

FEBRUARY 7, 2017

**BOROUGH OF CLIFFSIDE PARK
BERGEN COUNTY, NEW JERSEY**

**MINUTES OF THE REGULAR MEETING
FEBRUARY 7, 2017**

CALL TO ORDER AT 7:00 P.M.

FLAG SALUTE LED BY MAYOR THOMAS CALABRESE

PRESENT AT ROLL CALL:

| | |
|--------------|------------------|
| Mayor | Thomas Calabrese |
| Councilwoman | Donna Spoto |
| Councilman | Larry Bongard |
| Councilwoman | Dana Martinotti |
| Councilman | Kenneth Corcoran |
| Councilman | Peter Colao |

ABSENT AT ROLL CALL:

On a motion by Councilman Bongard, seconded by Councilwoman Spoto, Councilman Fontana was given an excused absence.

ROLL CALL:

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao. **ABSENT:** Fontana.

SERCAN ZOKLU STATED:

THIS IS A REGULAR MEETING OF THE MAYOR AND COUNCIL, AND NOTICE WAS GIVEN AS FOLLOWS:

1. NOTICE PUBLISHED JANUARY 9, 2017 WITH THE RECORD, AND JANUARY 11, 2017 WITH THE JERSEY JOURNAL, BOTH OFFICIAL NEWSPAPERS OF THE BOROUGH.
2. POSTING OF NOTICE ON THE BULLETIN BOARD.
3. PRESERVING A COPY IN THE CLERK'S OFFICE.

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao. **ABSENT:** Fontana.

MINUTES:

On a motion by Councilman Bongard, seconded by Councilwoman Martinotti, the minutes of the Caucus Meeting of January 24, 2017 were accepted.

ROLL CALL:

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao. **ABSTAIN:** Spoto. **ABSENT:** Fontana.

On a motion by Councilman Bongard, seconded by Councilwoman Martinotti, the minutes of the Regular Meeting of January 24, 2017 were accepted.

ROLL CALL:

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao. **ABSTAIN:** Spoto. **ABSENT:** Fontana.

CONSENT AGENDA:

On a motion by Councilman Bongard, seconded by Councilman Colao, the claims were ordered paid.

FEBRUARY 7, 2017

ROLL CALL:

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao.

ABSENT: Fontana.

RESOLUTIONS:

On a motion by Councilman Bongard, seconded by Councilman Colao, Resolutions 2017-37 to 2017-46 and 2017-48 were offered for adoption:

ROLL CALL

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao.

ABSENT: Fontana.

RESOLUTION 2017-37

BE IT RESOLVED that upon the recommendation of P.O. Gabe Marciano the following resolutions designating handicapped parking spaces be rescinded:

Adopted on: **2015**

RESOLUTION 2015

440 Palisade Avenue
Cliffside Park, NJ 07010

Adopted on: **Unknown**

RESOLUTION (Unknown)

140 Oakwood Avenue
Cliffside Park, NJ 07010

Adopted on: **3-18-2003**

RESOLUTION 2003-146

555 Gorge Road
Cliffside Park, NJ 07010

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Cliffside Park, that the Department of Public Works be instructed to remove the handicapped parking signs at the above locations.

RESOLUTION 2017-38

BE IT RESOLVED that upon the recommendation of P.O. Gabe Marciano the following resolutions designating handicapped parking spaces be rescinded:

Adopted on: **9-12-2006**

RESOLUTION 2006-149

235 Cliff Street
Cliffside Park, NJ 07010

Adopted on: **4-13-2015**

RESOLUTION 2015-76

245 Lawton Avenue
Cliffside Park, NJ 07010

Adopted on: **(Unknown)**

RESOLUTION (Unknown)

208 Wheeler Street
Cliffside Park, NJ 07010

Adopted on: **10-3-2006**

RESOLUTION 2016-161

265 Knox Avenue
Cliffside Park, NJ 07010

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Cliffside Park, that the Department of Public Works be instructed to remove the handicapped parking signs at the above locations.

FEBRUARY 7, 2017

RESOLUTION 2017-39

WHEREAS, the Cliffside Park Police Department has received a request from **Rosette Murruni** of 235 Cliff Street, Cliffside Park, NJ 07010 for a handicapped parking space in front of the residence. **Rosette Murruni** has been issued Permanent Handicap Place Card by the New Jersey Motor Vehicle Commission (Placard P 1790215); and

WHEREAS, the parking request appears to show legitimate cause for consideration by the Mayor and Council, N.J.S.A. 39:4-197.5 states that any Municipality may by Ordinance or Resolution establish restricted parking spaces in front of residences, schools, hospitals, and other buildings for use by persons who have been issued Special Identification by the New Jersey Motor Vehicle Commission; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Cliffside Park that the following location be designated as a restricted parking space:

| Name of Street | Side: | Location: |
|-----------------------|--------------|---|
| Cliff Street | North | Beginning at a point approximately 400 feet east of the northeast curb line of Anderson Avenue and Cliff Street and continuing to a point 22 feet easterly thereof. |

RESOLUTION 2017-40

RESOLUTION SUPPORTING ASSEMBLY BILL A222 “NEW JERSEY LIBRARY CONSTRUCTION BOND ACT”

WHEREAS, Assembly Bill A222, the New Jersey Library Construction Bond Act, authorizes the issuance of \$125,000,000.00 in general obligations bonds to finance capital projects; and

WHEREAS, it has been over fifteen years since a library construction bond program has been developed by the State of New Jersey; and

WHEREAS, numerous public library facilities need capital funding to provide physical and technological improvements to meet the growing needs of their communities; and

WHEREAS, many public library facilities in New Jersey are not ADA compliant and therefore limit access to library services to thousands of New Jersey residents; and

WHEREAS, the Borough of Cliffside Park supports this financing for capital projects at public libraries around the State of New Jersey.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the that it does express and hereby affirm its support of Assembly Bill A222 and urges its passage; and

BE IT FURTHER RESOLVED that the Borough Clerk is directed to convey a certified copy of this Resolution to NJ Assembly Speaker Vincent Prieto.

