

REGULAR MEETING

MAYOR AND COUNCIL

Thursday, March 3, 2022 @ 7:00 p.m.

Due to COVID-19, the Regular Session meeting of the Mayor and Council will be held remotely. This meeting can be accessed by telephone, by dialing one of the numbers listed below and entering meeting ID number 861 4586 1924.

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+1 346 248 7799 US

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PRESENT: Mayor Sokolich Council Members Sohmer, Yoon, Suh, Sargenti, Kasofsky, Cervieri

ALSO PRESENT: Al Restaino, Borough Administrator
Evelyn Rosario, Borough Clerk
Brian Chewcaskie, Borough Attorney

OPEN PUBLIC MEETINGS ACT STATEMENT

In accordance with Chapter 231, P.L. 1975 adequate notice informing the public of the time and place of this meeting was duly published in the Record, the Jersey Journal and Star Ledger issues of November 12, 2021. Said notice was also posted on the Borough Hall bulletin board and Borough website.

A rescheduled meeting notice and remote meeting notice was duly published in the Record and Jersey Journal on February 23, 2022, notifying the public that the date has changed from March 24, 2022 to March 3, 2022 and that this meeting would be held remotely, same was posted on the Borough Hall bulletin board and Borough website.

MAYOR'S REPORT AND ANNOUNCEMENTS

“Good evening everyone welcome to our March 3rd regular meeting of the Mayor and Council with the Borough of Fort Lee. I usually reserve my comments at the beginning of each of these regular meetings for ongoings within the community, but I just wanted to talk a little bit about what’s going on globally and in the country of Ukraine and what those folks are dealing with, and the unjustified war and the unprovoked war and the associated atrocities that that country is now dealing with. No surprise to me that we’ve heard from a lot of folks here in the Borough of Fort Lee on what can we do, how can we help, so we circulated a video. We released a video yesterday we got it out on our social media avenues, Borough Hall is now painted in blue and yellow so is the parking deck and the Community Center in honor of the national colors of the country of Ukraine. It’s our way of expressing our support, our solidarity, extending our thoughts and our prayers for the swift and peaceful ending to the atrocities in the war that’s now going on. I have my opinions on all of this, I will hold tight and not necessarily share them with you except that we are supportive of the residents, the citizens, everybody in the country of Ukraine for what they’re going through. I also want to extend my thanks to the neighboring countries for assisting in the refugee crisis that now, quite frankly that part of the world is dealing with. Number one, number two I’m happy to report very gracious landlords here in the Borough of Fort Lee in particular redevelopment 5 have been requested and have allowed the use of approximately 4,000 square foot of prime retail space right directly next to Linwood Liquors across the street from the vacant lot by redevelopment 5 as a drop off site for

donations for the country of Ukraine. We did this for Sandy, we did this for other issues that we had in town, we had incredible reception. I just want to be clear we are going to be publicizing what items need to be dropped off. It will open probably starting this weekend, it should be opening as of tomorrow but officially it will start as of Saturday morning. The list that I'm getting from the folks in Ukraine and the folks that are putting this together are medical supplies, they are in desperate need of. Whether its band-aids and bandages, lidocaine, walkers, crutches, I will tell you I'm tearing up just reading this list. I got to tell you. I find it incomprehensible that I'm reading these items off this list, but this is what those poor souls need. Lidocaine, walkers, crutches, sterile surgical supplies, not so sure we even have access to that. Fast and long-acting insulin, I don't even know if we have access of the ability to drop that off. All sorts of medications, whether it's everything from first aid cream to iodine, everything in between. Bandages, things of that nature. On our website as soon as we have a better list, we are going to start to publicize this drop off center. The address is 2060 Hudson Street. If you were to go into redevelopment 5 and just drive down the road in the middle of redevelopment 5, Hudson Lights go to the end and its right there on the corner. You can't miss it. Signage has been ordered so that people can readily identify where the drop off site is. Tomorrow General Services and DPW in Fort Lee will be furnishing the center. Tables, round tables, chairs for volunteers and the game plan is, each day to assemble as much as everyone can assemble. Then there's a drop off in Newark for this to be shipped on an emergency basis to Ukraine on virtually a daily basis. There will be volunteers with trucks, volunteers with putting stuff in boxes, I don't have the exact details as to how all of this is going to work but I know one thing, it's going to work because it has to work. I have also heard requests that folks need the military underwear, new underwear, women, men and children. We've heard other requests winter jackets, scarves, socks, and things of that nature. I am going to say this, and I don't want to offend anybody, but I want to be clear. This is not an opportunity to have a garage sale, to get rid of stuff that's lying around that's used or if you were trying to get rid of it. We are looking for good, new, and clean items if they are already prewrapped that's great. Another item that they desperately need believe it or not and it makes a lot of sense are backpacks. Those backpacks will be stuffed with the merchandise and the items that we get so that backpacks can be distributed very quickly. In that backpack will be multiple items for any particular individual that's grabbing it. So, backpacks, medicine, bandages, underwear, clothing, sweatshirts, sweatpants, pants. Don't want to sound greedy but we are looking for new things. We want dropped off what we would hopefully get if we were suffering in such circumstances. Nothing used, nothing dirty, nothing old, nothing worn. With that, I want to thank everybody for that. I want to thank the Mayor and Council for their constant support and their authorization to devote Fort Lee resources to making sure that this center works out. I am giving you broad strokes tonight, there is going to be more detail on our website, on Facebook, we are going to be getting a video out on it and its going to start Saturday and its going to last for a while. This isn't something that is going away in three days so if you can't get to it this weekend, next week is fine and probably the week after and so forth and so on. Thank you, Fort Lee, thank you to those landlords, thank you to the volunteers that are putting this together. Shout out to our prosecutor Raffi Khorozian who is very involved here to. With that, I've doubled my opening statement and I'm sorry I took so long."

APPROVAL OF MINUTES

On motion by Councilman Cervieri, seconded by Councilman Sargenti, and carried unanimously, the minutes of the January 6, 2022, Reorganization Session were approved.

On motion by Councilman Sargenti, seconded by Councilman Sohmer, and carried unanimously, the minutes of the January 20, 2022, Regular Session were approved.

On motion by Councilman Sargenti, seconded by Councilman Sohmer, and carried unanimously, the minutes of the February 3, 2022 Closed Session were approved. Councilman Cervieri abstained.

On motion by Councilman Sargenti, seconded by Councilman Sohmer, and carried unanimously, the minutes of the February 3, 2022 Work Session were approved. Councilman Cervieri abstained.

INTRODUCTION OF ORDINANCES

Ord. #2022-6 AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 410 ENTITLED “ZONING” (Public Hearing April 14, 2022)

On motion by Councilman Cervieri, seconded by Councilman Sohmer, and carried, Ord. #2022-6 entitled “AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 410 ENTITLED “ZONING” (Public Hearing April 14, 2022) was introduced and passed on first reading.”

The Ordinance was **approved** on the following roll call, and the public hearing relative to this ordinance was scheduled for April 14, 2022.

AYES: Council Members Sohmer, Yoon, Suh, Sargenti, Kasofsky, Cervieri

Ord. #2022-7 AN ORDINANCE ESTABLISHING FILMING AND PHOTOGRAPHY AND FEES (Public Hearing April 14, 2022)

On motion by Councilman Cervieri, seconded by Councilman Sohmer, and carried, Ord. #2022-7 entitled “AN ORDINANCE ESTABLISHING FILM AND PHOTOGRAPHY AND FEES” (Public Hearing April 14, 2022) was introduced and passed on first reading.”

The Ordinance was **approved** on the following roll call, and the public hearing relative to this ordinance was scheduled for April 14, 2022.

AYES: Council Members Sohmer, Yoon, Suh, Sargenti, Kasofsky, Cervieri

ORDINANCE PUBLIC HEARINGS

Ord. #2022-2 AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 156 ENTITLED “TREE REMOVAL AND REPLACEMENT”, SECTIONS 156-2 ENTITLED “REGULATED TREES” AND 156-9 ENTITLED “REQUIREMENTS FOR TREE REPLACEMENT AND/OR MITIGATION”

On motion by Councilman Cervieri, seconded by Councilwoman Kasofsky, and carried, the public hearing was opened relative to Ord. 2022-2 entitled “AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 156 ENTITLED “TREE REMOVAL AND REPLACEMENT”, SECTIONS 156-2 ENTITLED “REGULATED TREES” AND 156-9 ENTITLED “REQUIREMENTS FOR TREE REPLACEMENT AND/OR MITIGATION”

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 156 ENTITLED “TREE REMOVAL AND REPLACEMENT”, SECTIONS 156-2 ENTITLED “REGULATED TREES” AND 156-9 ENTITLED “REQUIREMENTS FOR TREE REPLACEMENT AND/OR MITIGATION”

WHEREAS, it has been brought to the attention of the Mayor and Council of the Borough of Fort Lee that Chapter 156 entitled “Tree Removal and Replacement” requires updating; and

WHEREAS, the Mayor and Council believes it would be in the best interest of the citizens that Chapter 156 be amended and supplemented at this time.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fort Lee that Chapter 156 “Tree Removal”, Sections 156-2 “Regulated Trees” and 156-9 “Requirements for Tree Replacement” are amended and supplemented in their entirety as follows:

Section 1. Chapter 156, Tree Removal and Replacement is hereby amended and supplemented as follows:

156-2 Regulated trees.

As used in this Chapter, the word “tree” shall mean any woody plant having a diameter greater than six (6) inches as measured at a height of four (4) feet, six (6) inches from the existing grade (i.e., at its base)

156-9 Requirements for tree replacement and/or mitigation.

