coverages required herein.

Nothing contained herein shall be construed as limiting the extent of the Tenant's liability for claims or damages resulting from or related to the performance by the Tenant of any covenant under the terms of this Lease or from or related to any of the Tenant's activities upon the Leased Premises

All insurance required hereunder shall include the interests of the Landlord which shall be listed as an additional insured on such policies. The Tenant waives all rights against the Landlord for all losses and damages caused by any of the perils covered by such policies and all such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against the Landlord.

The Tenant shall purchase and maintain, at its sole expense and with companies satisfactory to the Landlord liability insurance coverage with limits of at least \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate and \$25,000.00 property damage.

All certificates of insurance must provide for thirty (30) days prior written notice to the 2<sup>nd</sup> & Main Petroleum LLC of policy cancellation or material change. The cancellation notice shall not include the clauses "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives", or any similar language limiting liability of the insurance company to complete cancellation notification as required.

11. **Indemnification and Hold Harmless Agreement.** The Tenant agrees to indemnify and hold harmless the 2<sup>nd</sup> & Main Petroleum LLC and Riggins Inc. and its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees in case it shall be necessary to file an action, arising out of performance of this Lease, which is (1) for bodily injury, illness or death, or for property damage, including loss of use, and (2) caused in whole or in part by the Tenant's negligent act or omission, or that of a contractor or subcontractor of the

Tenant, or that of anyone employed by them or for whose acts the Tenant, contractor or subcontractor may be liable. This indemnification and hold harmless agreement shall apply in all instances whether the 2<sup>nd</sup> & Main Petroleum LLC. as well as its agents and employees are made a direct party to the initial action or claim or is subsequently made a party to the action by third party in-pleading or is made a party to a collateral action arising, in whole or in part, from any of the issues emanating from the original cause of action or claim.

12. **Eviction.** If the Tenant does not pay the rent within thirty (30) days after it is due, the Landlord may seek to evict the Tenant. The Landlord may also seek to evict the Tenant if the Tenant does not comply with all of the terms of this Lease and for such other causes as may be allowed by law. If evicted, the Tenant must continue to pay the rent for the rest of the term. The Tenant must also pay all costs related to the eviction and the collection of any monies owed the Landlord, along with the cost of re-entering, re-renting, cleaning and repairing the Property. Rent received from any new tenant will reduce the amount owed the Landlord.
13. **Payments by Landlord as Additional Rent.** If the Tenant fails to comply with the terms of this Lease, the Landlord may take any required action permitted by law and charge the costs incurred in taking such action, including reasonable attorney fees, to the Tenant as additional rent. Failure to pay such additional rent upon demand is a violation of this Lease.
14. **Removal of Tenant's Property.** Any Improvements, equipment, fixtures, goods or other property of the Tenant, not removed by the Tenant upon termination of this Lease, or upon any quitting, vacating or abandonment of the Premises and by the Tenant, or upon the Tenant's eviction, shall be considered as abandoned and the Landlord may keep the same as its own and shall have the right, without any notice to the Tenant, to sell or otherwise dispose of the same, at the expense of the Tenant, and shall not be accountable to the Tenant for any part of the proceeds of such sale, if any.
15. **Fire and Other Casualty.** In case of fire or other casualty, the Tenant shall give immediate notice thereof to the Landlord. If the Premises or improvements thereon shall be partially damaged by fire, the elements or other casualty, the Tenant shall repair the same as speedily as practicable, but the Tenant's obligation to pay the rent hereunder shall not cease. If, in the opinion of the Landlord, the Premises or Improvements thereon be totally destroyed or so extensively and substantially damaged as to require practically a rebuilding thereof, then the rent shall be paid up to the time of such destruction and then and from thenceforth this Lease shall come to an end; however, in such an event the Landlord and the Tenant may negotiate a new lease for the subject real property. In no event however, shall the provisions of this clause become effective or be applicable, if the fire or other casualty and damage shall be the result of the carelessness, negligence or improper conduct of the Tenant or the Tenant's members, agents, employees, guests, licensees or invitees. In such case, the Tenant's liability for the payment of the rent and the performance of all the covenants, conditions and terms hereof on the Tenant's part to be performed shall continue and the Tenant shall be liable to the Landlord for any

damage and loss suffered by the Landlord.

