

WORK SESSION

MAY 9, 2017

“On January 3, 2017, adequate notice of this meeting pursuant to the Open Public Meetings Act has been furnished by inclusion thereof in the Annual Schedule of Meetings for 2017, which has been posted on the bulletin board at Borough Hall, filed with the Borough Clerk, faxed to the Our Town, The Record, and The Community News newspapers and distributed to all persons, if any, requesting copies of same pursuant to said Act.”

In case of an emergency or fire alarm you must evacuate the building by using any of the exit doors in the room. They are immediately to my right and the double doors at the rear of the room. Occupants must exit the building by using the staircase and not the elevator.

This meeting is being recorded by both video and audio and may be rebroadcast.

SALUTE TO THE FLAG

ROLL CALL

Members of the Governing Body present: Mayor Febre, Council members Padovano, Gervino, DeHeer, Lindenau, Morrone, and Messar. Also present were Borough Attorney Ronald A. Dario, Borough Administrator Roberta Stern, and Borough Clerk Jean M. Pelligra.

Council member Morrone made a motion to go out of the regular order of business for the purpose of presentations; seconded by Council member Gervino - All in Favor.

PROCLAMATIONS, PRESENTATIONS, ETC.

Mayor Febre read a brief statement about the event that took place for which the following certificate of commendation is being presented.

Mayor Febre and Assemblyman Eustace presented Certificates of Commendation to Joseph Diaz.

Mayor Febre congratulated the teachers who were this year's recipients of the New Jersey State Governor's and Board of Education Teacher of the Year awards and presented them with Certificates of Recognition.

Certificates of Recognition

New Jersey State Governor's Teacher of the Year

Maywood Avenue School – Mr. David Wells
Memorial School – Ms. Helen Bonafede

Board of Education Teacher of the Year

Maywood Avenue School – Ms. Eileen Engel
Memorial School – Ms. Reem Safar

Superintendent Jordan congratulated Ms. Bonafede and Ms. Engel on their upcoming, well deserved retirement.

Council member Messar made a motion to go back into the regular order of business; seconded by Council member Morrone - All in Favor.

Greg Polyniak of Neglia Engineering was present to give the monthly report.

1. 2009 NJDEP ECONOMIC RECOVERY PROGRAM

Scope: This project consists of improvements to the Lincoln / Mendez Intersection Drainage and the cleaning, televising, and lining of the Westerly Brook (see revised scope below).

Status: A meeting was held on February 08, 2017 with the two property owners to review the project and inform of its anticipated schedule. After the meeting, the project schedule was prepared as follows:

1. Resolution to Advertise and Bid Notice to Borough for consideration at March 28, 2017 Mayor and Council Meeting – March 23, 2017
2. Document Availability for Contractor's – March 31, 2017
3. Pre-Bid Meeting – April 18, 2017 at 10am at site
4. Bid Opening – May 02, 2017 at 2pm at Borough Hall

We anticipate an early Summer 2017 construction start date pending receipt and review of the submitted bids. It shall be noted that prior to award the bid packages must be reviewed and approved by the NJDEP.

2. MAYWOOD AVENUE STREETScape (NJDOT FUNDED)

Scope: Per a correspondence produced by the Governor's Office on May 06, 2014, Neglia Engineering Associates understands that the Borough is to receive an NJDOT Municipal Aid Grant in the amount of \$149,000 for the Maywood Avenue Streetscape.

Status: During the week of December 11, 2016, the streetscape lighting was energized by PSE&G. As of February 07, 2017, the only open construction item is the hardscape in the vicinity of the southeast corner of Central Avenue and Maywood Avenue. We anticipate that this outstanding item will be addressed once favorable weather conditions exist during Spring 2017. After completion, we will issue a NJDOT construction completion letter for final inspection. Municipal and NJDOT closeout would follow.

Mr. Polyniak stated on May 11, 2017 work will be performed at the intersection of Maywood and Central Avenues in the electrical box area by the contractor; adding the project will then be closed out.

3. JERSEY AVENUE AND PARKWAY (NJDOT MUNICIPAL AID GRANT) & YEAR 2015 ROADWAY IMPROVEMENT PROGRAM

On May 22, 2015, the Borough of Maywood was provided a letter from the NJDOT stating that it is to receive an NJDOT Municipal Aid Grant in the amount of \$149,000.00 for Parkway and Jersey Avenue.

Status: In late February 2017, our office provided municipal closeout documents to the Borough for action by the Governing Body. The Governing Body acted at the February 28, 2017 Mayor and Council Meeting. At this time, Neglia Engineering Associates has completed the NJDOT Closeout package. The NJDOT package was submitted on March 28, 2017 to permit the Borough to receive the outstanding grant funds.

4. WEST MAGNOLIA AVENUE / MAGNOLIA LANE – BERGEN COUNTY BRIDGE INSPECTION

Bergen County with the State of New Jersey has created an inspection program to inspect small culverts and bridges throughout all municipalities within the State. Bergen County and the State hired Pickering, Corts & Summerson of Newtown, Pennsylvania to perform inspections which included the Magnolia Lane / West Magnolia Avenue Bridge / Culvert over the Westerly Branch of the Saddle River. This bridge serves as access to two residences located at the terminus of the said roadway. On November 11, 2016, Neglia Engineering Associates and the Borough of Maywood received a report from the County's engineering consultant concerning this structure.