In connection with any trees to be removed under Sections 156-7 and 156-8 herein to accommodate buildings, driveways, parking areas, lawn and recreation areas, etc., the following replacement/mitigation standards shall apply:

- A. For every one tree removed, one replacement tree shall be provided on site for every 12 inches of tree diameter removed;
- B. Replacement trees shall be a minimum 3 ½ inches caliper nursery grade stock and of the same species of the tree to be removed; or alternatively, a species that is nature to the area;
- C. Where on-site replacement is not feasible, the applicant shall be required to pay a fee to the municipal tree replacement fund in an amount equal to the following amounts per tree to be removed:

\$500 per tree with a diameter of six inches to 24 inches

\$1,000 per tree with a diameter greater than 24 inches

Section 2. If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder of any portion thereof.

Section 3. All ordinances or parts of ordinance inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect upon final adoption and publication in accordance with Law.

There being no public discussion, the public hearing was closed **on motion by Councilman Cervieri, seconded by Council man Sargenti.**

On motion by Councilman Cervieri, seconded by Councilman Sargenti, the Ordinance was **adopted** on the following roll call:

AYES: Council Members Sohmer, Yoon, Suh, Sargenti, Kasofsky, Cervieri

Ord. #2022-3 AN ORDINANCE TO PROVIDE FOR THE AMENDMENT OF THE CODE OF THE BOROUGH OF FORT LEE WITH THE REPLACEMENT OF EXISTING ORDINANCE CHAPTER 410 ZONING ARTICLE XV ANTENNAS WITH A NEW ARTICLE XV WIRELESS TELECOMMUNICATIONS FACILITIES

On motion by Councilman Cervieri, seconded by Councilman Sargenti, and carried, the public hearing was opened relative to Ord. 2022- 3 entitled “AN ORDINANCE TO PROVIDE FOR THE AMENDMENT OF THE CODE OF THE BOROUGH OF FORT LEE WITH THE REPLACEMENT OF EXISTING ORDINANCE CHAPTER 410 ZONING ARTICLE XV ANTENNAS WITH A NEW ARTICLE XV WIRELESS TELECOMMUNICATIONS FACILITIES”

AN ORDINANCE TO PROVIDE FOR THE AMENDMENT OF THE CODE OF THE BOROUGH OF FORT LEE WITH THE REPLACEMENT OF EXISTING ORDINANCE CHAPTER 410 ZONING ARTICLE XV ANTENNAS WITH A NEW ARTICLE XV WIRELESS TELECOMMUNICATIONS FACILITIES

WHEREAS, the Borough desires to establish reasonable regulations concerning the placement, installation and alteration of wireless telecommunications facilities within the Borough, consistent with local, state and federal laws through the implementation of a siting and approval process and planning procedure.

WHEREAS, the Borough desires to establish regulations for the siting, installation, alteration and maintenance of Wireless Telecommunications Facilities, as the term is herein defined; and

WHEREAS, the Borough desires that these regulations will encourage the location of cellular facilities in appropriate locations in order to minimize the total number of cellular facilities throughout the Borough and encourage collocation on approved telecommunications supporting structures and that the construction of new monopoles and antennas will be sited so as to minimize the adverse visual impact, and will utilize careful design, landscaping and screening techniques; and

WHEREAS, on February 8, 1996, the United States adopted the Federal Telecommunications Act (“TCA”) which, among other things, preserves a local government’s authority over the “placement construction and modification of personal wireless service facilities” (47 U.S.C. §332(c)(7)(A)), while making it unlawful for a local government to prohibit or have the effect of prohibiting the provisions of personal wireless service (47 U.S.C. 332(c)(7)(B)(i)(II)), and provides that local government “shall not unreasonably discriminate among providers of functionally equivalent services” (47 U.S.C. §332(c)(7)(B)(i)(I)); and

WHEREAS, on December 13, 2001, the Borough adopted an ordinance to accomplish the above purposes titled Article XV Antennas of the Zoning Chapter of the Revised General Ordinances; and

WHEREAS, on November 18, 2009, the FCC adopted a declaratory ruling at Docket WT Docket No. 08-165 titled “Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance” in regard to the provisions of the TCA which require the timely siting, by establishing 90 and 150 day shot clock timeframe provisions for wireless siting applications; and

WHEREAS, on February 22, 2012, the United States adopted the Middle Class Tax Relief and Job Creation Act” (“TRA”) which, among other things, contains provisions designed to improve and expedite wireless siting applications by specifying that eligible facilities requests which do not substantially increase the size of an existing tower or base station must be approved by local governments, with this subset of telecommunications provisions becoming subsequently known as the Spectrum Act; and

WHEREAS, on October 17, 2014, the FCC adopted a Report and Order (the “Infrastructure Order”) at WT Docket No. 13-238 titled “Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies”, in particular, by clarifying the provisions of the Spectrum Act by describing the types of modifications to wireless facilities which constitute an Eligible Facilities Request, as the term is used in the Spectrum Act, including that a modification may not increase the height of a facility by more than 10% of its existing height; and

WHEREAS, on June 9, 2020, the FCC adopted a Declaratory Ruling and Notice of Proposed Rulemaking at WT Docket No. 19-250 titled “Implementation of State and Local

Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012" in order to further clarify the provisions of the Spectrum Act in regards to what type of modification constitutes an Eligible Facilities Request, including specifying which modifications do not defeat the originally intended concealment elements of an existing facility, when the FCC mandated 90 and 150 day shot clocks commence and permitted height increases for towers outside the public right-of-way; and

WHEREAS, on October 27, 2020, the FCC adopted a Report and Order at WT Docket No. 19-250 titled "Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012" in order to further clarify the provisions of the Spectrum Act by specifying the extent to which an Eligible Facilities Request to modify an existing wireless may expand said facility in size and dimensions, including that an existing facility may be expanded by up to 30 feet in any one direction; and

WHEREAS, the existing Borough wireless telecommunications ordinance was adopted in 2001 and does not comply with the subsequently adopted Spectrum Act and FCC orders of 2009, 2014 and 2020, and the Borough seeks to remedy and address this lack of compliance by adopting a new ordinance to regulate wireless facilities installations which replaces and supersedes the existing ordinance; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Fort Lee that the Code of the Borough of Fort Lee, hereinafter the "Code", be amended as follows:

The Code is hereby amended, supplemented and revised with the replacement of Chapter 410 Zoning Article XV Antennas with Chapter 410 Zoning Article XV Wireless Telecommunications Facilities, and which shall read, in its entirety, as follows:

Heading: CHAPTER 410 ZONING ARTICLE XV WIRELESS TELECOMMUNICATIONS FACILITIES

Section Titles:

410-74 Purpose

410-75 Definitions

410-76 Applicability; Non-Applicability to Amateur Radio Stations and Receive Only Antennas

410-77 Eligible Facilities Requests

410-78 Miscellaneous Provisions

§ 410-74 Purpose: The purpose of these regulations for the siting, installation, alteration and maintenance of Wireless Telecommunications Facilities, as the term is herein defined, is to:

- A. Protect residential areas and land uses from potential adverse impacts of wireless telecommunications facilities;
- B. Encourage the location of cellular facilities in appropriate locations;
- C. Minimize the total number of cellular facilities throughout the Borough of Fort Lee;
- D. Strongly encourage the collocation on approved wireless telecommunications facilities as a primary option rather than construction of new or additional single-use towers;
- E. Encourage users of monopoles and antennas to locate them, to the extent possible, in areas where the adverse impact on the residential community is minimal, particularly to avoid adverse visual impacts upon residential dwellings;
- F. Encourage users of monopoles and antennas to locate and configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;
- G. Enhance the ability of the providers of telecommunications services and emergency services to provide such services to the community quickly, effectively and efficiently; and

- H. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- I. Ensure compliance with Federal Communications Commission regulations concerning Eligible Facilities Requests to modify Eligible Support Structures.
- J. Ensure compliance with applicable environmental laws and regulations.

§ 410-75 Definition : For the purposes of this Article, the following terms shall have the meaning indicated below:

- A. Base Station, Existing. Any lawfully existing structure other than a tower that, at the time of review or consideration, already supports or houses lawfully existing FCC-licensed or FCC-authorized wireless transmission equipment, even if such structure was not initially built for the sole or primary purpose of supporting or housing wireless transmission equipment.
- B. Base Station, Proposed. Any proposed or lawfully existing structure other than a tower that is being proposed to be used to support or house FCC-licensed or FCC-authorized wireless transmission equipment and which does not, at the time of such proposal, already support or house wireless transmission equipment.
- C. Eligible Facilities Request. The definition of an Eligible Facilities Request is included in section 410-77 of this Article.
- D. Equipment Compound. An area surrounding or adjacent to the base of a wireless telecommunications tower, or surrounding, adjacent to, within or upon a wireless telecommunications base station, in which wireless transmission equipment is located.
- E. Wireless Telecommunications Facility. The tower or base station and all wireless transmission equipment used in connection with any FCC-licensed or FCC-authorized wireless transmission.
- F. Wireless Telecommunications Tower. Any structure built for the sole or primary purpose of supporting FCC-licensed or FCC-authorized wireless transmission equipment.
- G. Wireless Transmission Equipment. Any antennas, including panel or multimodal antennas, "small cell" systems (such as exterior or interior "DAS" distributed antenna systems), or "dish" microwave antennas, that are used in connection with any FCC-licensed or FCC-authorized wireless transmission, and all other equipment associated with and necessary to their operation, including wires, cables, cabinets, and backup power equipment.

§ 410-76 Applicability; Non-Applicability to Amateur Radio Stations and Receive Only Antennas .

- A. All new Wireless Telecommunications Facilities, including towers, antennas, Distributed Antenna Systems (DAS) (also referred to as a microcell, booster or repeater antenna system) on private property and publicly owned lands, but not in the Borough right-of-way, shall be subject to the regulations of this Article, except as otherwise provided herein. The provisions of this Article shall not govern any antenna that is owned and operated by a Federally licensed amateur radio station operator or is used exclusively as a receive-only antenna in accordance with Federal Communications Commission regulations.