RESOLUTION 2017-41

WHEREAS the Mayor and Council of the Borough of Cliffside Park have allocated funding towards the Cedar Street Sanitary Sewer Improvements; and

WHEREAS the Borough is seeking to have these improvements completed in a timely fashion and as such is seeking to publicly advertise and bid this project,

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Cliffside Park hereby authorizes Boswell McClave Engineering to prepare the necessary construction plans and specifications to publicly bid the Cedar Street Sanitary Sewer Improvements.

FEBRUARY 7, 2017

RESOLUTION 2017-42

WHEREAS, an application has been submitted by the Cliffside Park High School PTSO/Project Graduation as follows:

Conduct Raffle as permitted under State Statute on March 15, 2017; and

Conduct 50/50 Raffle as permitted under State Statute on March 15, 2017; and

WHEREAS, all requirements have been met, therefore, said application is in order for approval by the Mayor and Council of the Borough of Cliffside Park.

RESOLUTION 2017-43

Pursuant to the obligations imposed upon my by law, I make the following nominations and seek the advice and consent of the Council:

Term Expires

VOLUNTEER FIREFIGHTER – 1 Year Term

Joseph Rettig

RESOLUTION 2017-44

WHEREAS, the citizens of the Borough of Cliffside Park stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and

WHEREAS, the Borough of Cliffside Park has provided significant leadership in the area of community involvement in the education of our youth, grounded in the principle that educational investment is key to the community's well being and long-term quality of life; and

WHEREAS, "NEA's Read Across America," a national celebration of Dr. Seuss's 113th birthday on March 2, 2017, promotes reading and adult involvement in the education of our community's students;

THEREFORE BE IT RESOLVED that the Borough of Cliffside Park calls on the citizens of the Borough of Cliffside Park to assure that every child is in a safe place reading together with a caring adult on March 2, 2017;

AND BE IT FURTHER RESOLVED that this body enthusiastically endorses "NEA's Read Across America" and recommits our community to engage in programs and activities to make America's children the best readers in the world.

RESOLUTION 2017-45

BLOODBORNE PATHOGEN PROGRAM AGREEMENT

BE IT RESOLVED by the Mayor and Council of the Borough of Cliffside Park, that the Borough be and is hereby authorized to enter into an agreement with the County of Bergen for the Bloodborne Pathogen Program; and

BE IT RESOLVED that the cost of this program shall be \$18 per each trained employee; and

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized to execute the necessary agreement with the County of Bergen, in a form to be approved by the Borough's Council.

FEBRUARY 7, 2017

RESOLUTION 2017-46

WHEREAS, the Borough of Cliffside Park will bring together surplus vehicles and other equipment for an online municipal auction to be held beginning at 9:00 AM on Wednesday, March 15, 2017 and ending at 6:00 PM on Wednesday, March 22, 2017; and

WHEREAS, Stephan J. Miranti, US Gov Bid / Auction Liquidation Services, P.O. Box 1216, Eatontown, NJ will conduct the auction on their website located at www.usgovbid.com for a commission rate of 5.5% of the gross selling price; and

WHEREAS, Local Public Contracts Law N.J.S.A. 40A:11-36 requires the authorization of the sale of said property via adoption of a resolution; and

WHEREAS, the estimated fair market value of the property to be sold does exceed 15% of the bid threshold; and

WHEREAS, the below list of vehicles for sale will be published in **The Record** not less than 7 nor more than 14 days after the latest publication of the notice thereof; and

- 1. 2003 Chevy SUV, Vin: 1GNDS13S232205169, Unknown mileage on vehicle and no title

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Cliffside Park that the Borough be authorized to dispose the following vehicles and equipment through the process of an online auction to be held beginning at 9:00 AM on Wednesday, March 15, 2017 and ending at 6:00 PM on Wednesday, March 22, 2017 on the website located at www.usgovbid.com; and

BE IT FURTHER RESOLVED that these vehicles and equipment are being sold in as is condition and without warranty of any kind; and

BE IT FURTHER RESOLVED that the Administrator and/or Borough Clerk is authorized to execute the contract of Auction Liquidation Services for the Borough of Cliffside Park.

RESOLUTION 2017-48

MAYOR'S APPOINTMENTS

Pursuant to the obligations imposed upon my by law, I make the following nominations and seek the advice and consent of the Council:

| | Term Expires |
|--|--------------|
| <u>BOARD OF ADJUSTMENT – ALTERNATES – 2 Year Term</u> | |
| Lawrence Saia (Alt #2) | 12/31/18 |

OFF CONSENT AGENDA:

On a motion by Councilman Corcoran, seconded by Councilman Bongard, Resolutions 2017-47 was offered for adoption:

ROLL CALL

AYES: Spoto, Bongard, Martinotti, Corcoran. **ABSTAIN:** Colao. **ABSENT:** Fontana.

RESOLUTION 2017-47

“OFFICIAL ACTION”

WHEREAS, this Resolution pertains to the Redevelopment of certain land within the Borough of Cliffside Park (the “Borough”) and actions of the designated Redeveloper known

and identified as TOWNE CENTRE URBAN RENEWAL COMPANY, LLC, an urban renewal limited liability company established and operated within the State of New Jersey (hereinafter referred to as the “Redeveloper”), having a business address at 1000 Portside Drive, P.O. Box 207 Edgewater, New Jersey 07020; and

WHEREAS, on February 16, 1999, the Cliffside Park Borough Council (the “Borough Council”) adopted Ordinance No. 3-99 which designated the Borough Council as the Redevelopment Agency pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, pursuant to Ordinance No. 8-99 adopted September 14, 1999, as amended by Ordinance No. 03-2006 adopted March 21, 2006, the Borough Council designated the land surrounded on three sides by Anderson Avenue, Glen Street and Lawton Street (and an existing structure on the fourth side) consisting of Block 2804, Lot 1.01 (formerly Block 2803, Lots 1, 16, 17, 18, 19, 20 and 21; and Block 2804, Lots 1, 2, 3, 4, 5, 6 and 7) on the Tax Map of the Borough as an area in need of redevelopment (hereinafter the “Redevelopment Area”); and