Status: The Borough authorized our office to proceed with the proposed roadway improvements project in late December 2016. Our office proceeded with the project design. In early March 2017, the NJDEP Land Use Permitting Package was submitted. It is anticipated that the NJDEP Land Use Permit would be received in July 2017. It is anticipated that the project would be bid and constructed during Fall 2017.

5. OAK AVENUE ROADWAY IMPROVEMENTS (WEST PLEASANT AVENUE TO PARKWAY)

The Borough intends to construct roadway improvements on Oak Avenue from its intersection with West Pleasant Avenue to its intersection with Parkway. The project schedule is as follows:

1. Document Availability for Contractor's – May 03, 2017
2. Bid Opening – June 01, 2017 at 2pm at Borough Hall

Status: With this above schedule, we anticipate a Summer 2017 construction start date. The construction timeframe would be approximately thirty working days pending weather conditions.

6. PSE&G IMPROVEMENTS (69kV IMPROVEMENT PROJECT)

On January 06, 2017, a project meeting was held at Borough Hall with PSE&G, the Borough, and Neglia Engineering Associates present.

Status: As of the week of May 01, 2017, construction activities / equipment transfers are proceeding.

Mr. Polyniak stated he and Administrator Stern met with PSE&G this past week regarding the conduit to be run under West Pleasant Avenue.

7. YEAR 2016 ANNUAL STORMWATER REPORT AND SUPPLEMENTAL QUESTIONNAIRE – NJDEP MUNICIPAL STORMWATER MANAGEMENT PROGRAM

Per the NJDEP Municipal Stormwater Management Program requirements, the Borough of Maywood must file the Year 2016 Annual Report to the NJDEP Bureau of Nonpoint Source Pollution by May 01, 2017. This submission must be on-line. A meeting with the Borough Administrator and DPW Superintendent occurred on March 29, 2017 to review and discuss open form items. The final Annual Report and Supplemental Questionnaire were submitted to the NJDEP on April 07, 2017.

8. QUOTE SOLICITATION – VARIOUS SIDEWALK LOCATIONS

Per the request of the Borough, Neglia Engineering Associates prepared and issued a quote solicitation to contractors for various sidewalk locations to replace damaged sidewalk slabs on April 13, 2017. Quotes were received on April 25, 2017 with a recommendation package issued to the Borough on April 26, 2017 for review and consideration by the Governing Body.

9. WILLIAM STREET, FAIRWAY, AND DUVIER PLACE (ROADWAY IMPROVEMENTS)

Neglia Engineering Associates understands that the Borough intends to construct roadway improvements at the following locations:

1. William Street from West Passaic Street to West Pleasant Avenue
2. Duvier Place from Lenox Avenue to its terminus (including drainage improvements)
3. Fairway from Passaic Street to the school entrance

We provided a proposal for surveying, engineering, bidding, and construction management for this roadway improvement project on April 19, 2017. We are prepared to proceed with surveying and construction document preparation once authorized. The construction timeframe will be forty-five working days pending weather conditions.

There being no questions for the Borough Engineer from the Governing Body, Mayor Febre closed this portion of the meeting.

MEETING OPEN TO THE PUBLIC (FIVE MINUTE TIME FRAME)

Mayor Febre opened the meeting to the public for any comments on or off the agenda.

Frank Cilento – Spoke on behalf of the Board of Education – stated about one month ago we had a presentation on a digital mapping program for the schools which would provide blueprints and aerial views of the properties along with other applications for critical infrastructure and large open areas in the town in the event of an emergency. He stated perhaps the town or OEM would be interested in attending the program and possibly join in a shared agreement.

Superintendent Jordan further explained the program and stated it is a virtual security system and also serves as a GPS and allows responders to be tracked while on scene; adding the program’s creator is affording the service to all New Jersey school districts at cost.

Mayor Febre stated after we speak with Chief Pegg perhaps we can set something up.

There being no further comments from the public, Mayor Febre closed this portion of the meeting.

PUBLIC HEARING ON PENDING ORDINANCES – ADOPTION OF ORDINANCES

ORDINANCE # 5-17
“AN ORDINANCE ADDING CHAPTER 210 TO THE BOROUGH CODE
ESTABLISHING A DEVELOPMENT FEE PROGRAM
TO SUPPORT AFFORDABLE HOUSING”

BE IT ORDAINED BY THE BOROUGH MAYOR AND COUNCIL OF THE BOROUGH OF MAYWOOD, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH'S) adoption of rules; and

WHEREAS, pursuant to P.L. 2008, c.46 Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C.40:55D-8.1 through 8.7), COAH promulgated regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development; and

WHEREAS, this ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c. 46, Section 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the purpose of providing low- and moderate-income housing consistent with a spending plan submitted to and approved by the Superior Court of New Jersey. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8.1-8.22; and

WHEREAS, the purpose of this Ordinance is to create a fee collection program pursuant to the Council on Affordable Housing (COAH) and implementing regulations applicable to both non-residential development and residential development to be assessed and collected by the Borough, consistent with the rules and regulations of COAH and the Housing Element and Fair Share Plan of the Borough, to address its obligations pursuant to the Fair Housing Act and its implementing regulations as promulgated by COAH.