§ 410-77 Eligible Facilities Requests

- A. (No Substantial Change). An Eligible Facilities Request that does not substantially change the dimensions of an existing Wireless Telecommunications Facility shall comply with the following:
 - (1) Reviewing authority. The Borough Zoning Officer is the reviewing authority for eligible facilities requests involving no substantial change. The Borough Telecommunications Consultant will assist the Borough Zoning Officer in all aspects of the implementation of this Article.

- (2) Fee. The application fee for an eligible facilities request involving no substantial change is specified in the section of this Article entitled Fees. The fee must be paid to the Zoning Officer prior to the issuance of the applicable Zoning Permit.
- (3) Application. An application for an Eligible Facilities Request involving no substantial change must include a completed zoning permit application, a plan drawn by an engineer or architect depicting the existing tower or base station and all proposed facilities and modifications, and other documentation as necessary to demonstrate that the request qualifies as an "Eligible Facilities Request" and involves "no substantial change" as defined in this Article.
- (4) Filing. Applications for Eligible Facilities Requests involving no substantial change must be filed with the Zoning Officer in paper format via mail, overnight delivery, or hand delivery, and also in electronic (.pdf or .doc) format via e-mail, and copied simultaneously to the Planning Board in both formats.
- (5) Prior Municipal Approvals. Applications for eligible facilities requests involving no substantial change must confirm, to the Zoning Officer's satisfaction, that the existing tower or base station, and all existing wireless telecommunication facilities located thereon, are lawfully in existence, and have been previously granted all necessary municipal land use and development approvals.
- (6) Owners' Consent. Applications for eligible facilities requests involving no substantial change must confirm, to the Zoning Officer's satisfaction, that the owner of the subject property, whether or not within a public right-of-way, and the owner of the subject tower or base station have given prior written consent to the proposed facilities and modifications.
- (7) Federal Laws. When reviewing an Eligible Facilities Request involving no substantial change, the Zoning Officer, and any other Borough personnel designated to administer and review said request, shall apply the definition contained in 47 U.S.C. 1455, as interpreted by FCC and defined herein. **The Zoning Officer should be familiar with 47 U.S.C. § 332(c)(7) of the Communications Act of 1996; 47 U.S.C. § 1455 of the Spectrum Act; Federal Communications Commission Declaratory Ruling under WT Docket No. 08-165, adopted November 18, 2009; Federal Communications Commission Report and Order under WT Docket Nos. 13-238 and 13-32, and WC Docket No. 11-59, adopted October 17, 2014; and any subsequent applicable statutory or regulatory enactments; agency rulings or reports; and court opinions.** The Zoning Officer shall, when necessary, rely on the Consultant in the application and interpretation of the foregoing.
- (8) Request for Additional Information. If, based on his or her review of the application in consultation with the Planning Board and Telecommunications Consultant, as needed, the Zoning Officer concludes that additional information is needed to determine whether the application can be approved, the Zoning Officer may request such additional information from the applicant, but the applicant is not required to provide it.
- (9) Interim Denial Pending Further Review. If the Zoning Officer is unable to reach a decision, per Subsection J below, within 10 business days following the date the application was initially received by the Zoning Officer, the Zoning Officer must, within the ten-business-day period, issue a written notice of denial specifying that "the application is denied for purposes of N.J.S.A. 40:55D-18 pending further review and final decision pursuant to the applicable section of this Article."
- (10) Decision.
 - i. If, based on his or her review of the application, and the advice and recommendations received from the Planning Board and Telecommunications Consultant, as applicable, the Zoning Officer concludes that the application proposes an Eligible Facilities Request, the Zoning Officer must approve the application.

- ii. If, based on his or her review of the application, and the recommendation of the Planning Board and the Telecommunications Consultant, the Zoning Officer concludes that the application does not propose an Eligible Facilities Request, and involves a substantial change to the existing Eligible Support Structure or Wireless Telecommunications Facility, then the Zoning Officer must deny the application and refer the applicant to the applicable provisions of this Article pertaining to modifications to existing Eligible Support Structures that are not an Eligible Facilities Request and which involve a substantial change to the existing facility.
- (11) **Deadline for Final Decision.** The Zoning Officer must issue a written final decision on the application no less than 60 days following the date the application was initially received by the Zoning Officer. The decision may be issued via mail, e-mail, overnight delivery, or hand-delivery. The deadline for decision may be tolled or waived only upon the applicant's written consent; and once given, such consent may be withdrawn by the applicant at any time upon written notice to the Zoning Officer, provided that any such withdrawal, if given less than 10 days prior to the deadline expiration date, must allow the Zoning Officer at least 10 days to decide the application following the Zoning Officer's receipt of the consent withdrawal.
 - (12) **Form of final decision.** The Zoning Officer must memorialize his or her final decision by written approval or denial of the zoning permit application. The approval or denial must include a list of the plans and documents that comprised the application, with references to the dates, titles, and other descriptive features of those plans and documents.

B. Eligible Support Structure Modification Request (With Substantial Change). A request to modify a Wireless Telecommunications Facility that substantially alters the existing dimensions shall comply with the following:

- (1) **Reviewing authority.** The Borough Planning Board is the reviewing authority for modifications to Eligible Support Structures that involve substantial change.
- (2) **Fees and review escrow deposits.** Applicants for modifications to Eligible Support Structures that involve substantial change must pay fees and review escrow deposits applicable for site plan review or waiver and all requested variances (and subdivision, if applicable), as well as the application fee and initial review escrow deposit specified for "Eligible Support Structure Modification with Substantial Change." All fees and review escrow deposits must be paid to the Planning Board Secretary when the application is filed.
- (3) **Application.** An application for a modification to an Eligible Support Structure involving substantial change must include all completed application forms for site plan review or waiver and all requested variances and may also include any other documentation reasonably necessary for the Planning Board to render a decision.
- (4) **Filing.** Applications for modification to an Eligible Support Structure involving substantial change must be filed with the Planning Board according to the Planning Board's requirements for all development applications involving site plan review or waiver and variances.
- (5) **Federal laws.** When reviewing a modification to an Eligible Support Structure involving substantial change, the Planning Board Planner should **be familiar with 47 U.S.C. § 332(c)(7) of the Communications Act of 1996; 47 U.S.C. § 1455 of the Spectrum Act; Federal Communications Commission Declaratory Ruling under WT Docket No. 08-165, adopted November 18, 2009; Federal Communications Commission Report and Order under WT Docket Nos. 13-238 and 13-32, and WC Docket No. 11-59, adopted October 17, 2014; and any subsequent applicable statutory or regulatory enactments; agency rulings or reports; and court opinions, and may rely on the Telecommunications Consultant to provide guidance and interpretation in regard to these federal laws and regulations.**

- (6) Completeness review and deadline. Completeness review of applications under this subsection will be conducted by the Planning Board Attorney in consultation with the Planning Board Engineer, the Planning Board Secretary and the Telecommunications Consultant, as required. The deadline for completeness review, which is based on federal laws and regulations as opposed to the New Jersey Municipal Land Use Law, is 30 days. If the Planning Board Attorney notifies the applicant of completeness deficiencies in writing within the thirty-day period, the deadline is tolled, but not reset. Subsequent incompleteness determinations must be issued in writing within 10 days following any subsequent submission. Unless certified complete or incomplete by the Planning Board Attorney within the thirty-day period from filing (or within the ten-day period from a subsequent submission), the application will be deemed complete upon expiration of the thirty-day period from filing (or upon expiration of the ten-day period from subsequent submission). The completeness deadline may be tolled or waived only upon the applicant's written consent; and once given, such consent may be withdrawn at any time by the applicant upon written notice to the Planning Board Attorney.
- (7) Scheduling of hearing. Immediately following a certification or "deeming" of completeness of a request to modify an Eligible Support Structure involving substantial change, the Planning Board Attorney must confer with the applicant's attorney or other authorized representative and the Planning Board Secretary to schedule the application hearing for a mutually acceptable hearing date, provided that the hearing date must be no later than 90 days following the application's initial filing date. Notice of the hearing must be mailed and published by the applicant as required by the New Jersey Municipal Land Use Law.
- (8) Deadline for decision. The Planning Board must render its decision on a request to modify an Eligible Support Structure involving substantial change no later than 90 days following the application's initial filing date. If the Planning Board believes that the applicant has provided insufficient information for approval of the application, and if the applicant will not provide the additional information and/or extend the 90 day decision deadline as necessary for the Planning Board to continue its review, the Planning Board must deny the application within the ninety-day decision deadline. The deadline for decision may be tolled or waived only upon the applicant's written consent; and once given, such consent may be withdrawn by the applicant at any time upon written notice to the Planning Board Attorney, provided that any such withdrawal, if given less than 35 days prior to the decision deadline, must grant an extension of the decision deadline as necessary to allow the Planning Board to schedule the hearing for the next regular Planning Board meeting, with adequate time for the applicant to mail and publish notice as required by the New Jersey Municipal Land Use Law.
- (9) Form of decision. The Planning Board must memorialize the decision by written resolution as required by, and within the time period specified by, N.J.S.A. 40:55D-10g.

C. New Wireless Telecommunications Facilities, Including New Towers. New telecommunications facilities and towers shall comply with the following:

- (1) Reviewing authority. The Borough Planning Board is the reviewing authority for all applications for the construction or installation of Wireless Telecommunications Facilities, as defined herein, that are not Eligible Facilities Requests, and which do not involve an Eligible Support Structure, including any request for modification of an unlawfully existing wireless telecommunications tower or unlawfully existing base station or the wireless telecommunications facilities located thereon, or any request for installation of a wireless telecommunications facility at a "proposed base station," as defined herein, or the installation of a new Wireless Telecommunications Facility at a previously un-utilized location. For purposes of

this section, such applications will be referred to generally as "wireless telecommunications facility siting applications."