WHEREAS, in furtherance of the Borough Council’s continuing efforts to enhance and revitalize the Anderson Avenue Business District and vicinity, the Borough entered into a Redevelopment Agreement (the “Initial Redevelopment Agreement”), dated January 9, 2006 with Towne Centre C.P., LLC (hereinafter referred to as “Towne Centre”) to undertake redevelopment of the Redevelopment Area; and

WHEREAS, in accordance with the Initial Redevelopment Agreement, Redeveloper designed a project (the “Project”) which has been modified from time to time and now consists of, amongst other improvements, a residential building of eleven (11) stories plus two (2) two-story penthouses containing 266 residential units, 49,418 sq. ft. of commercial and retail space, a two level parking structure, and a plaza; and

WHEREAS, the Borough and Redeveloper entered into an Amended and Restated Redevelopment Agreement (“First Amended and Restated Redevelopment Agreement”), dated the 13th day of April, 2010, which restated, amended and superseded in its entirety the terms of the Initial Redevelopment Agreement; and

WHEREAS, the Borough and Redeveloper entered into a Second Amended and Restated Redevelopment Agreement (“Second Amended and Restated Redevelopment Agreement”), dated the 28th day of June, 2011, which restated, amended and superseded in its entirety the

terms of the First Amended and Restated Redevelopment Agreement and which alleviated certain fee payments previously imposed and other obligations of the Redeveloper; and

WHEREAS, in June, 2016, the Borough approved a Third Amended and Restated Redevelopment Agreement (“Third Amended and Restated Redevelopment Agreement”) for the purpose of extending the Project/Milestone Construction Schedule; and

WHEREAS, in October, 2016, the Borough approved a Fourth Amended and Restated Redevelopment Agreement (“Fourth Amended and Restated Redevelopment Agreement”) for the purpose of extending the Project/Milestone Construction Schedule to March 31, 2017 and confirming the final number of residential units at 314

WHEREAS, the Borough Council continues to recognize Redeveloper, an affiliate of Towne Center, as the party to effectuate and complete the Project in accordance with the terms of all Restated Redevelopment Agreements; and

WHEREAS, for a variety of reasons, including unprecedented weather conditions in 2014 and 2015 as well the unforeseen presence of geological rock formations requiring drilling and hammering and the piling of footings and foundations, certain delays, beyond the initial economic-related delays, in the construction completion schedule have occurred relative to the Project; and

WHEREAS, the Redeveloper and the Borough have agreed that the construction related conditions and resulting delays justify additional extensions in the construction completion process and Project Schedule and thereby seek further amendment to same as set forth in the Fourth Amended and Restated Redevelopment Agreement; and

WHEREAS, the Borough Council has resolved to adopt and to authorize the Mayor to execute a Fifth Amended and Restated Redevelopment Agreement as attached to this Resolution, which amends only the Completion date and Project Schedule, extending the Project Completion date to August 31, 2017 and leaves all other terms and provisions of the Second Amended and Restated Redevelopment Agreement in full force and effect, all in accordance with the terms set forth herein; and

WHEREAS, as of the tax year beginning January, 2017, the tax assessor of the Borough of Cliffside Park has now designated the Redevelopment Area as BLOCK 2803, LOT 1.01, with the subterranean lot being designated as BLOCK 2803, LOT 1.02; and

FEBRUARY 7, 2017

NOW, THEREFORE, BE IT RESOLVED that the Cliffside Park Borough Council hereby approves the Fifth Amended and Restated Redevelopment Agreement as attached hereto subject to the execution of such Agreement by the Redeveloper. The Mayor is authorized to execute, on behalf of the Borough, all necessary documents related hereto. This Resolution shall take effect in accordance with applicable law.

ORDINANCES: INTRODUCTION

Councilwoman Martinotti INTRODUCED AN ORDINANCE ENTITLED:

ORDINANCE 2017-01

Councilwoman Martinotti moved the ordinance be given its first reading. So ordered.

The Municipal Clerk read the said ordinance by title. Councilwoman Martinotti moved the ordinance be adopted on first reading and published in The Record on February 10, 2017 and in The Jersey Journal on February 11, 2017. Motion was seconded by Councilman Bongard.

The ordinance will be available to the public for inspection in the Clerk's Office and posted on the bulletin board.

The public hearing is to be held on March 7, 2017 in the Mayor and Council Chambers at 7:00 pm, at which time all persons wishing to be heard on the proposed ordinance will be heard.

The ordinance was approved at the first reading upon the call of the roll.

ROLL CALL:

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao. ABSENT: Fontana.

ORDINANCE 2017-01

ORDINANCE AMENDING CHAPTER XI SECTION 11.10 ENTITLED "ILLEGAL RENTAL OF BUILDING AND APARTMENTS", REVISED GENERAL ORDINANCES OF THE BOROUGH OF CLIFFSIDE PARK

WHEREAS, the Borough Council has become aware that the possibilities of social media have created a market for the temporary occupancy of dwelling units or portions of dwelling units, for example Air BNB; and

WHEREAS, the proximity of Cliffside Park to New York City enhances the probability of the temporary occupancy of dwelling units or portions thereof; and

WHEREAS, the emergence of short lead time connections enabling temporary occupancy of dwelling units or portions thereof likely militates against the performance of inspections necessary for the issuance of occupancy certificates in the promotion of the public health, safety, and welfare;

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Cliffside Park, County of Bergen, State of New Jersey that the aforesaid Ordinance is hereby amended as set forth infra.

Section 11.10 Definitions

Add New Subsection 11.10-3

“Temporary Occupancy” means the use, occupancy, and letting of other than a principal residence or dwelling, by persons for a period of less than one hundred eighty (180) days.

Add New Subsection 3.5 to Section 11.10-3

No person, firm, partnership or corporation shall permit any person or persons, firms, partnerships or corporations to take temporary occupancy of any house, apartment, or other structure having a residential use; nor shall any person, firm, partnership or corporation permit the temporary occupancy of an individual component(s) of a dwelling unit (i.e., any room or bedroom in the structure) resulting in the occupancy of less than a dwelling unit.

