

**BOROUGH OF MIDLAND PARK  
280 GODWIN AVENUE  
MIDLAND PARK, NJ 07432  
8:00 P.M. Open Public Meeting Minutes  
July 23, 2009**

**Mayor Monahan** called the meeting to order at 8:01 P.M.

**Mayor Monahan** called upon **Councilman Pruiksmas** to give this evening's Invocation and then he led all present in the Pledge of Allegiance.

**SUNSHINE LAW STATEMENT:** This meeting is being held in accordance with the Sunshine Law, notice having been published according to law with a copy on file in the Borough Clerk's Office and a copy posted on the bulletin board in the Municipal Building.

<b>Roll Call:</b>	<b>Mayor Monahan</b>	<b>Present</b>
	<b>Councilman Papapietro</b>	<b>Present</b>
	<b>Councilman Junta</b>	<b>Present</b>
	<b>Councilman Pruiksmas</b>	<b>Present</b>
	<b>Councilman Holst</b>	<b>Absent</b>
	<b>Councilman O'Hagan</b>	<b>Present</b>
	<b>Council President Peet</b>	<b>Present</b>

**ALSO PRESENT:** **Borough Attorney Regan, Borough Administrator Dugan and Borough Clerk Hanna**

**APPROVAL OF MINUTES:**

A Motion to approve the Minutes of the Open Public, Work Session and Closed Session Meeting Minutes of June 25, 2009, as all members have previously received copies of the Minutes and copies are available to the Public at the Borough Clerk's Office.

**Introduced by: Councilman O'Hagan**                      **Seconded by: Councilman Papapietro**

**Mayor Monahan** requested the Clerk, for better clarity, interject the words "back to its prior use" in the Open Public Meeting Minutes under the topic OPEN TO THE PUBLIC, Page 1, Point #2, so the sentence will read "Build at its original use, which would mean going before the Planning Board for rezoning "back to its prior use-Industrial", which causes a problem for -----

<b>Roll Call:</b>	<b>Councilman Papapietro</b>	<b>Aye</b>
	<b>Councilman Junta</b>	<b>Aye</b>
	<b>Councilman Pruiksmas</b>	<b>Aye</b>
	<b>Councilman Holst</b>	<b>Absent</b>
	<b>Councilman O'Hagan</b>	<b>Aye</b>
	<b>Council President Peet</b>	<b>Abstain</b>

**OPEN TO THE PUBLIC:**

**Mayor Monahan** opened the meeting to the public for any comments, questions or concerns.

**Mrs. Bardzell, 189 Franklin Ave.** – stated she had heard the owner of 714 Godwin Avenue lives in Ireland. She then said the owners of 199 Franklin Ave., have weed-wacked the lawn, however, the part where the greenhouses were is still high. Mr. Wittekind stated the property owner was given a violation, and he will follow up on this issue on Monday.

**Work Session Items Continued**

**1. Subcommittee for Renewal of Curbside Recycling Contract – 2010**

**Administrator Dugan** explained the current contract ends December 31, 2009, and the thought process is to have a new contract for 2 years bid out, so it will end the same time the solid waste contract does. She noted Borough Clerk Hanna, D.P.W. Foreman Rudy Gnehm and she will be on the committee to develop the new specifications, and asked how Council would like her to proceed, whether to keep the committee members in-house or expand to outsiders, she also noted, in the past the Schafers and John Mulligan have participated. Both **Councilman Pruiksm**a and **Council President Peet** agreed we should reach out to both the Schafers and Mr. Mulligan to see if they would join the committee. The **Administrator** said she has been reaching out to contractors to see what options are available, such as single stream recycling, marketing our own recycling or building it into the contract. She said within the next couple of months we could put specs together to bid the work out. At the **Mayor's** request, the **Administrator** will reach out to Waldwick for a shared services possibility. At **Council President Peet's** request, the Administrator will also reach out to the school system to see if they would like us to add an option to the specs for pickup of their recycling, and will invite a school representative to participate on the committee. The Mayor spoke to the problem the school has with following a recycling program.