- (2) Fees and review escrow deposits. Applicants for wireless telecommunications facility siting applications must pay fees and review escrow deposits applicable for site plan review or waiver and all requested variances (and subdivision, if applicable), as well as the fee and initial review escrow deposit specified for a "wireless telecommunications facility siting application." All fees and review escrow deposits must be paid to the Planning Board Secretary when the application is filed.
- (3) Application. A wireless telecommunications facility siting application must include all completed application forms for site plan review or waiver and all requested variances (and subdivision, if applicable).
- (4) Filing. Wireless telecommunications facility siting applications must be filed with the Planning Board according to the Planning Board's requirements for all development applications involving site plan review or waiver and variances (and subdivision, if applicable).
- (5) Federal laws. When reviewing a wireless telecommunications facility siting application, the Planning Board Attorney should be familiar with 47 U.S.C. § 332(c)(7) of the Communications Act of 1996; 47 U.S.C. § 1455 of the Spectrum Act; Federal Communications Commission Declaratory Ruling under WT Docket No. 08-165, adopted November 18, 2009; Federal Communications Commission Report and Order under WT Docket Nos. 13-238 and 13-32, and WC Docket No. 11-59, adopted October 17, 2014; and any subsequent applicable statutory or regulatory enactments; agency rulings or reports; and court opinions, and may rely on the Telecommunications Consultant for guidance and interpretation of said federal laws and regulations.
- (6) Siting and Development Standards. When reviewing a wireless telecommunications facility siting application, the Planning Board shall consider whether said application is in compliance with the applicable section (G) Location Preferences, (H) Development Standards and (I) Site Design Standards of this section 410-77, and shall make reasonable compliance with same a condition of approval when compliance is not otherwise substantiated via the submitted application documents.
- (7) Completeness review and deadline. Completeness review of applications for wireless telecommunications facilities siting will be conducted by the Planning Board Attorney in consultation with the Planning Board Engineer, the Planning Board Planner, and the Planning Board Secretary. The deadline for completeness review, which is based on federal laws and regulations rather than the New Jersey Municipal Land Use Law, is 30 days. If the Planning Board Attorney notifies the applicant of completeness deficiencies in writing within the thirty-day period, the deadline is tolled, but not reset. Subsequent incompleteness determinations must be issued in writing within 10 days following any subsequent submission. Unless certified complete or incomplete by the Planning Board Attorney within the thirty-day period from filing (or within the ten-day period from a subsequent submission), the application will be deemed complete upon expiration of the thirty-day period from filing (or upon expiration of the ten-day period from subsequent submission). The completeness deadline may be tolled or waived only upon the applicant's written consent; and once given, such consent may be withdrawn at any time by the applicant upon written notice to the Planning Board Attorney.
- (8) Scheduling of hearing. Immediately following a certification or "deeming" of completeness of a wireless telecommunications facility siting application, the Planning Board Attorney must confer with the applicant's attorney or other authorized representative and the Planning Board Secretary to schedule the application hearing for a mutually acceptable hearing date, provided that the hearing date must be no later than 150 days following the application's initial filing date, or no later than 120 days following a certification or "deeming" of completeness pursuant to N.J.S.A. 40:55D-10.3, whichever is earlier. Notice of the hearing must be mailed and published by the applicant as required by the New Jersey Municipal Land Use Law.

- (9) Deadline for decision. The Planning Board must render its decision on a wireless telecommunications facility siting application no later than 150 days following the application's initial filing date, or no later than 120 days following a certification or "deeming" of completeness pursuant to N.J.S.A. 40:55D-10.3, whichever is earlier. If the Planning Board believes that the applicant has provided insufficient information for approval of the application, and if the applicant will not provide the additional information and/or extend the 150- or 120-day decision deadline as necessary for the Planning Board to continue its review, the Planning Board must deny the application within the 150- or 120-day decision deadline. The deadline for decision may be tolled or waived only upon the applicant's written consent; and once given, such consent may be withdrawn by the applicant at any time upon written notice to the Planning Board Attorney, provided that any such withdrawal, if given less than 35 days prior to the decision deadline, must grant an extension of the decision deadline as necessary to allow the Planning Board to schedule the hearing for the next regular Planning Board meeting, with adequate time for the applicant to mail and publish notice as required by the New Jersey Municipal Land Use Law. Failure to decide the application within the decision deadline or any extension thereof will constitute an automatic approval of the application as filed.
- (10) Form of decision. The Planning Board must memorialize the decision by written resolution as required by, and within the time period specified by, N.J.S.A. 40:55D-10g

D. Action on Applications for Wireless Telecommunications Facilities:

- (1) Review of Applications for Eligible Facilities Requests. The Borough shall review the Application in light of its conformity with applicable provisions of this Article, and shall issue a Zoning Permit on nondiscriminatory terms and conditions, subject to the following requirements:
- a. The Borough shall act consistent with the following Shot Clock Dates:
 - i. Review of an Application to collocate a Small Wireless Facility using an existing structure: 60 days.
 - ii. Review of an Application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
 - iii. Review of an Application to deploy a Small Wireless Facility using a new structure: 90 days.
 - iv. Review of an Application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.
- (2) Commencement of Shot Clock. The Shot Clock timeframes referenced above begin upon submission by the Applicant of required documentation for the first procedural step in the approval process, or when Applicant submits sufficient documentation to demonstrate compliance with section 6409(a) of the Spectrum Act, whichever comes first.
- a. For an Eligible Facilities Request with no substantial change, the Shot Clock commences upon submission of all documentation required for a Zoning Permit application.
 - b. For request to modify an Eligible Support Structure that involves substantial change, the Shot Clock commences upon submission of all documentation required for Site Plan Approval, and any variances that may be required.
 - c. For an application to install new Wireless Telecommunications Facilities that is not an Eligible Facilities request or a modification of an Eligible Support Structure, the Shot Clock commences upon submission of the required Site Plan and variance documentation required by the Planning Board, and which may vary based upon the zoning district in which the facility is proposed.
 - d. The Shot Clock commences for all 3 instances upon application submission and not upon a determination of application completeness by the Borough
- (3) Tolling period: Unless a written agreement between the Applicant and the Borough provides otherwise, the tolling period for an Application (if any) is as set forth in paragraphs (a) through (c) of this section:

- a. For an initial application to deploy Small Wireless Facilities, if the Borough notifies the Applicant on or before the 10th day after submission that the Application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the Applicant submits all the documents and information identified by the Borough to render the Application complete.
- b. For all other initial Applications, the tolling period shall be the number of days from--
 - i. The day after the date when the Borough notifies the Applicant in writing that the Application is materially incomplete and clearly and specifically identifies the missing documents or information that the Applicant must submit to render the Application complete and the specific rule or regulation creating this obligation; until
 - ii. The date when the Applicant submits all the documents and information identified by the siting authority to render the Application complete;
 - iii. But only if the notice pursuant to the applicable section of this Article is effectuated on or before the 30th day after the date when the application was submitted; or
- c. For resubmitted Applications following a notice of deficiency, the tolling period shall be the number of days from
 - i. The day after the date when the Borough notifies the Applicant in writing that the Applicant's supplemental submission was not sufficient to render the Application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the Borough's original request under the applicable section of this Article; until
 - ii. The date when the applicant submits all the documents and information identified by the Borough to render the Application complete;
 - iii. But only if the notice pursuant to the applicable section of this Article is effectuated on or before the 10th day after the date when the Applicant makes a supplemental submission in response to the Borough's request.

E. Eligible Facilities Request. The term Eligible Facilities Request shall have the following definition:

- (1) A request for a modification, as set forth in this section, of a lawfully existing wireless telecommunications tower or lawfully existing base station that does not substantially change the physical dimensions of such tower or base station as set forth in this subsection (D) herein, if approved by the Borough Zoning Officer pursuant to the procedures set forth in subsection (A) herein of section 410-77.
- (2) Any eligible facilities request for modification of an unlawfully existing wireless telecommunications tower or an unlawfully existing base station, or for modification of a lawfully existing wireless telecommunications tower or lawfully existing base station that does substantially change the physical dimensions of such tower or base station as set forth in this subsection, is prohibited. See sections B and C of this section 410-77 for procedures applicable to variance applications for wireless telecommunications facilities.
- (3) An "eligible facilities request" is any request does not involve a substantial change to an Eligible Support Structure and involves the following:
 - a. Co-location of new wireless transmission equipment
 - b. Removal of wireless transmission equipment; or
 - c. Replacement of wireless transmission equipment.
- B. (4) A "substantial change" to the physical dimensions of an existing tower or base station is any change meeting the following criteria as measured against the dimensions of the tower or base station as of the date of its initial construction or as of February 21, 2012, whichever is later.