Council Bongard INTRODUCED AN ORDINANCE ENTITLED:

ORDINANCE 2017-02

Councilman Bongard moved the ordinance be given its first reading. So ordered.

The Municipal Clerk read the said ordinance by title. Councilman Bongard moved the ordinance be adopted on first reading and published in The Record on February 10, 2017 and in The Jersey Journal on February 11, 2017. Motion was seconded by Councilman Corcoran.

The ordinance will be available to the public for inspection in the Clerk's Office and posted on the bulletin board.

The public hearing is to be held on March 7, 2017 in the Mayor and Council Chambers at 7:00 pm, at which time all persons wishing to be heard on the proposed ordinance will be heard.

The ordinance was approved at the first reading upon the call of the roll.

ROLL CALL:

AYES: Spoto, Bongard, Martinotti, Corcoran, Colao. ABSENT: Fontana.

ORDINANCE 2017-02

AN ORDINANCE AMENDING THE GENERAL ORDINANCE OF THE BOROUGH OF CLIFFSIDE PARK SPECIFICALLY CHAPTER XXI ENTITLED “TOW TRUCKS”

WHEREAS, the Chief of Police and Borough Administrator have directed the review of the current Towing Ordinance Chapter XXI, et seq.; and

WHEREAS, a comprehensive review of the Ordinance by the Chief of Police and Borough Administrator have concluded that it would be in the best interest of the municipality to enact a new comprehensive Towing Ordinance; and

WHEREAS, after due deliberation and discussion, the Council agrees and accepts the recommendations of the Chief of Police and Borough Administrator; and

THEREFORE, BE IT ORDAINED, that Chapter XXI entitled TOW TRUCKS, Section 21-1 through 21-28 inclusive is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED, that the following replacement Ordinance Chapter XXI, entitled “TOWING”, be adopted in the place and stead of the former Chapter XXI.

DEFINITIONS:

As used in this Ordinance, the following terms shall have the meanings indicated:

ABDANDONED VEHICLE

Any motor vehicle or vessel partially dismantled or not readily capable of operation under its own power or not currently licensed, wrecked or junked. It shall also mean any vehicle whose owner has terminated the use and care of the vehicle and has either indicated by his words or actions an intent to leave it and no longer claim ownership of it or left it without making arrangements for the storage with the owner, occupant or person in control of the premises on which it is located.

ADMINISTRATION CHARGES

Charges for services, including but not limited to physical inspection, telephone and/or fax calls, copying of documentation and additional office paperwork before and at the time of release.

APPLICANT

An individual or a legally formed business entity who seeks to obtain a license from the Borough to furnish wrecker services with the Borough pursuant to this chapter.

CLEANUP

- A. **STANDARD SITE CLEANUP** – The amount of debris removal that should reasonably be anticipated at the scene of motor vehicle accident or incident. The standard site cleanup is usually defined to the point of impact, the final resting point of the vehicle and the associated debris field. It includes cleanup of fluids and oil spills.
- B. **EXTENDED SITE CLEANUP** – The removal of debris at the point of impact, as well as along the path of pre-impact and/or post-impact, where vehicle disintegration and/or other property damage occur as a result of the motor vehicle accident or incident.
- C. **ABSORBENTS** – any group of products used to soak up spills or vehicle fluids. These would include oil dry, absorbent pads, socks, booms, etc.

COMMERCIAL PRIVATE PROPERTY

Office, industrial, or retail property with semipublic roads that do not contain living areas and are used for commercial business purposes only.

CONSENSUAL TOWING

The towing of a motor vehicle when the owner or operator of the motor vehicle has consented to having the towing company tow the motor vehicle.

GARAGE

Shall mean enclosed building and/or vacant land used for the storage of motor vehicles.

IMPOUNDMENT

The storage of a motor vehicle upon the order of a law enforcement agency.

INCIDENT

Any recurring or nonrecurring event that created a diminished capacity to roadway function or threatens the environment.

LABOR

The additional work done at the scene by the tow truck operator which is beyond that required to perform a basic tow or any additional manpower needed to complete recovery, winching or towing of a vehicle. Labor charge for additional manpower shall be based on a per-man, per-hour rate with a one-hour minimum.

LICENSEE

Any entity or individual authorized by the Mayor and Council to engage in police towing services in the municipality.

LOCKING WHEEL BOOT

A mechanical or electrical clamp, boot or fitting which is employed, manufactured or designed to lock the wheel of a motor vehicle, thus making the vehicle immobile.

NEW LICENSE

A license issued to a licensee who did not hold a wrecking and towing license in the municipality during 2017 and yearly thereafter.

NONCONSENSUAL TOWING

The towing of a motor vehicle without the consent of the owner or operator of the vehicle.

OFF-ROAD RECOVERY

Use of specialized equipment or tow truck to retrieve a vehicle that has left the roadway.

PARKING VIOLATION STICKER

A warning label with adhesive, tape or glue, which is manufactured, designed or employed so that it may be affixed to the front or rear windshield of any vehicles violating parking rules or regulations.

PERSON

Any natural person, partnership, corporation, association or limited liability company.

PILING VEHICLES

The storage of vehicles by stacking them vertically, one on top of another.

POLICE TOWING

Use of towing services when, in the determination of the Police Department, there is a recurring or nonrecurring event that creates a diminished capacity to roadway function or threatens the environment that requires a tower to respond.

PRIVATE PROPERTY OWNER

The owner or lessee of private property, or an agent of such owner or lessee, but shall not include a private property towing company acting as an agent of such owner or lessee.

PRIVATE PROPERTY TOWING

The nonconsensual towing from private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is parked illegally, parking during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of N.J.S.A. 39:4-56.5, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A. 39:4-56.6.

RESIDENTIAL PRIVATE PROPERTIES

Properties that are structures used solely for living spaces and have an expectation to privacy.

ROAD SERVICE

Use of a tow truck or service vehicle to attempt to repair a vehicle at the point of the breakdown, such as jump starts, tire changes, etc.

SPECIALIZED EQUIPMENT

Use of a wide variety of equipment not normally considered towing equipment, such as but not limited to construction-type equipment used to access or clean up a recovery scene of wreckage.