**2. Mayor's E-mail on Splash Park**

**Mayor Monahan** just wanted to make sure everyone is aware that Mr. Bolger is willing to pay for the engineer feasibility study only for a Splash Park. After the study, the Borough will be able to make an informed decision as to whether it's worthwhile to proceed. There are also operational issues, such as: liability, hours of operation, staffing, operating cost, and if there is interest in this. The **Mayor** said he told Mr. Bolger that this is not a done deal going forward, we are going to get better information and it's possible we may decide not to move forward with it, and Mr. Bolger was fine with this.

**3. Request for Return of Fees for C.C.O/Smoke Alarm Inspection**

After a brief discussion, the Consensus of Council was to refund these fees to Mr. Tanis. It will be addressed by Resolution on the Consent Agenda.

**NEW BUSINESS FOR DISCUSSION:**

There was no New Business to discuss this evening.

**LIAISON REPORTS:**

**Mayor Monahan**

At this time, **Mayor Monahan** recommended the appointment of Mr. Matt O'Toole to the position of Alternate #2 on the Zoning Board of Adjustment, with a term expiration date of December 31, 2010. This places Mr. Rich Formicola into the position of Alternate #1, with a term expiration date of December 31, 2009, and Mr. John Meeks into the position of Full Member, with a term expiration date of December 31, 2010.

**Introduced by Councilman O'Hagan, Seconded by Councilman Pruiksm**a and unanimously carried.

The **Mayor** noted he received correspondence from Bergen County confirming the Bergen County Senior Picnic will be held on Tuesday, September 15<sup>th</sup> at Van Saun Park in Paramus, with a rain date of Tuesday, September 22<sup>nd</sup>, and the County will not be providing transportation. **Councilman**

**Pruiksm**a will speak with volunteers that have offered to help transport seniors in the past. The

**Mayor** also received information from Mr. Bolger regarding the Children’s Therapy Center that will be located in the Church of the Nativity School, which will be copied and distributed to the Council. Lastly, the **Mayor** noted the Council received, in their package, a copy of the June year-to-date expenses v. budget, which the **Administrator** will explain, noting certain items have been fully accrued for the year. **Administrator Dugan** explained the reason these items are encumbered in the beginning of the year, is they are annual contracts. Also, we are obligated to pay over the capital improvement fund from current to capital, also, the tax bills will be mailed out tomorrow which will help our cash flow. She noted the State Aid timetable has been extended therefore delaying payment to us.

**Councilman O’Hagan**

**Public Safety - Police/JIF/Alliance**

**Councilman O’Hagan** noted the Governing Body members have all received **Police** Chief Casson’s monthly report, in which he noted even the Chief wrote a citation. He then asked the Borough Clerk to make copies of the **J.I.F.** documents he received regarding the M.E.L. savings, and distribute them to the Governing Body.

**Councilman Pruiksmas**

**Recreation**

**Councilman Pruiksmas** reported the **Recreation** summer camp is going well.

**Councilman Holst**

**Public Works**

In **Councilman Holst’s** absence, there was no report.

**Councilman Papapietro**

**Finance/Personnel**

**Councilman Papapietro** reported in **Finance** the bills are getting paid, and the Clerk, Administrator and he will be looking at the responses from the Borough banking services RFPs. He also noted Administrator Dugan is performing the **Personnel** employee evaluations.

**Council President Peet**

**Public Safety - Fire & Ambulance/Board of Education**

**Council President Peet** reported progress in both the **Fire Department** and the **Ambulance Corps**. Regarding the **Board of Education**, she reported the Shared Services sub committees met on July 14<sup>th</sup> and discussed a varied group of topics including: cooperative services, recreation facilities, the baseball fields, how to access and upgrade particular fields, basketball courts, soccer fields, the lightning warning system, recycling coordination, various equipment for cooperative purchasing, and several capital projects, such as the College Rd. tennis courts, also the light-path and Cablevision, concessions, operating expenses, IT services, insurance, ground maintenance/facility maintenance and then went on to new business. She said she felt it was a productive and a good meeting, and then spoke of exploring the possibility of grants for fixing the parking lot in the back of the high school, as it is contiguous to our fields and a shared use. **The Council President** stated **Administrator Dugan** has also been working with the School Administrator relative to shared services. Another issue discussed at the sub committee meeting was sharing the high school as an evacuation center for the community, should there be an emergency event.