- a. Increase in height: An increase in the height of an existing tower or an existing base station constitutes a substantial change:
 - i. For towers and base stations, if the increase in height is more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, with the 20 foot separation between the proposed antenna array and nearest existing antenna to mean the distance from the top of the highest existing antenna on the tower to the bottom of the proposed new antenna to be deployed above it; and
 - b. Increase in width: An increase in the width of an existing tower or an existing base station constitutes a substantial change:
 - i. If the increase would extend or protrude from the edge of the tower more than 20 feet, or more than the width of the tower as measured at the level of the increase, whichever is greater; and
 - c. Increase in equipment cabinets: The addition of equipment cabinets constitutes a substantial change if it involves one or more of the following:
 - i. Installation of ground cabinets that are more than 10% larger than existing cabinets at the facility
 - ii. Installation of more than the standard number of new equipment cabinets for the technology involved, or more than four cabinets, whichever is less
 - iii. Each separate application request constitutes a separate determination of the number of cabinets and the expansion of size beyond the existing facility and is not factored as part of a cumulative total which applies to all applications for development.
 - d. Excavation or deployment outside of current site: Excavation or deployment of equipment outside the current site of an existing tower or existing base station constitutes a substantial change when required for a proposed co-location, if such excavation or deployment of equipment increases the square footage of the equipment compound to an area greater than 2,500 square feet, with 'site' referring to, for towers, the leased or owned property surrounding the tower and any access or utility easements which serve the site, and to other supporting structures as the area in proximity to the structure and to equipment already deployed on the ground., except that modification of an existing site that entails ground excavation or deployment of transmission equipment up to 30 feet in any direction outside a tower's site constitutes an Eligible Facilities Request that is not a substantial change. With Site referring to the current boundaries of a facility that existed as of the date of the original support structure or a modification to that structure that was last reviewed and approved by the Borough, if the approval or modification occurred prior to the Spectrum Act or outside of the Section 6409(a) process.
 - e. Defeat of existing concealment elements: If the existing concealment elements of an existing tower or existing base station would be defeated by a proposed co-location, as determined by a reasonable person viewing the structure and its intended concealment design as no longer effective after the collocation, the proposed co-location constitutes a substantial change.
 - f. Failure to comply with prior conditions: A substantial change occurs if the proposed co-location fails to comply with conditions associated with the prior approval of the existing tower or existing base station, unless such noncompliance is due to an increase in height, an increase in width, an addition of cabinets, or a new excavation or deployment of equipment that does not exceed the corresponding "substantial change" thresholds set forth above.
- F. Fees: The application fees shall be as follows:
- (1) Eligible Facilities Request with No Substantial Change: \$30
 - (2) Modification to an Eligible Support Structure that Involves a Substantial Change: Shall be pursuant to the Borough land development fee schedules for Minor Site Plan Review and Conditional Use Approval before the Zoning Board. With the

added provision that any such development review by the Planning Board or Zoning Board shall be accompanied by a compliance review by the Borough Consultant at a rate of \$350/hour, not to exceed the reasonable amount of time necessary to review an application commensurate with its complexity and unique characteristics.

- (3) New Wireless Telecommunications Facilities: Shall be pursuant to the Borough land development fee schedules for Major Site Plan Review. With the added provision that any such development review by the Planning Board or Zoning Board shall be accompanied by a compliance review by the Borough Consultant at a rate of \$350/hour, not to exceed the reasonable amount of time necessary to review an application commensurate with its complexity and unique characteristics.
- (4) Telecommunications Consultant Review to Ensure Compliance with the Following:
 - a. The Provisions of this Article
 - b. Provision of a Determination to the Zoning Officer of Whether an Application Constitutes an Eligible Facilities Request
 - c. Additional Applicable Land Use Regulations of the Borough
 - d. Applicable State and Federal Laws and Regulations
 - e. Applicable Federal Laws and Regulations
 - f. Fee: \$350/hour, not to exceed the reasonable amount of time needed to review and make a determination based on the complexity of each specific application.

G. Location Preference. If required for the provision of wireless communications service within the Borough, new Wireless Telecommunications Facilities shall be permitted as a conditional use requiring site plan approval at the following prioritized locations:

- (1) The first priority location shall be lands or structures owned by the Borough;
- (2) The second priority location shall be co-location on existing Wireless Telecommunications Facility towers (or existing water tanks), provided that the new installation does not increase the height by more than 10%; and
- (3) The third priority location shall be such locations as the applicant proves are essential to provide required service to Borough residents.
- (4) Commercial, business and industrial districts shall be prioritized over residential and open space and historical or environmentally sensitive districts.
- (5) No district shall outright prohibit Wireless Telecommunications Facilities and in no district are same a permitted use requiring only ministerial construction permits.
- (6) In the event of a conflict between district zoning regulations and the regulations of this Article, the regulations of this Article shall control.

H. Development Standards. To the extent possible while remaining compliant with federal laws and regulations, applications to install Wireless Telecommunications Facilities or modify same shall comply with the following development standards:

- (1) Height standards. Where permitted, Wireless Telecommunications Facilities may exceed the maximum building height limitations, provided the height has the least visual impact and is not greater than required to achieve service area requirements and potential co-location, when visually appropriate. Wireless Telecommunications Facilities equipment compounds, shelters and platforms are limited to 12 feet in height.
- (2) Setback standards. All Wireless Telecommunications Facilities shall be subject to the minimum yard requirements of the zoning district in which they are located, provided the minimum setback may be increased where necessary to address safety concerns. If Wireless Telecommunications Facilities are located on the roof of a building, the area of the equipment cabinets, shelters and other equipment and structures shall not occupy more than 25% of the roof area. The location on the roof for same shall be determined on a case-by-case basis.
- (3) Visual Impact. All Wireless Telecommunications Facilities shall be located to minimize visual impacts on the surrounding area. When considering visual impact of roughly equal degree in comparative locations, locations in a higher priority category shall be deemed more acceptable than lower priority sites:
- (4) Applicants must demonstrate that the proposed Wireless Telecommunications Facility location provides the least visual impact on residential areas and public

way. All potential visual impacts must be analyzed to illustrate the selected site provides the best opportunity to minimize the visual impact of the proposed facility.

- (5) Wireless Telecommunications Facilities should be located to avoid being visually solitary or prominent when viewed from residential areas and the public way. The facility should be obscured by vegetation, tree cover, topographic features and/or other structures to the maximum extent feasible.
- (6) Wireless Telecommunications Facilities shall be placed to ensure that historically significant views, streetscapes and landscapes are protected. The views of and vistas from architecturally and/or significant structures should not be impaired or diminished by the placement of telecommunications facilities.

I. Site Design Standards. The following design standards shall apply to Wireless Telecommunications Facilities installed, altered or modified pursuant to the terms of this Article, with provisions clearly intended to apply only to towers and ground level facilities, as opposed to rooftops or other types of installations, governing only those facilities:

- (1) Fencing and other safety devices. Wireless Telecommunications Facilities shall be surrounded by a security feature such as a fence. All towers shall be designed with anticlimbing devices in order to prevent unauthorized access. Additional safety devices shall be permitted or required, as needed, and as approved by the Borough.
- (2) Landscaping. Landscaping shall be provided along the perimeter of the security fence to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setback areas shall be landscaped. All facilities shall be screened by an evergreen hedge eight to ten feet in height at planting time and/or a solid fence eight feet in height.
- (3) Signs. Signs shall not be permitted except for signs displaying owner contact information, warnings, equipment information and safety instructions. Such signs shall not exceed two square feet in area. No commercial advertising shall be permitted on any Wireless Telecommunications Facility.
- (4) Color. The color of a facility shall be of a color appropriate to the tower's locational context and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
- (5) Activity and access. All equipment shall be designed and automated to the greatest extent possible in order to reduce the need for on-site maintenance and thereby to minimize the need for vehicular trips to and from the site. Access shall be from established site access points whenever possible. Minimal off-street parking shall be permitted as needed and as approved by the Borough.
- (6) Dish antennas. Dish antennas shall be colored, camouflaged or screened to make them as unobtrusive as possible, and in no case shall the diameter of a dish antenna exceed six feet.
- (7) Lighting. No lighting is permitted except as follows:
 - a. Wireless Telecommunications Facilities compounds and shelters enclosing electronic equipment may have security and safety lighting at the entrance, provided that the light is attached to the facility, is focused downward and is on timing devices and/or sensors so that the light is turned off when not needed for safety or security purposes; and
 - b. No lighting is permitted on a tower or other supporting structure except lighting that specifically is required by the Federal Aviation Administration (FAA), and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby properties.
- (8) Monopole. Any proposed new telecommunications tower shall be a monopole unless the applicant can demonstrate that a different type pole is necessary for the co-location of additional antennas on the tower. Such towers may employ camouflage technology.
- (9) Noise. No equipment shall be operated so as to produce noise in excess of the limits set by the local ordinances pertaining to noise levels, nuisances and property maintenance, except for in emergency situations requiring the use of a backup generator.

- (10) Radio frequency emissions. The TCA gives the FCC sole jurisdiction of the field of regulation of radio frequency (RF) emission, and Wireless Telecommunications Facilities which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts. Applicants shall provide current FCC information concerning wireless communications facilities and radio frequency emission standards. Applicants shall be required to provide information on the projected power density of the proposed facility and demonstrate how this meets the FCC standards.
- (11) Structural integrity. Wireless Telecommunications Facilities must be constructed to the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision H Standard, entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," (or equivalent), as it may be updated or amended.

410-77 Miscellaneous Provisions

A. Maintenance of Wireless Telecommunications Facilities. Facilities shall be maintained to assure their continued structural integrity and to ensure they do not create a visual nuisance. This may include, but is not limited to, trimming required hedges and other vegetation surrounding a facility, as well as a routine visual inspection to ensure the tower or supporting structure has not fallen into any state of disrepair so as to create an unsightly or hazardous condition. This maintenance provision applies especially after a natural disaster, flood, nor'easter, hurricane or other weather event which may negatively impact the facility.

B. Preexisting and Non-Conforming Sites.

- (1) Any Wireless Telecommunications Facilities lawfully existing at the time of the adoption of the provisions of this Article shall be permitted to continue operating and shall not be required to comply with the provisions of this Article except at such time as any such lawfully existing Wireless Telecommunications Facility is intended to be altered, modified, expanded or replaced, at which time said Wireless Telecommunications Facility shall thereafter be required to comply with the provisions of this Article.
- (2) Nonconforming Wireless Telecommunications Facilities which are partially damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions, subject to obtaining a building permit, but without otherwise complying with this Article. If the destruction is greater than partial, then repair or restoration will require compliance with this Article.
- (3) The owner of any nonconforming Wireless Telecommunications Facility may repair, rebuild and/or upgrade such facility (but not expand or increase its height or reduce its setbacks), in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of this Article.

C. Violation of this Article. Violation of any of the provisions of this Article shall be a simple citation punishable with a civil penalty of \$500 for each violation which continues more than ten (10) days after written notice of such violation is provided to the Applicant. Each day, after such notice, that a violation occurs or is permitted to exist by the Applicant constitutes a separate offense.