STORAGE

“Storage charges for a twenty-four-hour period” means the maximum allowable amount to be charged by a storage facility for a twenty-four-hour period or fraction thereof, beginning when the vehicle is placed in the storage facility.

A. **OUTSIDE SECURED STORAGE** – When a motor vehicle is placed in an outside secured storage facility which will be completely enclosed with at least a six-foot

fence, will have at least one entrance and exit gate, and will be completely illuminated by outside lighting in order to safeguard the motor vehicles.

- B. **INSIDE SECURED STORAGE** – When a motor vehicle is placed inside a secured facility at the request of the vehicle owner/operator or at the request of a law enforcement agency for preservation purposes, i.e., owner/operator request for an antique or classic motor vehicle and/or an expensive luxury motor vehicle and/or law enforcement request for preservation of further law enforcement investigation.

TOWING SERVICE

The towing, transporting, conveying and/or removal of damaged, disabled and abandoned motor vehicles from the streets or highways.

TOW TRUCK

Commercial motor vehicle designed exclusively to lift motor vehicles which have become disabled, wrecked, recovered stolen, and police impound by means of lifting from the front or rear by the following methods: sling-type, mechanical or hydraulic; wheel-lift type, mechanical or hydraulic.

- A. **LIGHT-DUTY TOW TRUCK** – Used to tow and recover small light-duty vehicles up to 10,000 pounds.
- B. **MEDIUM-DUTY TOW TRUCK** – used to tow and recover small commercial-type vehicles up to 33,000 pounds gross vehicle weight (GVW) or passenger vehicles unable to be recovered with light-duty tow truck or flatbed.
- C. **HEAVY-DUTY TOW TRUCK** – Commercial manufactured truck with wrecker body; minimum GVW 33,001 pounds, used to tow and recover commercial-type vehicles over 33,000 GVW as well as passenger vehicles unable to be recovered by other means.
- D. **HYDRAULIC FLATBED CAR CARRIER** – Commercial motor vehicle designed exclusively to transport motor vehicles which have become disabled, wrecked, recovered stolen, and police impound by means of bodily winching motor vehicles from roadway level up onto hydraulic bed for transporting purposes.
- E. **SPECIALIZED FLATBED CARRIER** – Equipped with special hydraulic oscillation knuckle boom crane. Commercial motor vehicle exclusively designed for special recovery procedures when needed and also to bodily lift and transport motor vehicles.

TOW TRUCK OPERATOR

Any individual employed by a licensee to operate any of its tow trucks while providing police towing services.

TOWING

When a tow truck and/or hydraulic flatbed carrier takes in its possession the care, control and custody of a motor vehicle by means of standard industry procedures.

VEHICLE ACCESS CHARGE

Accompanying an owner and/or insurance representative into the secured storage yard facility to inspect, remove personal belongings, adjust and take photographs. Documentation such as driver license of vehicle owner, business card of insurance representative must be photocopied and time stamped when this additional auxiliary service is performed. No fee shall be charged to a vehicle owner for the first visit to remove personal belongings. Vehicle access charges incurred by an insurance company, at the insurance company's request, shall be billed directly to the insurance company.

VEHICLE IMMOBILIZATION

Use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents free, self-propelled movement of the vehicle by the vehicle operator.

WATER RECOVERY

The process of recovering a vehicle or any other object, as requested, that is in water or under water, which requires the tow operator to enter the water to effectuate the recovery.

WILLFUL ABANDONMENT

An action deliberately taken by an owner or insurance company to leave a vehicle or vessel at a storage yard in order to attempt to avoid paying the towing, recovery, storage, etc., charges due against the vehicle. See N.J.S.A. 39:4-56.5 and 39:4-56.6.

WINCHING

A motor vehicle employed for the purpose of towing, transporting, conveying or removing any other motor vehicle which is unable to be operated under its own power, for which service a charge or fee is exacted.

WRECKER

A motor vehicle employed for the purpose of towing, transporting, conveying or removing any other motor vehicle which is unable to be operated under its own power, for which service a charge or fee is exacted.

WRECKING

The process of removing wreckage from the roadway (i.e., the vehicle and its debris), which includes the removal of pieces of vehicles from a crash scene, with the end result being to return the roadway back to pre-crash conditions.

LICENSE

No person shall operate a tow truck on behalf of the Borough of Cliffside Park or any of its agencies or conduct any towing service on behalf of the Borough of Cliffside Park or at the request or direction of the Police Department without first having obtained a license.

LICENSE APPLICATION

- A. Every applicant for a license under this chapter shall complete, sign and verify a written application on the forms furnished by the Clerk. At the time of submission of said application, a fee in the amount of \$750 shall be paid which fee shall be nonrefundable and shall be used to defray the costs incurred by the Borough in connection with the investigation of and action on the application submitted.
- B. The application shall state:
 - 1. The name and address and social security number of the applicant and its employees and, if a corporation, LLC or partnership, the name and address and social security number/EIN of each shareholder, officer and director member thereof;
 - 2. The name and address and social security number of the owner(s) of the tow trucks, if other than the applicant;
 - 3. The serial numbers and registrations of each wrecker and flatbed to be operated by the applicant;
 - 4. The exact location of storage areas for the equipment, such as wreckers, flatbeds, cars and other vehicles, and the amount of available space for the storage of vehicles towed;
 - 5. The name, address and policy number for all insurance required by this chapter (inclusive of insurance cards);
 - 6. Power to appoint the Clerk attorney-in-fact for acknowledging service of process in connection with the ordinance licensure;
 - 7. Consent by the applicant and each of its officers, agents and employees employed by the licensee to conduct a background check, including but not limited to criminal and motor vehicle records with the local, state and federal authorities. Further, the licensee shall, after the issuance of the license, notify the Clerk and the Police Chief in writing within two days after the employment of any new employees or change in officers or agent, at which time the licensee shall comply with the requirements set forth in this Ordinance;