**Councilman Junta**

**Buildings & Grounds/Board of Health**

**Councilman Junta** reported progress in **Buildings & Grounds** and noted the Governing Body members received the update from the **Board of Health** on H1N1.

**Councilman Pruiksmas** stated he attended a seminar in Baltimore regarding the H1N1, at which

they expressed concern with this virus in the school systems in the fall, and are asking schools to establish a contingency plan if they have to shut down. He said the Borough has its P.O.D. system

in place if pharmaceuticals have to be distributed.

**ADMINISTRATOR’S REPORT:**

**Administrator Dugan** first spoke of a segment on the Today Show she watched on television relative to the Midland Park sewing center, which showed women making pillows for the soldiers in Iraq. The **Administrator** then stated she heard back from Cablevision and they would like clarification on the term “emergency services” where it relates to the section of the ordinance entitled “Free Services”. **Attorney Regan** said he spoke with Gary Shaw on the issue and Cablevision’s legal counsel wants a letter from the Mayor with clarification as to what the Borough’s definition is for “emergency services”. The **Administrator** informed the Governing Body they received documents in their package relaying the month of August is when the Borough is scheduled to move forward with its Infrastructure Trust Fund, which is going to be our means to fund the Eric Ave. Sewer Project. The loan finance information, given by the Bond Attorney, shows the Borough receiving a D.E.P. Trust Loan - 25% at 4.5% interest and 75% at 0% interest, equaling a total of 1.8% interest on the entire loan to fund the project. The Bond Ordinance will be Introduced in August. She noted there is no penalty for prepayment but you have to get permission from the D.E.P. to prepay the loan.

**CONSENT AGENDA:**

**Resolution #126-09 – Bills List**

**WHEREAS**, claims have been submitted to the Borough of Midland Park in the following amounts:

Current Fund (09)	\$ 309,865.42
Trust Fund	\$ 74.43
<b>TOTAL:</b>	<b>\$ 309,939.85</b>

**WHEREAS**, such claims have been listed according to Department and account number with corresponding vouchers to be reviewed and approved by the Finance Committee; and,

**WHEREAS**, the CFO has determined that the funds have been properly appropriated for such purposes and are available, in the Borough of Midland Park and that the claims specified on the schedule attached hereto, following examination and approval by the Finance Committee, be paid and checks issued accordingly; and,

**WHEREAS**, claims have already been paid in the following accounts:

Current	July 15 <sup>th</sup> Payroll	\$ 141,714.54
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**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Midland Park that the claims totaling **\$451,654.39** be approved and ratified respectively.

**Resolution #127-09 - Open Space Application – Canopy over Basketball Courts**

**WHEREAS**, a Bergen County Open Space Recreation, Farmland, and Historic Preservation Trust Fund application in the amount of \$106,625.00 has been proposed by the Borough of Midland Park for a Protective Canopy of the Basketball Courts in the municipality of Midland Park; and

**WHEREAS**, pursuant to the State Interlocal Services Act, such funds may not be spent in a municipality without authorization by the Governing Body; and

**WHEREAS**, the aforesaid project is in the best interest of the people of Midland Park,

**NOW, THEREFORE, BE IT RESOLVED**, that the Governing Body of Midland Park is committed to providing a dollar for dollar cash match for the project; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution shall be sent to the Director of Bergen County Division of Community Development so that implementation of the aforesaid project may be expedited.

**Resolution #128-09 – Refund of CCO/Smoke Alarm Inspection Fees**

**WHEREAS**, Mr. David Tanis obtained and paid the fees for appointments for a Smoke Detector Inspection (\$50.00) and a Certificated of Continued Occupancy Inspection (\$100.00), relative to the sale of his residence at 70 Spruce Street; and

**WHEREAS**, the inspections did not take place as the buyer of the home did not obtain the mortgage to purchase 70 Spruce Street; and

**WHEREAS**, Mr. Tanis has requested a refund of the two fees paid.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Midland Park that the Financial Assistant issue a check for these funds in the amount of \$150.00, to David Tanis, P. O. Box 306, Wyckoff, New Jersey 07481.