D. Governance of Deployments in the Public Right-of-Way. This Article is intended to govern the installation, placement, maintenance, modification, upgrade and repair of Wireless Telecommunications Facilities that are within the Borough but not located in the Borough Right-of-Way. The placement of telecommunications equipment within the Public Right-of-Way shall be governed by Chapter 393 Small Cell Wireless Facilities, as well as by other applicable codes and ordinances of the Borough.

E. Removal of Abandoned Wireless Telecommunications Facilities. Any Wireless Telecommunications Facility that is not operated for a continuous period of 12 months shall be considered abandoned. If there are two or more users of a single facility, then the abandonment shall not become effective until all users cease using the facility for a

continuous period of 12 months. The owner of such facility shall remove same within 90 days of notice from the Zoning Officer that the facility is abandoned. If such facility is not removed within said 90 days, the municipality may remove such facility at the property owner's expense. If the facility is to be retained, the owner shall establish that the facility will be reused within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility removed. At the discretion of the Zoning Officer, upon good cause shown, the one-year reuse period may be extended for a period not to exceed one additional year.

F. Waiver. The Borough Council, or other Borough person, agency or department with the authority to do so, may waive any provision or standard set forth in this Article where it is demonstrated that the strict enforcement of said standard:

- (1) Will prohibit or have the effect of prohibiting any telecommunications service pursuant to 47 U.S.C. 253(a); or
- (2) Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. 332(c)(7)(B)(i)(II); or
- (3) Will violate the provisions of section 6409(a) of the 2012 Middle Class Tax Relief and Job Creation Act, also known as the Spectrum Act
- (4) Will violate any requirement set forth in the FCC Order entitled "Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies", WT Docket No. 13-238 (October 17, 2014); or
- (5) Will violate any requirement set forth in the FCC Order entitled "IMO Implementation of State and Local Governments' Obligations to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012", WT Docket No. 19-250 (June 10, 2020); or
- (6) Will violate any requirement set forth in the FCC Order entitled "IMO Implementation of State and Local Governments' Obligations to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012", WT Docket No. 19-250 (Nov. 3, 2020); or
- (7) Will violate the provisions of the New Jersey State Collocation Act, set forth in N.J.S.A. 40:55D-46.2
- (8) Will prohibit, or have the effect of prohibiting, the ability of an entity to provide wireless service to any prospective customer within the Borough.

G. Wireless Consultant Contact Information. The Zoning Officer shall be the initial point of contact for the Borough for all matters concerning this Article. The Borough, at its sole discretion, may appoint its expert Telecommunications Consultant or Designee as the point of contact for all matters regarding this Article.

H. Effective Date. This Ordinance shall take effect twenty (20) days after its adoption by the Borough Council.

There being no public discussion, the public hearing was closed **on motion by Councilman Cervieri, seconded by Council man Sargenti .**

On motion by Councilman Cervieri, seconded by Councilman Sargenti, the Ordinance was adopted on the following roll call:

AYES: Council Members Sohmer, Yoon, Suh, Sargenti, Kasofsky, Cervieri

Ord. #2022-4 AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 193 ENTITLED "CONSTRUCTION CODES, UNIFORM ", SECTION 193-2 ENTITLED "FEES"

On motion by Councilman Cervieri, seconded by Councilman Sargenti, and carried, the public hearing was opened relative to Ord. 2022- 4 entitled "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 193 ENTITLED "CONSTRUCTION CODES, UNIFORM", SECTION 193-2 ENTITLED "FEES"

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 193 ENTITLED "CONSTRUCTION CODES, UNIFORM ", SECTION 193-2 ENTITLED "FEES"

WHEREAS, it has been brought to the attention of the Mayor and Council of the Borough of Fort Lee that fees have not been raised for certain aspects of construction since 2011; and

WHEREAS, the Mayor and Council believes it would be in the best interest of the citizens that fees be adjusted at this time.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fort Lee that Chapter 193 “Construction Codes, Uniform”, Section 193-2 “Fees” is amended and supplemented as follows:

Section 1 - The following Sections are hereby amended as set forth in the following schedules:

- (1) Schedule A: Building Subcode Fees.
 - New Construction:
 - Based on cubic footage or structural volume \$0.045
 - Renovations, alterations and repairs:
 - 1. Renovations, alterations and repairs (commercial)
 - Per the first \$1,000 of estimated cost \$75
 - For each \$1,000 of estimated cost thereafter \$50
 - Demolition:
 - One- and two-family dwellings \$500
 - Multifamily \$1,000
 - Commercial and industrial buildings up to 10,000 square feet \$500
 - All other commercial and industrial buildings \$1,200
- (3) Schedule C: Plumbing Subcode Fees
 - Sewer Connection (initial or replacement) \$250
- (4) Schedule D: Electric Subcode Fees
 - (c) Service equipment, panel board, switchboard, switchgear, motor-control center or disconnecting means:
 - 0 to 200 amperes \$80
 - 201 to 400 amperes \$120
 - 401 to 800 amperes \$150
 - 801 to 999 amperes \$300
 - 1,000 amperes and above \$1,000

- Section 2. If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder of any portion thereof.
- Section 3. All ordinances or parts of ordinance inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.
- Section 4. This Ordinance shall take effect upon final adoption and publication in accordance with Law.

There being no public discussion, the public hearing was closed **on motion by Councilman Cervieri, seconded by Council man Sargenti**.

On motion by Councilman Cervieri, seconded by Councilman Sargenti, the Ordinance was **adopted** on the following roll call:

AYES: Council Members Sohmer, Yoon, Suh, Sargenti, Kasofsky, Cervieri

Ord. #2022-5 AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 336 ENTITLED “SEWERS”, SECTION 336-23 ENTITLED “CONNECTION OF BUILDING

SEWER AND PUBLIC SEWER ”

On motion by Councilman Cervieri, seconded by Councilman Sargenti, and carried, the public hearing was opened relative to Ord. 2022- 5 entitled “AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 336 ENTITLED “SEWERS”, SECTION 336-23 ENTITLED “CONNECTION OF BUILDING SEWER AND PUBLIC SEWER”

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 336 ENTITLED “SEWERS”, SECTION 336-23 ENTITLED “CONNECTION OF BUILDING SEWER AND PUBLIC SEWER ”

WHEREAS, it has been brought to the attention of the Mayor and Council of the Borough of Fort Lee that Chapter 336 entitled “Sewers” requires updating; and

WHEREAS, the Mayor and Council believes it would be in the best interest of the citizens that Chapter 336 be amended and supplemented at this time.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fort Lee that Chapter 336 “Sewers”, Section 336-23 “Connection of Building Sewer and Public Sewer” are amended and supplemented as follows:

Section 1

Chapter 336, Sewers, Section 336-23 is hereby amended and supplemented in its entirety as follows:

- 156-23 Connection of Building Sewer and Public Sewer.
- A. The connection of the building sewer into the public sewer shall conform to all applicable requirements of the Uniform Construction Code and all other applicable ordinances, rules and regulations and all other applicable provisions of law.
 - B. Unless otherwise provided herein, or in any other ordinance, rule, regulation or other provision of law, the procedures and specifications established by the American Society of Civil Engineers and Manual of Practice No. 9 of the Water Pollution Control Federation shall represent the standards to be applied with respect to such installations.
 - C. All connections between the building sewer and the public sewer shall be made gas-tight and watertight, which conditions shall be verified by testing.
 - D. Check valves shall be provided at all connections between the building sewer and the public sewer.

Section 2

If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder of any portion thereof.

Section 3.

All ordinances or parts of ordinance inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4.

This Ordinance shall take effect upon final adoption and publication in accordance with Law.

There being no public discussion, the public hearing was closed **on motion by Councilman Cervieri, seconded by Council man Sohmer .**

On motion by Councilman Cervieri, seconded by Councilman Sargenti, the Ordinance was adopted on the following roll call:

AYES: Council Members Sohmer, Yoon, Suh , Sargenti, Kasofsky, Cervieri

PROPOSED CONSENT AGENDA

On motion by Councilman Cervieri , seconded by Councilman S argenti , the Proposed Consent Agenda was introduced, and the public hearing was opened relative to items CA-1 through CA-10.

| Council | Motion | Second | Yes | No | Abstain | Absent |
|-----------------|--------|--------|-----|----|---------|--------|
| Sohmer | | | | | | |
| Yoon | | | | | | |
| Suh | | | | | | |
| Sargenti | | X | | | | |
| Kasofsky | | | | | | |
| Cervieri | X | | | | | |

March 3, 2022
Regular Session Meeting

Resolution # CA-1 - CA-10

Carried:___ Defeated:___ Tabled:___

Approved on Consent Agenda: X

CA-1 Payment of Claims

BE IT RESOLVED that the following claims, the details for which are attached hereto and made a part hereof, are hereby authorized to be paid, having been audited and found correct by the Borough Administrator and Chief Financial Officer.

| <u>ACCOUNT</u> | <u>AMOUNT</u> |
|---------------------------------------|------------------------|
| Current | \$ 664,929.21 |
| Current - Grant | 2,214.00 |
| Capital | 492,281.97 |
| Road Improvement Plan | |
| Multiple Dwelling | |
| Construction Fees | |
| COAH Fees | |
| Senior Citizen Advisory Council | |
| Trip Admissions | |
| Special Dog Account | |
| Trust Account Fund | |
| Disability Insurance Trust | |
| Public Assistance Trust Fund | |
| Police Activity Trust | |
| Fort Lee Film Commission | |
| Community Development | |
| Redemption Account | |
| School Resource Account | |
| Dedicated Penalties (Fire Prevention) | |
| POAA | |
| Cop Card Donation | |
| Police Treasury | 1,095.00 |
| Police Justice | |
| Flexible Spending | |
| Trust Account | |
| Developers CONNECT ONE | 422.19 |
| Developers B of America | |
| Total: | \$ 1,160,942.37 |

CA-2 Approving Auxiliary Firefighter Application for Dylan Wright, Fire Company #3, and Firefighter NJ State Membership Application for Adrian Rivera, Fire Company #1

The NJ State Firefighter Membership Application for Dylan Wright, Fire Company #3, and Firefighter NJ State Membership Application for Adrian Rivera, Fire Company #1 were approved.