8. The location or locations of premises at which the wreckers are domiciled or garaged;
9. The location or locations of the premises to which vehicles will be towed, a map or diagram accurately drawn depicting the proposed layout and size of the vehicle storage spaces, and fire lanes and the maximum number of vehicles to be stored at such premises;
10. A complete list of all criminal convictions, except minor traffic violations, of the applicant or owner, partner, officers or local office Administrator of applicant;
11. Whether the wrecker is to be used solely as an accessory use to a gasoline service station;
12. Acknowledging that the towing company will be included on the rotating police tow list;
13. The applicant's primary place of business, registered with the State of New Jersey, located in the State of New Jersey within four miles of the Borough;
14. A copy of the Certificate of Occupancy issued by the municipality for its primary place of business;
15. Evidence that the applicant has at least three years' experience in providing properly insured towing services;
16. Applicants must demonstrate the ability to tow at least two vehicles at the same time for light-duty towing calls;
17. The applicant shall file the completed application forms with the Police Department annually after November 1 and before November 30 of each year. Applications presented for filing after November 30 date shall not be considered and shall be regarded as failure to meet the filing date requirement;
18. The Chief of Police shall make a recommendation to the Borough Council either:
 - i. Accepting the Applicant; or
 - ii. Rejecting the Applicant; or
 - iii. Upon written notification to the Applicant of the existences of any deficiencies in the Application, the Applicant shall have 10 days from the date of notification to cure such deficiencies and submit same to the Clerk and the Police Chief for review. In the event that the Applicant fails to properly cure any deficiencies in the notice within the ten-day period, the Application shall be regarded as incomplete and will be deemed rejected.
19. All licenses shall expire yearly on December 31 of each year;
20. The Clerk shall send a copy of the license to the Police Department for filing and shall keep a permanent record of all licenses issued;
21. The towing license fee shall be established annually by Council Resolution.

LICENSE NONTRANSFERABLE; DISPLAY OF LICENSE

- A. A license issued under this Ordinance shall not be transferable, and only one license shall be granted to an applicant. The Applicant who obtains a license shall not have any interest, direct or indirect, in any other Cliffside Park towing license. In the event that it is determined that a licensee does have an interest in another towing license, that licensee shall immediately forfeit their respective licenses.
- B. Each licensee shall produce his license whenever called upon to do so;

- C. The assigned towing vehicle must be registered or leased for one year to the applicant. The registration card or lease must be submitted to the Borough with the Application.

EQUIPMENT AND REQUIREMENTS.

- A. Applicants for a license under this chapter shall own, at a minimum, the following equipment:
 - 1. One light-duty flatbed (rollbacks) with wheel lift;
 - 2. One light-duty wrecker with wheel lift;

In addition, if the licensee owns any of the following equipment, the licensee shall submit all proper documentation with their original license:

- 3. One heavy-duty wrecker with wheel lift (minimum capacity of 25, 000 pounds). Heavy-duty wreckers must be a minimum gross vehicle weight of 35,000 pounds with air brakes and must be fully hydraulic;
- 4. One Landoll-type trailer;
- 5. One tractor;

It is highly recommended that all licensees shall have a:

- 6. Computerized filing system to track towed vehicles.

- B. Insurance requirements:
 - 1. Each application for a license shall be accompanied by certificates of automobile and garage keeper's liability insurance, issued by an Insurance Company authorized to do business in the State of New Jersey, with policy limits of not less than the following:
 - i. \$1,000,000 of general liability;
 - ii. \$1,000,000 of automobile liability, endorsed to provide collision coverage per tow;
 - iii. \$3,000,000 of umbrella coverage.
 - 2. All Insurance policies shall name the municipality as an additional insured and shall indemnify and hold harmless the municipality from any claims for injury or property damage arising out of, or in any way related to, the operation of a tow truck or wrecker or storage yard, pursuant to this chapter.

- C. The municipality reserves the right to annually by Resolution modify the insurance coverage amounts.

STORAGE AREAS.

- A. Each applicant for a new license must meet and provide, and continue to provide during the licensing year, the following storage requirements for vehicles:
- B. All licenses must have sufficient storage areas on premises owned by them or leased directly to them under a written lease. The written lease shall be submitted annually with the application and shall contain an endorsement, by the owner, indicating that the leasehold remains in effect. The written lease shall contain a restriction that the leased premises shall be solely occupied by the tenant/licensee, and said premises shall be occupied by no other person or entity; subleasing shall not be permitted. The lease shall be for a term of at least 18 months and shall provide a notification provision to the Clerk if termination occurs while a license under this chapter is outstanding.
- C. Attached to the lease shall be scaled drawing on eight-and-one-half-by-eleven-inch paper, of the area which shall include any structure or improvement and each point of ingress and egress for vehicles.
- D. Vehicle storage spaces and lots shall conform to all requirements of the applicable municipal building and fire codes, and shall conform to the ordinances of the respective municipal jurisdiction where the storage space is located.

- E. If the storage area is not situated within the boundaries of the Borough, a current and valid certificate of occupancy or other proof of the legal use of the premises to store vehicles must be presented with the application.
- F. The exterior of each storage location must be fully fenced-in, with a fence not less than six feet in height covered in such a manner so as to prevent visibility of stored vehicles from the street. Gates shall be locked when the location is not attended and it shall be continuously lighted from dusk until dawn so as to safeguard vehicles from vandalism and/or theft.
- G. No licensee shall be permitted to pile vehicles.
- H. It being the intention of this chapter to provide persons with a readily accessible and secure storage area for their vehicles, all vehicles towed pursuant to this chapter must be stored in the aforesaid location. No vehicles may be stored on any public thoroughfare, right-of-way or roadway.
- I. The Borough shall have access to any part of designated storage location, exterior and interior, at any time of the day or night for the purpose of inspection and/or investigation. However, during the periods the licensee is not the regularly scheduled licensee, access to the yard for purposes of inspection shall be during the licensee's regular business hours.
- J. Licensee shall prevent and prohibit any unescorted access to the storage area by the public. Vehicles which are impounded by the Police or other police authority and which are required to be maintained as evidence shall be maintained in a secure indoor facility and shall be properly roped off from other vehicles in an area which shall be kept non-accessible to any person, including employees of the licensee, other than a police authority.
- K. Vehicles which have been impounded or confiscated by the Police Department or any other duly authorized law enforcement agency shall not be released without proper authorization from the Police Department;
- L. Vehicles shall be released between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday and between the hours of 9:00 a.m. and 5:00 p.m. on Sunday;
- M. Releases shall be accommodated promptly during normal business hours (Monday thru Saturday 8:00 a.m. – 6:00 p.m.). On Sundays or holidays between the hours of 9:00 a.m. and 5:00 p.m. within two hours of police notification;
- N. The owner of an impounded vehicle shall be entitled to remove personal property from such vehicle upon reasonable notice to the tow service provider and upon appointment if said company requires same. A person's personal property, excepting the automobile, shall not be unreasonably withheld pending payment of fees or for any other cause without written authorization from a police officer having a rank of sergeant, lieutenant, captain or chief.