**The Consent Agenda was:**

<b>Introduced by: Councilman Pruikisma</b>	<b>Seconded by: Councilman Papapietro</b>
<b>Roll Call: Councilman Papapietro</b>	<b>Aye</b>
<b>Councilman Junta</b>	<b>Aye</b>
<b>Councilman Pruikisma</b>	<b>Aye</b>
<b>Councilman Holst</b>	<b>Absent</b>
<b>Councilman O’Hagan</b>	<b>Aye</b>
<b>Council President Peet</b>	<b>Aye</b>

**RESOLUTIONS:**

**Resolution #129-09 – Change Order #1 DePhillips Center**

**WHEREAS**, William Van Der Eems, Inc. was awarded a contract for the Elevator Installation at the DePhillips Center Project in the Borough of Midland Park, with a total Bid amount of \$89,000.00; and

**WHEREAS**, Stantec Engineering has submitted Change Order #1 for the improvements to this area, which is within project limits; and

**WHEREAS**, this change increases the price of the contract amount by \$3,935.00 to the adjusted contract amount of \$92,935.00, and.

**WHEREAS**, supporting documentation from Stantec Engineering is attached to this resolution as if it were a part of same.

**NOW, THEREFORE, BE IT RESOLVED**, that this Resolution shall take effect upon approval by the Borough Council of the Borough of Midland Park.

<b>Introduced by: Councilman Pruikisma</b>	<b>Seconded by: Councilman Junta</b>
<b>Roll Call: Councilman Papapietro</b>	<b>Aye</b>
<b>Councilman Junta</b>	<b>Aye</b>
<b>Councilman Pruikisma</b>	<b>Aye</b>
<b>Councilman Holst</b>	<b>Absent</b>
<b>Councilman O’Hagan</b>	<b>Aye</b>
<b>Council President Peet</b>	<b>Aye</b>

**Resolution #130-09 – Re-Appoint Judge Charles Ryan**

**WHEREAS**, the term of Municipal Court Judge Charles F. Ryan will expire on August 31, 2009; and,

**WHEREAS**, a nomination to renew Judge Charles F. Ryan’s position was submitted by the Mayor and confirmed by the Borough Council; and,

**NOW, THEREFORE BE IT RESOLVED**, by the Borough Council that Charles F. Ryan be and is hereby reappointed Municipal Court Judge of the Borough of Midland Park, Effective

**BE IT FURTHER RESOLVED**, that said Charles F. Ryan shall serve for a term of three (3) years, or from September 1, 2009 to August 31, 2012 in accordance with the provisions of N.J.S.A. 2B:12-4(a); and

<b>Introduced by: Councilman O’Hagan</b>	<b>Seconded by: Council President Peet</b>
<b>Roll Call: Councilman Papapietro</b>	<b>Aye</b>
<b>Councilman Junta</b>	<b>Aye</b>
<b>Councilman Pruiksma</b>	<b>Aye</b>
<b>Councilman Holst</b>	<b>Absent</b>
<b>Councilman O’Hagan</b>	<b>Aye</b>
<b>Council President Peet</b>	<b>Aye</b>

**ORDINANCES ON INTRODUCTION:**

**1. ORDINANCE #08-09**

**“AN ORDINANCE TO REGULATE THE OUTDOOR APPLICATION OF FERTILIZER SO AS TO REDUCE THE OVERALL AMOUNT OF EXCESS NUTRIENTS ENTERING WATERWAYS, THEREBY HELPING TO PROTECT AND IMPROVE SURFACE WATER QUALITY. THIS ORDINANCE DOES NOT APPLY TO FERTILIZER APPLICATION ON COMMERCIAL FARMS.”**

**SECTION I. Basis and Background:**

Elevated level of nutrients, particularly phosphorus, in surface waterbodies can result in excessive and accelerated growth of algae and aquatic plants (eutrophication). Excessive plant growth can result in diurnal variations and extremes in dissolved oxygen and pH, which, in turn, can be detrimental to aquatic life. As algae and plant materials die off, the decay process creates a further demand on dissolved oxygen levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply.