16. **No Assignment or Sublease.** This Lease may not be sold, assigned, transferred or sublet without the previous consent in writing of the Landlord, Consent by the Landlord to an assignment of this Lease shall not, in any way, release the Tenant from the conditions, covenants and agreements herein undertaken to be done by the Tenant, but such duty to perform shall continue as though such assignment had not been made.
17. **Inspection and Repair.** The Tenant agrees that the Landlord and the Landlord's agents, employees or other representatives shall have the right to enter into and upon the said Premises or the improvements thereon or any part thereof, at all reasonable hours) for the purpose of examining the same or making such repairs or alterations therein as may be necessary for the safety and preservation thereof. This paragraph shall not be deemed to be a covenant by the Landlord, nor be construed to create an obligation on the art of the Landlord, to make such inspection or repairs. In case of emergency the Landlord may enter the Property without the Tenant's consent.
18. **Title to Property and Quiet Enjoyment.** The Landlord covenants that the Landlord is seized of good and sufficient title and interest to the Premises and has full authority to enter into and to execute this Lease. The Landlord further covenants that, to the best of the Landlord's knowledge, information and belief: there are no liens, judgments or impediments of title on the Premises or affecting the Landlord's title to the same and that there are no covenants, easements or restrictions which prevent the use of the Premises as set forth above. The Landlord further covenants that the Tenant, upon paying the rent and performing the conditions and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy the Leased Premises for the term aforementioned.
19. **Compliance with Laws, Rules and Regulations.** The Tenant shall promptly and strictly comply with all laws, ordinances, rules, regulations, requirements and directives of the federal, state, county and municipal governments or other public authorities and all of their departments, bureaus and subdivisions, applicable to and affecting the said Premises, their use and occupancy, for the correction, prevention and abatement of nuisances, violations or other grievances in, upon or connected with the said Premises and, during the term hereof, shall promptly and strictly comply with all orders, regulations, requirements and directives of any insurance companies which have issued or are about to issue policies of insurance covering the said Premises and/or improvements thereon for the prevention of fire or other casualty, damage or injury, at the Tenant's own cost and expense.
20. **Hazardous Use.** Tenant will not keep anything in, at or upon the Property which is dangerous, flammable, explosive or might increase the danger of fire or any other hazard.
21. **Signs.** The Tenant shall not place or allowed to be placed any signs of any kind whatsoever, upon, in or about the Leased Premises or any part thereof, except of a design and structure and in or at such places as may be indicated and consented to by the Landlord in writing. In case the Landlord or the Landlord's agents, employees or

representatives shall deem it necessary to remove any such signs in order to make any repairs, alterations or improvements in or upon said Premises or any part thereof, said signs may be so removed by the Landlord, but shall be replaced at the Tenant's own expense when said repairs, alterations or improvements shall have been completed. Any signs permitted by the Landlord shall, at all times, conform with all municipal ordinances or other laws and regulations applicable thereto.

22. **Partial Invalidity of Lease Terms.** The terms, conditions, covenants and provision of this Lease shall be deemed severable. If any clause or provisions herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall in no way affect the validity of any other clause or provision and such other clauses or provisions shall remain in full force and effect.
23. **No Oral Agreements.** It is agreed and understood that no oral order, objection, claim or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Lease and none of the provisions of this Lease shall be held to be waived or modified by reason of any act whatsoever other than by a specifically agreed waiver or modification thereof in writing and, in the absence thereof, no evidence shall be introduced in any proceeding, judicial or otherwise, of any other waiver or modification.
24. **Governing Law.** This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of New Jersey.
25. **Parties.** The Landlord and the Tenant are bound by the Lease. All parties who lawfully succeed to their rights and responsibilities are also bound.
26. **Legal Address and Written Notices.** All notices to be given shall be given in writing and shall be delivered personally or by certified mail, return receipt requested as follows:
- a. If to the Landlord, address to 2<sup>nd</sup> & Main Petroleum LLC., P.O. Box 150, Millville, N.J. 08332, attention: Paul Riggins.
  - b. If to the Tenant, address as listed upon the first page of this Lease.
27. **Signatures.** The Landlord and Tenant agree to the terms of the Lease. If this Lease

is made by a corporation, its proper corporate officers sign and its corporate seal is affixed.

Attest:

2<sup>nd</sup> & Main Petroleum LLC.

\_\_\_\_\_

\_\_\_\_\_  
Paul Riggins, president

Attest:

City of Millville

\_\_\_\_\_

\_\_\_\_\_  
Title:

Attest:

\_\_\_\_\_

\_\_\_\_\_  
James Maul

\_\_\_\_\_

\_\_\_\_\_  
Rochelle Maul

**Resolution No.**

WHEREAS, the Board of Commissioners of the City of Millville is subject to certain requirements of the Open Public Meetings Act, NJSA 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act Chapter 231 of the Public Laws of 1975, provides that an Executive Session, not open to the public may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Board of Commissioners of the City of Millville to discuss in a session not open to the public certain matters relating to the item or items authorized by NJSA 10:4-12 and designated below:

- 1) Contract Negotiations: Cumberland County Improvement Authority PILOT Agreement
- 2) Contract Negotiations: Levoy Theatre Preservation Society

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MILLVILLE, that an Executive Session closed to the public shall be held on Tuesday, April 5, 2016, immediately following the 4:00 p.m. Work Session, 4th Floor Conference Room, City of Millville, Municipal Building, 12 S. High Street, for the discussion of matters authorized pursuant to N.J.S.A. 10:4-12.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Board of Commissioners that the public interest will no longer be served by such confidentiality.

Moved By:

Seconded By:

VOTING

Michael Santiago

Lynne Porreca Compari

David W. Ennis

Joseph Sooy

<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Board of Commissioners of the City of Millville, in the County of Cumberland, at a meeting there of held April 5, 2016.

\_\_\_\_\_  
Susan G. Robostello, City Clerk