CA-3 Authorizing the Hiring of Various Spring Seasonal Employees in the Community Center and Recreation Department Effective through April 1 - June 26, 2022

RESOLUTION OF THE BOROUGH OF FORT LEE AUTHORIZING THE HIRING OF SPRING SEASONAL EMPLOYEES

BE IT RESOLVED that the Mayor and Council of the Borough of Fort Lee have authorized the hiring of spring seasonal employees; and,

NOW, THEREFORE, BE IT RESOLVED that the below listed individuals will be hired as spring seasonal employees in the Departments listed, with an effective date provided by the Department Head to our Payroll Department; and

BE IT FURTHER RESOLVED that each employee will be compensated at an hourly rate listed for each individual.

| NAME | DEPARTMENT | POSITION | WAGE/HR |
|-------------------------|------------------|----------------------|---------|
| Ashman, Christopher | Community Center | Supervisor | \$15.00 |
| Keller, Alan | Community Center | Supervisor | \$15.00 |
| Jaikissoon, Eric | Community Center | Chief Supervisor | \$18.00 |
| Nannas, Dimitri | Community Center | Supervisor | \$15.00 |
| Picinich, Donald | Community Center | Supervisor | \$15.00 |
| Asharian, Laudan | Recreation | Rec/Tennis Attendant | \$15.00 |
| Ashman, Christopher | Recreation | Rec/Tennis Attendant | \$15.00 |
| DeGidio, Ashley | Recreation | Rec/Tennis Attendant | \$15.00 |
| Gathers, Savannah | Recreation | Rec/Tennis Attendant | \$15.00 |
| Gulsen, Berkan | Recreation | Rec/Tennis Attendant | \$15.00 |
| Keller, Alan | Recreation | Rec/Tennis Attendant | \$15.00 |
| Khatchadourian, Natalie | Recreation | Rec/Tennis Attendant | \$15.00 |
| Kellas, Kim | Recreation | Crafts Instructor | \$20.00 |
| Rosa, Shaina | Recreation | Rec/Tennis Attendant | \$15.00 |
| Samuel-Olagunju, Joanne | Recreation | Rec/Tennis Attendant | \$15.00 |
| Schiff, Barry | Recreation | Adult Art Instructor | \$30.00 |

CA-4 Accepting Retirement Notice of John Mattessich, Senior Pump Station Attendant, Department of Public Works, Effective March 31, 2022

RESOLUTION OF THE BOROUGH OF FORT LEE ACCEPTING THE NOTICE OF RETIREMENT OF JOHN MATTESSICH, SENIOR PUMP STATION ATTENDANT

BE IT RESOLVED that John Mattessich, Senior Pump Station Attendant, with the Department of Public Works has submitted a retirement notice dated February 9, 2022 and the Mayor and Council have accepted same; and

BE IT RESOLVED that Mr. Mattessich’s retirement will be effective March 31, 2022, with the Borough of Fort Lee.

BE IT FURTHER RESOLVED, that the Mayor and Council extend their best wishes to Mr. Mattessich on his retirement.

CA-5 Authorize the Hiring of a Class III Special Law Enforcement Officer, Mr. Patrick Forrest, Effective March 7, 2022, \$35.00 Hourly Rate

RESOLUTION OF THE BOROUGH OF FORT LEE AUTHORIZING THE HIRING OF ONE CLASS III SPECIAL LAW ENFORCEMENT OFFICER (SLEO)

WHEREAS, the Mayor and Council of the Borough of Fort Lee have determined the need to authorize the hiring of Class III Special Law Enforcement Officers for the Police Department, based on the current Table of Organization; and

WHEREAS, Mr. Patrick Forrest, meets the qualifications and has agreed to perform the duties of this position; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fort Lee, that Mr. Patrick Forrest be appointed as a Class III Special Law Enforcement Officers for the Police Department; and

BE IT FURTHER RESOLVED that Mr. Forrest will be compensated at an hourly rate of \$35.00.

CA-6 Accepting Resignation Notice of Mr. Frank Berardo, Tax Collector, Effective Retroactively to February 27, 2022

RESOLUTION OF THE BOROUGH OF FORT LEE ACCEPTING THE RESIGNATION NOTICE OF MR. FRANK BERARDO, TAX COLLECTOR

WHEREAS, Mr. Frank Berardo, Tax Collector has submitted his resignation notice dated February 23, 2022, and

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council thank him for his hard work and diligence during his tenure as Tax Collector and have accepted same; and

BE IT FURTHER RESOLVED, that Mr. Berardo's resignation as Tax Collector will be effective February 27, 2022, with the Borough of Fort Lee.

CA-7 Authorizing the Acceptance of a Grant Agreement from the County of Bergen Division of Community Development for Jane and William Street Improvements \$104,937.00

RESOLUTION OF THE BOROUGH OF FORT LEE ACCEPTING A GRANT FROM THE COUNTY OF BERGEN DIVISION OF COMMUNITY DEVELOPMENT IN THE AMOUNT OF \$104,937 FOR JANE AND WILLIAM STREET IMPROVEMENTS

WHEREAS, the Mayor and Council of the Borough of Fort Lee wishes to enter into a grant agreement with the County of Bergen for the purpose of using \$104,937 in Community Development Block Grant funds for rehabilitation of Jane and William Street; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council hereby authorizes Mayor Mark J. Sokolich be a signatory to the aforesaid grant agreement; and

BE IT FURTHER RESOLVED, that the Mayor and Council hereby authorizes Borough Administrator Alfred R. Restaino to sign all County Vouchers submitted in connection with the aforesaid Catherine Street project; and

BE IT FURTHER RESOLVED, that the Mayor and Council recognizes that the Borough of Fort Lee is liable for any funds it spent in accordance with the Grant Agreement; and that liability of the Mayor and Council is in accordance with HUD requirements.

BE IT FURTHER RESOLVED, that upon execution of the Grant Agreement, this resolution and the agreement between the parties shall be available for public inspection in the Office of the Borough Clerk.

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

CA-8 Authorizing the Acceptance of a Grant Agreement from the County of Bergen Division of Community Development for the Senior Center HVAC Covid Upgrade \$21,300.00

RESOLUTION OF THE BOROUGH OF FORT LEE AUTHORIZING THE MAYOR AND COUNCIL TO ENTER INTO A GRANT AGREEMENT WITH THE COUNTY OF BERGEN DIVISION OF COMMUNITY DEVELOPMENT FOR SENIOR CENTER HVAC COVID UPGRADES IN THE AMOUNT OF \$21,300

WHEREAS, the Mayor and Council of the Borough of Fort Lee wishes to enter into a grant agreement with the County of Bergen for the purpose of using \$21,300 in Community Development Block Grant-CV funds for Senior Center HVAC COVID Upgrades, 319 Main Street, Fort Lee, NJ; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council hereby authorizes Mayor Mark J. Sokolich be a signatory to the aforesaid grant agreement; and

BE IT FURTHER RESOLVED, that the Mayor and Council hereby authorizes Borough Administrator Alfred R. Restaino to sign all County Vouchers submitted in connection with the aforesaid project; and

BE IT FURTHER RESOLVED, that the Mayor and Council recognizes that the Borough of Fort Lee is liable for any funds not spent in accordance with the Grant Agreement; and that liability of the Mayor and Council is in accordance with HUD requirements.

CA-9 Approving the Borough 's 2022 Respiratory Protection Plan

RESOLUTION OF THE BOROUGH OF FORT LEE APPROVING THE BOROUGH 'S 2022 RESPIRATORY PROTECTION PLAN

WHEREAS, it has been determined that there is a need for the Borough to have a written Respiratory Protection Plan; and

WHEREAS, it is necessary from time to time to revise said Respiratory Protection Plan for the purpose of improving operations or conforming to new regulations and/or procedures; and

WHEREAS, a review of the Respiratory Protection Plan has recently been completed to ensure compliance with applicable practices and procedures; and

NOW, THEREFORE BE IT RESOLVED, that the Borough of Fort Lee hereby adopts the 2022 Respiratory Protection Plan as written; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

CA-10 Authorizing the Establishment of a Green Team Advisory Committee

RESOLUTION OF THE BOROUGH OF FORT LEE ESTABLISHING A GREEN TEAM ADVISORY COMMITTEE

WHEREAS, the Mayor and Council of the Borough of Fort Lee strives to save tax dollars, assure clean air and water, improve working and living environments to build a

community that is sustainable economically, environmentally, and socially; a community which would thrive well into the new century; and

WHEREAS, the Mayor and Council of the Borough of Fort Lee wishes to build a model of government which benefits our residents now and far into the future with green community initiatives which are easy to replicate and affordable to implement; and

WHEREAS, in an attempt to focus attention on “Green” issues, the Mayor and Council wishes to establish a Green Team Advisory Committee (GTA); and

WHEREAS, the Mayor and Council of the Borough of Fort Lee wants to begin the process of focusing on “Green” issues by starting with audits of municipality facilities and operations first; and

WHEREAS, the Mayor and Council of the Borough of Fort Lee has appropriated money in their budget to begin the process of making its operations greener, and more environmentally friendly beginning with energy audits of the Borough’s facilities to pinpoint the most effective ways to reduce energy consumption; and

WHEREAS, solar power, changes to fleet purchasing and maintenance, water quality improvements, and operational changes will all be considered as the Borough moves to do their share to lessen the environmental impact of its operations; and

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Fort Lee that we do hereby establish a Green Team Advisory Committee who shall be residents or employees of the Borough of Fort Lee; and