While healthy vegetated areas are protective of water quality by stabilizing soil and filtering precipitation, when fertilizers are applied to the land surface improperly or in excess of the needs of target vegetation, nutrients can be transported by means of stormwater to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation. Most soils in New Jersey contain sufficient amounts of phosphorus to support adequate root growth for established turf. Over time, it is necessary to replenish available phosphorus, but generally not at the levels commonly applied. Other target vegetation, such as vegetable gardens and agricultural/horticultural plantings, will have a greater need for phosphorus application, as will the repair or establishment of new lawns or cover vegetation. A soils test and fertilizer application recommendation geared to the soil and planting type is the best means to determine the amount of nutrients to apply. Timing and placement of fertilizer application is also critical to avoid transport of nutrients to waterways through stormwater runoff. Fertilizer applied immediately prior to a runoff-producing rainfall, outside the growing season or to impervious surfaces is most likely to be carried away by means of runoff without accomplishing the desired objective of supporting target vegetation growth. Therefore, the management of the type, amount and techniques for fertilizer application is necessary as one tool to protect water resources.

This ordinance does not apply to application of fertilizer on commercial farms, but improper application of fertilizer on farms would be problematic as well. Stewardship on the part of commercial farmers is needed to address this potential source of excess nutrients load to waterbodies. Commercial farmers are expected to implement best management practices in accordance with conservation management plans or resource conservation plans developed for the

farm by the Natural Resource Conservation Service and approved by the Soil Conservation District Board.

**SECTION II. Definitions:**

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- (a) **Buffer** – the land area, 25 feet in width, adjacent to any waterbody. (The Department believes that 25 feet is the appropriate buffer width to be protective of water quality. However, in situations that warrant additional flexibility, such as where lot sizes are exceptionally small or where the 25 ft buffer constitutes the majority of the available property, the municipality reduces the buffer to 10 feet in width, with the additional requirement that a drop spreader be used for fertilizer application)
- (b) **Commercial farm** – a farm management unit producing agricultural or horticultural products worth \$2,500 or more annually.
- (c) **Fertilizer** – means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.
- (d) **Impervious Surface** – a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.
- (e) **Person** – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- (f) **Phosphorus fertilizer** – any fertilizer that contains phosphorus, expressed as P<sub>2</sub>O<sub>5</sub> with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.
- (g) **Soils test** – a technical analysis of soil conducted by an accredited soil-testing laboratory following the protocol for such a test established by Rutgers Cooperative Research and Extension.
- (h) **Waterbody** – a surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

**SECTION III. Prohibited Conduct:**

No person may do any of the following:

- (a) Apply fertilizer when a runoff producing rainfall is occurring or predicted and/or when soils are saturated and a potential for fertilizer movement off-site exists.
- (b) Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for reuse.
- (c) Apply fertilizer within the buffer of any waterbody.

- (d) Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season. Zone 6b (northwestern, central and part of southern New Jersey) March 1 to November 15.

**SECTION IV. Phosphorus Fertilizer Application:**

No person may do the following:

- (a) Apply phosphorus fertilizer in outdoor areas except as demonstrated to be needed for the specific soils and target vegetation in accordance with a soils test and the associated annual fertilizer recommendation issued by Rutgers Cooperative Research and Extension.
- (b) Exceptions
  1. Application of phosphorus fertilizer needed for
    - a. establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
    - b. re-established or repairing a turf area.
  2. Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.
  3. Application of phosphorus fertilizer to residential container plantings, flowerbeds or vegetable gardens.

**SECTION V. Enforcement:**

This ordinance shall be enforced by the Police Department, the Construction Official, and/or such other designee of the Mayor and Council of the Borough of Midland Park.