REGISTRATION OF WRECKER OPERATORS.

Each employee or agent of licensees under this chapter who operates a wrecker within the municipality shall be registered upon the request of the Police Department. The registration shall include at least the name and address of the employee; the name of the employer; criminal convictions, if any, of the employee; the length and type of the employee's experience in the wrecker business and with the employer; and such other information as may be prescribed by the Chief of Police.

SUPERVISION AND ENFORCEMENT.

- A. The governing body hereby designates the Police Department as its designee to supervise the enforcement and provisions of this chapter and the rules and regulations adopted hereunder.
- B. No individual, owner or operator of a wrecker shall respond to the scene of an auto accident except upon notification by the officer in charge of the police investigation.

- C. Nothing contained herein shall be construed to prevent an owner or person in charge of a motor vehicle from calling a garage or tow truck operator of his or her choice, unless the vehicle is to be or has been towed under the authority of or impounded by the Borough and any of its agencies including the police department or any other duly authorized law enforcement agency.

FILING OF REPORT

- A. Within 48 hours after a licensee is requested to render service by the municipality the licensee shall file a report with the Police Department setting forth the following information:
 - 1. The make of the vehicle;
 - 2. The license number of the vehicle;
 - 3. The vehicle identification number;
 - 4. The number of tires on the vehicle;
 - 5. A description of all tools and other personal property which are found in the vehicle;
 - 6. A description of the general condition of and any damage to the vehicle;
 - 7. If the vehicle was towed, the place from which it was towed and the place to which it was towed;
 - 8. If the vehicle was stored, the place where it was stored;
 - 9. All other necessary and pertinent information requested by the Police Department.
- B. In the event that the Police Department has implemented a procedure that satisfies the requirements of this section, then, in that event, the licensee shall not be required to comply with the filing requirement set forth in this section. However, upon notice to the licensee that the Police Department no longer is implementing said procedure, then the licensee shall be required to comply with the filing of a report in accordance to this section.

VEHICLE RESTRICTIONS AND REQUIREMENTS

- A. No licensee shall maintain a police frequency radio receiver set for the purpose of intercepting police calls in regard to disabled vehicles except if authorized by the Chief of Police in writing.
- B. At least two amber rotating beacons or strobe lights mounted on the highest practical location of the vehicle, visible from 360° when in use and visible at a minimum distance of 500 feet during daylight hours. An amber light permit, as required by the State of New Jersey, must be filed by the licensee in the office of the Chief of Police.
- C. Safety tow lights or magnetic tow lights to be mounted upon any vehicle being towed.
- D. At least one heavy-duty broom, shovel, crowbar or pry bar, a set of jumper cables, flashlight, one two-pound or larger fire extinguisher or dry chemical type, one dozen flares or similar warning devices for placement at the scene of an accident or disabled vehicle, at least 10 pounds of dry sand or a drying compound for gasoline and oil spilled onto a roadway and a sufficient quantity and types of tools to enable the tow operation to perform proper and adequate emergency repair services for the tow.
- E. Every tow truck shall, at all times, comply with any and all state, federal and local laws, regulations and ordinances pertaining to safety, lighting and towing equipment requirements and shall be subject to inspection by representatives of the Borough, including the Chief of Police or his designee, at any time. Where applicable, all permits required by any governmental authority relating to the equipment shall be provided to the Borough upon its request.
- F. Every tow truck shall have the name, address and telephone number of the official tower, by a permanently affixed or painted sign, prominently displayed on the vehicle in such manner and of such lettering as conforms to the provisions of N.J.S.A. 39:4-46 on the outside door panels of both sides of the vehicle. Temporary, magnetic or other easily removable signs are not acceptable.
- G. The licensee must be able to respond to the scene where its services are required within 30 minutes from the issuance of a telephone notice at any time of the day or night.

GRATUITIES

No police officer, agent or employee of the Borough shall be paid, receive or accept any commission, fee money or anything of value in connection with the removal of any vehicle from a street or road or highway under the jurisdiction of the Borough; however, nothing in this section is intended to prohibit any police officer, agent or employee of the Borough from

obtaining a license to operate a tow truck or conduct any towing services within the Borough and to collect such fees which are permitted by this ordinance.

PRIVATE PROPERTY TOWS

Persons who own or are in responsible charge of "private property" may have a need to summons and have certain vehicles removed from their property. The following policy shall be adhered to:

- A. The person wishing to have said vehicle summonsed and/or removed from the property shall notify the police department;
- B. A police officer will be dispatched;
- C. The person in responsible charge of the property may sign a summons;
- D. If a summons is issued the person in charge may request that the vehicle be removed;
- E. The police department shall provide the person in charge the phone number for a "tow service provider."
- F. The person in charge of the property shall be advised that they may use any Borough licensed tow service provider.
- G. No attempt to gain entry in the vehicle shall be made unless extenuating circumstances exist, and in police presence.
- H. The licensed or private tow service provider may only charge fees as per the municipal ordinance fee schedule.
- I. Department of Community Affairs Public Sign as noted in Exhibit "A" must be affixed or posted on the property.

TOWING RATES FOR ALL VEHICLES

- A. No owner or driver of a tow truck vehicle covered by this chapter may charge in excess of the following rates for towing, conveying, repairing, servicing, or storage of vehicles.
- B. A vehicle shall be considered "towed" when the tow truck has hooked up to and lifted the vehicle or part of, from the ground.
- C. If the vehicle has not yet been towed but the towing service has already responded to the scene then the tow service provider is authorized to charge the "road service" fee.