NOW THEREFORE BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Fort Lee that the following persons are hereby appointed to the GTA and are eligible to serve until replaced though an updated resolution:

- Ms. Natalie Chapé, Fort Lee Business District Alliance
- Ms. Ashley DiGideo, Fort Lee Department of Public Works
- Police Chief Matthew Hintze or his designee
- Councilwoman Ila Kasofsky
- Ms. Stephanie Koslow
- Ms. Ioulia (Julie) Liapes, Fort Lee Health Department
- Mr. Al Restaino, Fort Lee Borough Administrator or his designee
- Mr. Matthew Rutch, Fort Lee CFO and QPA
- Mr. Tony Seker
- Ms. Jill Scarpa, Fort Lee Health Department
- Mayor Mark J. Sokolich or his designee
- Stephen Wolowitz, Fort Lee School District

There being no discussion, the public hearing was closed on motion by Councilman Cervieri, seconded by Councilwoman Kasofsky. The Consent Agenda regarding CA-1 through CA- 10 was approved on the following roll call:

AYES: Council Members Sohmer, Yoon, Suh , Sargenti, Kasofsky, Cervieri

RESOLUTIONS

R-1 Approving and Authorizing the Execution of a Developer ’s Agreement Between the Borough of Fort Lee and 2053 Fletcher Associates, LLC

| |
|---|
| <p>March 3, 2022 Regular Session Meeting</p> <p>Resolution # R- 1</p> <p>Carried: <u>X</u> Defeated: <u> </u> Tabled: <u> </u></p> |
|---|

| Council | Motion | Second | Yes | No | Abstain | Absent |
|----------|--------|--------|-----|----|---------|--------|
| Sohmer | | | X | | | |
| Yoon | | | X | | | |
| Suh | | | X | | | |
| Sargenti | | X | X | | | |
| Kasofsky | | | X | | | |
| Cervieri | X | | X | | | |

*Mayor Sokolich Recused

RESOLUTION OF THE BOROUGH OF FORT LEE APPROVING AND AUTHORIZING THE EXECUTION OF THE DEVELOPER 'S AGREEMENT BETWEEN THE BOROUGH OF FORT LEE AND 2053 FLETCHER ASSOCIATES, LLC

WHEREAS, on August 24, 2021, the Fort Lee Zoning Board of Adjustment (“Zoning Board”) granted approvals to 2053 Fletcher Associates, LLC (the “Developer”) for the construction of two (2) three (3) story, two family dwellings for property known as Block 4458, Lot 2, also known as 2053 Fletcher Avenue (the “Property”); and

WHEREAS, on September 14, 2021, the Zoning Board adopted a resolution memorializing the approval and the Borough of Fort Lee and Developer have agreed to the terms and conditions of a Developer’s Agreement; and

WHEREAS, a Developer’s Agreement has been prepared by Joseph Mariniello, Esq. and is attached hereto.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fort Lee that the Mayor and Borough Clerk hereby approved and authorize to the execution of the Developer’s Agreement with the Developer.

BE IT FURTHER RESOLVED that a copy of this resolution shall be filed in the Office of the Borough Clerk.

R-2 Approving and Authorizing the Execution of a Developer 's Agreement Between the Borough of Fort Lee and M & J 730, LLC, 1629 Parker Avenue and 1624 Palisade Avenue

| Council | Motion | Second | Yes | No | Abstain | Absent |
|----------|--------|--------|-----|----|---------|--------|
| Sohmer | | X | X | | | |
| Yoon | | | X | | | |
| Suh | | | X | | | |
| Sargenti | | | X | | | |
| Kasofsky | | | X | | | |
| Cervieri | X | | X | | | |

| |
|--|
| <p>March 3, 2022 Regular Session Meeting</p> <p>Resolution # R- 2</p> <p>Carried: <u>X</u> Defeated: <u> </u> Tabled: <u> </u></p> <p>Approved on Consent Agenda: <u> </u></p> |
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RESOLUTION OF THE BOROUGH OF FORT LEE APPROVING AND AUTHORIZING THE EXECUTION OF THE DEVELOPER 'S AGREEMENT BETWEEN THE BOROUGH OF FORT LEE AND M & J 730 LLC

WHEREAS, on July 9, 2019, the Fort Lee Zoning Board of Adjustment (“Zoning Board”) granted approvals to M & J 730 LLC, (the “Developer”) for the construction of a new mixed use shopping center for property known as Block 4351, Lots 6 & 11, also known as 1629 Parker Avenue & 1624 Palisade Avenue (the “Property”); and

WHEREAS, on July 23, 2019, the Zoning Board adopted a resolution memorializing the approval and the Borough of Fort Lee and Developer have agreed to the terms and conditions of a Developer’s Agreement; and

WHEREAS, a Developer’s Agreement has been prepared by Saverio V. Cereste, Esq. and is attached hereto.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fort Lee that the Mayor and Borough Clerk hereby approved and authorize to the execution of the Developer’s Agreement with the Developer.

BE IT FURTHER RESOLVED that a copy of this resolution shall be filed in the Office of the Borough Clerk.

R-3 Authorizing 2021 Budget Transfers

| Council | Motion | Second | Yes | No | Abstain | Absent |
|-----------------|--------|--------|-----|----|---------|--------|
| Sohmer | | | X | | | |
| Yoon | | | X | | | |
| Suh | | X | X | | | |
| Sargenti | | | X | | | |
| Kasofsky | | | X | | | |
| Cervieri | X | | X | | | |

March 3, 2022
Regular Session Meeting

Resolution # R- 3
Carried: Defeated: Tabled:
Approved on Consent Agenda:

RESOLUTION OF THE BOROUGH OF FORT LEE AUTHORIZING BUDGET TRANSFERS

BE IT RESOLVED , by the Mayor and Council of the Borough of Fort Lee, that the following 2021 budget appropriation reserve transfers are hereby made, pursuant to N.J.S.A. 40A:4-58, not less than two-thirds of the full membership of the Governing Body concurring:

| | <u>From:</u> | <u>To:</u> |
|-------------------------|-------------------------|-------------------------|
| Police S/W | 275,700 | |
| Economic Dev. O/E | | 4,200 |
| OEM O/E | | 6,000 |
| EMT O/E | | 9,000 |
| Fire Prevention O/E | | 1,000 |
| Garbage O/E | 219,000 | |
| Buildings & Grounds O/E | 16,000 | |
| IT O/E | 9,000 | |
| Telephone O/E | | 5,500 |
| Gasoline O/E | | 6,000 |
| <u>TOTAL:</u> | <u>\$275,700</u> | <u>\$275,700</u> |

COUNCIL REPORTS

Councilman Sohmer - He expressed his appreciation for the well wishes regarding his hand surgery.

He mentioned the Baranova27 Ukraine drop off center located at 2060 Hudson Street is in need of supplies and volunteers. Supplies will be shipped overseas.

He congratulated Matthew Rutch on becoming the Boroughs new Tax Collector and thanked Frank Berardo for his time served as part time Tax Collector. He congratulated John Mattessich, Department of Public Works on his retirement.

Councilman Yoon - No report this evening.

Councilman Suh - He mentioned the Baranova27 Ukraine drop off center located at 2060 Hudson Street is in need of supplies and volunteers.

He mentioned spring softball registration is open and he thanked all of the coaches involved. The Board of Educated has voted to follow the CDC guidelines with masks being worn are optional in schools.

Councilman Sargenti - He thanked Mayor Sokolich for his most recent Borough video regarding the Baranova27 Ukraine drop off center and expressed his heart and prayers are with Ukraine.

He gave a Fire Department response activity report for the month of February. He thanked the Borough employees who participated and donated to the Polar Plunge.

Mayor Sokolich - He thanked Sam Ghali and the Parking Authority for lighting Borough buildings in the colors of Ukraine.

Councilwoman Kasofsky - She expressed her thoughts and prayers are with Ukraine.

She mentioned the Friends of the Library live meeting will be held on March 30th at 6:30 PM with a sign-up committee meeting to follow along with the current virtual events being offered at the Fort Lee Library.

Councilman Cervieri - He expressed his thoughts and prayers are with Ukraine.

He mentioned a great team effort has gone into the preparation for the April 2 Easter Egg Hunt located at the Community Center.

Mayor Sokolich - He thanked all involved with the Easter Egg hunt preparation. He mentioned a revision of plans prepared by Boswell Engineering related to project known as Palisades Interstate Park will be uploaded to the Borough website and distributed to Northbridge residents.

PUBLIC PARTICIPATION

On motion by Councilman Cervieri, seconded by Councilman Suh, and carried unanimously, the meeting was opened to the public for discussion.

| Name | Address |
|-------------|-------------------------------|
| 1. John | 11 th St. Resident |
| 2. Vick | 11 th St. Resident |

Mr. John and Mr. Vick, both residing on 11th Street have expressed their concern regarding ongoing construction located at 1542 11th Street, specifically the drilling of rock foundation between the hours of 8AM-4PM.

Mayor Sokolich thanked the residents for their approach and will address the matter with the developers immediately.

| | |
|-----------------|--------------------|
| 3. Barry Brewer | 1600 Center Avenue |
|-----------------|--------------------|

Mr. Brewer expressed his concern for municipal support for unit owners involved with lawsuits within a Co-Op residential building and his desire to advocate for such an agency.

There being no further public discussion, the public hearing was closed **on motion by Councilman Cervieri, seconded by Councilman Suh.**

On motion by Councilman Cervieri, seconded by Councilman Suh, and there being no further discussion, the meeting was adjourned with no objections at 7:46 p.m.

Prepared By:

Nadine Drumgoole, RMC
Deputy Municipal Clerk

Constantina Roditis
Municipal Clerk's Office

Evelyn Rosario, RMC, CMC
Municipal Clerk

Rosa Tropea
Municipal Clerk's Office