**SECTION VI. Violations and Penalties:**

Any person(s) who is found to be in violation of the provisions of this Ordinance shall be subject to the a fine in accordance with Section 1-5.1 of the Code of the Borough of Midland Park within the discretion of the Municipal Court Judge.

**SECTION VII. Severability:**

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**SECTION VIII. Effective Date:**

This Ordinance shall take effect immediately upon final passage and publication as provided by law

<b>Introduced by: Councilman O’Hagan</b>	<b>Seconded by: Councilman Papapietro</b>
<b>Roll Call: Councilman Papapietro</b>	<b>Aye</b>
<b>Councilman Junta</b>	<b>Aye</b>
<b>Councilman Pruiksma</b>	<b>Aye</b>
<b>Councilman Holst</b>	<b>Absent</b>
<b>Councilman O’Hagan</b>	<b>Aye</b>
<b>Council President Peet</b>	<b>Aye</b>

**2. ORDINANCE #09-09**

**“AN ORDINANCE REQUIRING DUMPSTERS AND OTHER REFUSE CONTAINERS THAT ARE OUTDOORS OR EXPOSED TO STORMWATER TO BE COVERED AT ALL**

**TIMES AND PROHIBITS THE SPILLING, DUMPING, LEAKING, OR OTHERWISE DISCHARGE OF LIQUIDS, SEMI-LIQUIDS OR SOLIDS FROM THE CONTAINERS TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM(S) OPERATED BY THE BOROUGH OF MIDLAND PARK AND/OR THE WATERS OF THE STATE SO AS TO PROTECT PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PRESCRIBE PENALTIES FOR THE FAILURE TO COMPLY.”**

**SECTION I. Definitions:**

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

**Municipal Separate Storm Sewer System (MS4)** – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Midland Park or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

**Person** – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

**Refuse Container** – any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

**Stormwater** – means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

**Waters of the State** – means the ocean and its estuaries, all springs, streams and bodies of surface of ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction. .

**SECTION II. Prohibited Conduct:**

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Midland Park.

**SECTION III. Exceptions to Prohibition**

- (a) Permitted temporary demolition containers
- (b) Litter receptacles (other than dumpsters or other bulk containers)
- (c) Individual homeowner trash and recycling containers
  
- (d) Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit
- (e) Large bulky items (e.g. furniture, bound carpet and padding, white goods placed curbside for pickup)

**SECTION V. Enforcement:**

This ordinance shall be enforced by the Police Department, the Construction Official, and/or such other designee of the Mayor and Council of the Borough of Midland Park.

**SECTION VI. Violations and Penalties:**

Any person(s) who is found to be in violation of the provisions of this Ordinance shall be subject to the a fine in accordance with Section 1-5.1 of the Code of the Borough of Midland Park within the discretion of the Municipal Court Judge.

**SECTION VII. Severability:**

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**SECTION VIII. Effective Date:**

This Ordinance shall take effect immediately upon final passage and publication as provided by law

**Introduced by: Councilman O’Hagan**

**Seconded by: Council President Peet**

**Roll Call: Councilman Papapietro**

**Aye**

**Councilman Junta**

**Aye**

**Councilman Pruiksmas**

**Aye**

**Councilman Holst**

**Absent**

**Councilman O’Hagan**

**Aye**

**Council President Peet**

**Aye**

**3. ORDINANCE #10-09**

**“AN ORDINANCE REQUIRING THE RETROFITTING OF EXISTING STORM DRAIN INLETS WHICH ARE IN DIRECT CONTACT WITH REPAVING, REPAIRING, RECONSTRUCTION, OR RESURFACING OR ALTERNATION OF FACILITIES ON PRIVATE PROPERTY, TO PREVENT THE DISCHARGE OF SOLID AND FLOATABLES (SUCH AS PLASTIC BOTTLES, CANS, FOOD WRAPPERS AND OTHER LITTER) TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS(S) OPERATED BY THE BOROUGH OF MIDLAND PARK SO AS TO PROTECT PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PRESCRIBE PENALTIES FOR THE FAILURE TO COMPLY.”**

**SECTION I. Definitions:**

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

**Municipal Separate Storm Sewer System (MS4)** – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Midland Park or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are

designed to carry sanitary sewage at all times and to collect and transport stormwater form streets and other sources.