Fee Schedule:

1. All fees will be established annually by resolution and shall be incorporated herein as if set forth in their entirety.
2. **Service charges:**
 1. Road service: \$50
 2. Gasoline delivery: \$50 (plus current gasoline price; receipt given to customer)
 3. Removing damaged tires and replacing same with spare: \$50
 4. Removing damaged tires, repairing and remounting same: \$50
3. **Towing charges: wheel lift or flat bed**

Type of Vehicle:
Automobiles: \$100
Trucks (one-ton capacity or less): \$100
Trucks (over one-ton but under five-ton capacity): \$150
Straight job truck: \$200
Buses, tractor trailers and other heavy equipment over five-ton capacity: \$400
Motorcycles or motor scooters: \$100
Police or other municipal vehicles:
Road service: \$0
Inside or outside of Cliffside Park (tow): \$0
4. **Winching service charges:** There will be no additional charge for winching to facilitate the tow. Winching service charges apply to, but are not limited to, vehicles that are positioned in embankments, overturned or positioned in such a precarious manner that normal winching to facilitate the tow is unsuitable.
 1. Light wreckers: \$75 per hour/unit
 2. Heavy wreckers: \$125 per hour/unit
 3. Snow-locked vehicles: \$20 per tow, additional charge
5. **Storage charge (after first 24 hours):**

1. Trucks, automobiles, motorcycles and motor scooter (one and a half-ton capacity or less): \$35
 2. Trucks (over one-and-one-half-ton but under five-ton capacity): \$50 per day or part thereof.
 3. Trucks, buses, tractor trailers and other heavy equipment over five-ton capacity: \$75 per day or part thereof.
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6. Any person found to be in violation of the terms and conditions of this chapter two times within any one year shall have his license to operate a wrecker or towing service in the Borough of Cliffside Park suspended for six months.
 7. It shall be the duty of all wreckers and towing services to maintain a listing of the rates shown herein in their vehicles and to have a sign permanently affixed to the vehicle reading "Cliffside Park Schedule of Rates in Cab" on the outside of said vehicle.

MAINTENANCE AND DISPLAY OF RATE SCHEDULE

Every owner and operator of a tow truck shall maintain a written schedule of all rates and charges in compliance with the limitations set forth in this chapter and shall make the schedule or rates available to any person requesting them at any time. Every tow truck operator shall have conspicuously displayed on their vehicle or at the storage facility the following statement: "Service, towing and storage charges are regulated by municipal ordinances and will be made available upon request."

REMOVAL OF ABANDONED VEHICLES

- A. An abandoned vehicle means any vehicle so designated by an authorized representative of the police department. Removal is to be performed under the direction and supervision of the police department 24 hours a day, seven days a week, anywhere within the municipality.
- B. All abandoned vehicles must be removed by the tow service provider called by the police department within one-half hour after notification by the police department. Failure to do so will be documented and filed with the traffic bureau.
- C. The municipality shall retain the right to have abandoned vehicles towed to its own property and retain the vehicle and/or monies realized from the sale of such vehicles.

REMOVAL OF VEHICLE WITHOUT OWNER'S CONSENT

Every licensee shall, upon removal or towing of any vehicle without the express consent of the owner or driver thereof, immediately notify the police department, of the year, make, model and license number of the vehicle, the location from which the vehicle was removed and the location which the vehicle was removed to and the place of storage thereof.

NOTIFICATION OF UNCLAIMED VEHICLES

Licensees shall notify the Police Department, Traffic Bureau within five calendar days of the towing of any vehicle.

POLICE DEPARTMENT CALL LIST

- A. The police department shall establish and publish a call list for all licensees selected by the Council for the performance of towing services with the municipality. Each licensee agrees with the municipality to provide 24 hours; towing and other emergency services upon such terms and conditions not inconsistent with the provisions of this chapter. The call list shall be in alphabetical order and shall be rotated so as to provide equal treatment to all licensees. Any licensee shall be removed from the call list upon:
 1. Written request from the licensee; or
 2. Failure to comply with the aforesaid terms and conditions as established by this chapter; or
 3. Revocation of towing license.
- B. No shows.
 1. If during normal business hours the tow truck does not arrive on scene within 30 minutes of request, 30 minutes after business hours, (on "Call-Day"), the desk officer

shall make a second call to that company. If the called tow service provider does not arrive on scene within 10 minutes of that second request, the desk officer shall formally advise the department's traffic officer who will note same in the municipalities' "Tow log." The police department shall call the next listed tow service provider. This procedure shall also apply to the tow service provider called on an "off day."

2. The Borough reserves the right to revoke the tow license from non-complaint towing companies.

FEES

All fees shall be established annually by Resolution and shall be incorporated herein as if set forth in their entirety.

- A. Annual application fee \$750

SEVERABILITY If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid in whole or in part or as applied to any particular circumstance or individual by a court of competent jurisdiction, such order of judgment shall not effect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this ordinance.

REPEALER All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies only.

EFFECTIVE DATE This ordinance shall take effect immediately upon final passage and publication as required by law.

COMMITTEE REPORTS: ALL COMMITTEE REPORTS ON FILE IN THE CLERK'S OFFICE.

PUBLIC PORTION:

On a motion by Councilwoman Martinotti, seconded by Councilman Bongard, the meeting was opened to the public. Carried.

The Clerk stated that any member of the public wishing to be heard could now do so, by coming to the podium and stating their name and address for the record.

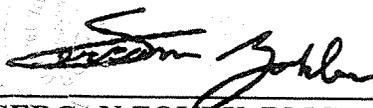
PUBLIC PARTICIPATION: None.

On a motion by Councilman Bongard, seconded by Councilman Corcoran, the meeting was closed to the public.

ADJOURN:

On a motion by Councilman Bongard, seconded by Councilman Corcoran, the meeting was adjourned at 7:09 p.m.

ATTEST:



SERCAN ZOKLU, RMC
BOROUGH CLERK

APPROVED:



THOMAS CALABRESE
MAYOR