- (i) **Person** – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

- (j) **Storm Drain Inlet** – an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

**Waters of the State** – means the ocean and its estuaries, all springs, streams and bodies of surface of ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction. .

**SECTION III. Prohibited Conduct:**

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- (a) Already meets the design standard below to control passage of solid and floatable materials; or \
- (b) Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.

**SECTION IV. Design Standard:**

Storm drain inlets identified in Section III above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settle able solids. For exemptions to this standard see Section IV.3 below.

- (a) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
  - 1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
  - 2. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater that 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

- (b) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than sever (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
- (c) This standard does not apply:
  - a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards:
  - b. Where flows are conveyed through any device (e.g. end of pipe netting facility, manufactured treatment device, or catch basin hold) that is designed, at a minimum, to prevent delivery of all solid and floatable material that could not pass through one of the following:
    - a. A rectangular space four and five-eighths inches long and one

- and one-half inches wide (this option does not apply for outfall netting facilities); or
- b. a bar screen having a bar spacing of 0.5 inches.
- 3. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1”) spacing between the bars; or
  - 4. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

**SECTION V. Enforcement:**

This ordinance shall be enforced by the Police Department, the Construction Official, and/or such other designee of the Mayor and Council of the Borough of Midland Park.

**SECTION VI. Violations and Penalties:**

Any person(s) who is found to be in violation of the provisions of this Ordinance shall be subject to the a fine in accordance with Section 1-5.1 of the Code of the Borough of Midland Park within the discretion of the Municipal Court Judge.

**SECTION VII. Severability:**

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**SECTION VIII. Effective Date:**

This Ordinance shall take effect immediately upon final passage and publication as provided by law

**Introduced by: Councilman O’Hagan**

**Seconded by: Councilman Pruiksmas**

**Roll Call: Councilman Papapietro**

**Aye**

**Councilman Junta**

**Aye**

**Councilman Pruiksmas**

**Aye**

**Councilman Holst**

**Absent**

**Councilman O’Hagan**

**Aye**

**Council President Peet**

**Aye**

**4. ORDINANCE #11-09**

**“AN ORDINANCE TO AUTHORIZE THE EXPENDITURE OF \$91,000: \$75,000 FROM TWO 2009 COMMUNITY DEVELOPMENT BLOCK GRANTS, AND \$16,000 FROM THE CAPITAL IMPROVEMENT FUND. THE TWO COMMUNITY DEVELOPMENT GRANTS ARE: \$56,000 FOR THE ADA RAMP COMPLIANCE PROGRAM AND \$19,000 FOR ADA ACCESSIBLE DOORS FOR THE LIBRARY ELECTION POLLING LOCATION.”**

**BE IT ORDAINED**, by the Borough Council of the Borough of Midland Park, in the County of Bergen, New Jersey, as follows:

**Section 1.**

The Borough of Midland Park has received two 2009 Community Development Block Grants for: ADA Ramp Compliance Program and ADA Accessible Doors for the Library Election Polling Location in the Borough of Midland Park.

**Section 2.**

The sum of \$75,000 is appropriated to the payment of the cost of such improvements authorized and described in Section 1 hereof. Said sum so appropriated shall be met from the Capital Improvement Fund in the amount of \$16,000.

**Section 3.**

Said improvements are lawful capital improvements of the Borough having a period of usefulness of at least five (5) years. Said improvements shall be made as a general improvement, and no part of the cost has been nor shall be assessed against property specially benefited.

**Section 4.**

The capital budget is hereby amended to conform with the provisions of this capital ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

**Section 5.**

This ordinance hereby incorporates the provisions of N.J.S.A. 40A:2-20.

**Section 6.**

This ordinance shall take effect at the time and in the manner provided by law.

**Introduced by: Councilman Junta                      Seconded by: Councilman O’Hagan**

<b>Roll Call:</b>	<b>Councilman Papapietro</b>	<b>Aye</b>
	<b>Councilman Junta</b>	<b>Aye</b>
	<b>Councilman Pruiksma</b>	<b>Aye</b>
	<b>Councilman Holst</b>	<b>Absent</b>
	<b>Councilman O’Hagan</b>	<b>Aye</b>
	<b>Council President Peet</b>	<b>Aye</b>

**MOTIONS:**

1. A Motion to approval Stantec’s proposal for Professional Engineering and Construction Observation Services for the Cypher’s Lane and Hill Street Drainage Improvements Project.

**Introduced by: Council President Peet                      Seconded by: Councilman O’Hagan**

**Mayor Monahan** requested there be wording in each contract that stipulates Stantec must come to the Borough for approval in advance to performing any additional hours over the number proposed and that in the future there be some form of “as built” plans for each project, even if it is the original plan marked up/red lined and signed or marked “no change” and signed. In addition the Mayor would like to have a more detailed schedule of the project, not just the amount of time it will take to complete (a high level construction schedule). **Administrator Dugan** will ask Mike DeSena to come before the Council in September to give updates on all projects.

<b>Roll Call:</b>	<b>Councilman Papapietro</b>	<b>Aye</b>
	<b>Councilman Junta</b>	<b>Aye</b>
	<b>Councilman Pruiksma</b>	<b>Aye</b>
	<b>Councilman Holst</b>	<b>Absent</b>
	<b>Councilman O’Hagan</b>	<b>Aye</b>
	<b>Council President Peet</b>	<b>Abstain as she is directly impacted by this project.</b>

2. A Motion to approval Stantec’s proposal for Professional Engineering and Construction Observation Services for the Rehabilitation of Basketball Courts at Dairy Street Project.

**Introduced by: Councilman Pruiksma                      Seconded by: Council President Peet**

<b>Roll Call:</b>	<b>Councilman Papapietro</b>	<b>Aye</b>
	<b>Councilman Junta</b>	<b>Aye</b>

Councilman Pruiksmas	Aye
Councilman Holst	Abstain
Councilman O’Hagan	Aye
Council President Peet	Aye

**PUBLIC COMMENT:**

Once again Mayor Monahan opened the meeting to the public for any comment, concerns or questions.

**Brandon Miller, 116 Madison Ave.** - spoke of the parking limit of 90 minutes on Madison Avenue. Mr. Miller requested Council consider changing the time limit of 90 minute parking all day, to be in effect only up until 10:00 or 11:00 A.M., so any visitors he or his neighbors have during the day will not keep getting tickets. **Councilman O’Hagan**, as Police Liaison, questioned Mr. Miller on specifics, as he will be speaking with the police chief on this issue. However, the **Councilman** told Mr. Miller there is not necessarily an easy solution to the problem, but he will address it with Chief Casson and Lt. Vandenberg, the traffic officer.

**Patrick Campbell, 715 Godwin Ave.** – inquired if there was any further discussions regarding the Farmer’s Market he read about in the papers. **Administrator Dugan** stated she received 4 phone calls this week from vendors that were interested in participating and people interested in helping to make the market work, however, there has been no response from the non profit or charitable organizations regarding managing the market. Mr. Campbell asked if it would help if he and his wife would contact the organizations to offer to be their representatives. He stated his interest in the market is just to bring good healthy food into our community, no commercial interest at all. At this point, **Councilman O’Hagan**, on behalf of the Midland Park Lions Club, invited Mr. Campbell and his wife to the August 11<sup>th</sup> Lions Club meeting at the Church of the Good Shepherd at 6:30 P.M., to speak to the members regarding this topic. But, the **Councilman** added, the Borough still has to introduce an ordinance, and the **Mayor** noted other issues that must be addressed, such as zoning and licensing.

There being no further response from the public and no further business to discuss, at 9:07 P.M., the Mayor adjourned the Open Public Meeting on a Motion made by Councilman Papapietro, Seconded by Councilman O’Hagan, and carried.

Respectfully submitted,

Adeline M. Hanna, R.M.C.  
Borough Clerk