WHEREAS this ordinance shall not be effective until approved by the Superior Court of New Jersey pursuant to N.J.A.C. 5:93-8.2. The Borough shall not spend development fees until the Superior Court of New Jersey has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-5.1(c).

NOW, THEREFORE, BE IT ORDAINED by the Borough Mayor and Council of the Borough of Maywood, County of Bergen, as follows:

Section 1: Chapter 210 shall be added to the Borough of Maywood Code and shall be entitled "**DEVELOPMENT FEE PROGRAM TO SUPPORT AFFORDABLE HOUSING**". Such new article shall read as follows:

Chapter 210 title: **DEVELOPMENT FEE PROGRAM TO SUPPORT AFFORDABLE HOUSING**

§ 210-1 **DEFINITIONS**

The following terms, as used in this ordinance, shall have the following meanings:

"**Affordable housing development**" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to an inclusionary development, a municipal construction project or a 100 percent affordable development.

"**COAH**" or the "**Council**" means the New Jersey Council on Affordable Housing established under the Fair Housing Act, which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

"**Development Fee**" means money paid by a developer for the improvement of property as permitted in N.J.A.C.5:93-8.

"**Developer**" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"**Equalized assessed value**" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which

the property is situated as determined in accordance with Sections 1,5, and 6 of P.L. 1973, c. 123 (C. 54:1-35a through C. 54:1-35c).

§ 210-2 RESIDENTIAL DEVELOPMENT FEES

A. Imposed fees

1. Within the Borough, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1.5) percent of the equalized assessed value for residential development provided no increased density is permitted.
2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers shall be required to pay a development fee of six (6) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the “d” variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from residential development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of this municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee shall be vested on the date that the building permit is issued.
3. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a residential development fee.
4. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use or is demolished and replaced with a larger structure based upon additional square footage that can be occupied or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

§ 210-3 NON-RESIDENTIAL DEVELOPMENT FEES

A. Imposed fees

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

- B. Eligible exactions, ineligible exactions and exemptions for non-residential development
1. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 2. The two and a half (2.5) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L. 2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 4. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 5. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.

§ 210-4 COLLECTION PROCEDURES

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the Borough's construction official responsible for the issuance of a building permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the municipal tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy notifies the municipal assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the municipal tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development, calculate the development fee and thereafter notify the construction official and the developer of the amount of the fee.
- G. Should the Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in the Subsection b. of Section 37 of P.L.2008, c.46 (C.40:55D-8.6)
- H. Fifty percent of the development fee shall be collected at the time of the issuance of the building permit. The remaining portion shall be collected at the issuance of certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at

issuance of certificate of occupancy. No certificate of occupancy shall be issued unless and until the fee is paid to the Borough.

I. Appeal of development fees

1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, RS.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 210-5 AFFORDABLE HOUSING TRUST FUND

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer or other designated municipal employee for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Borough's Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 1. Payments in lieu of on-site construction of affordable units;
 2. Developer contributed funds to make (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. Rental income from municipally operated units;
 4. Repayments from affordable housing program loans;
 5. Recapture funds
 6. Proceeds from the sale of affordable units; and
 7. Any other funds collected in connection with the Borough's affordable housing program.
- C. Within seven days from the opening of the trust fund account, the Borough shall provide COAH and/or the Department of Community Affairs ("DCA") with written authorization in the form of a three-party escrow agreement between the Borough, the bank and COAH and/or DCA to permit COAH and/or DCA to direct the disbursement of the funds as provided for N.J.A.C. 5:93-8.17.
- D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities as per a spending plan approved by order of the Superior Court of New Jersey.

§ 210-6 USE OF FUNDS

- A. The expenditure of all funds shall conform to a spending plan approved by the Superior Court of New Jersey. Funds deposited in the housing trust fund may be used for any activity approved by the Superior Court to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment and market to affordable programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan or any other activity as

permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.

- B. Funds shall not be expended to reimburse the Borough for past housing activities.
- C. At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the Borough's Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - 1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - 2. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the Borough's Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - 3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
 - 4. The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan including the requirement for affordability assistance, in accordance with N.J.A.C. 5:93-8.16(d).
 - 5. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for Borough employees or consultant fees necessary to develop or implement a new construction program, an updated Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's or the Superior Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH's regulations and/or action are not eligible uses of the affordable housing trust fund.

§ 210-7 MONITORING

The Borough shall complete and return to COAH and/or the Superior Court all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program as well as to the expenditure of revenue and implementation of the plan that has been approved by the court. All monitoring reports shall be completed on forms designed by COAH or the special master.

§ 210-8 ONGOING COLLECTION OF FEES

The ability for the Borough to impose, collect and expend development fees shall expire with its judgment of compliance from the court unless the Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification or the entry of a judgment of compliance from the court, and has received COAH's or the court's approval of its development fee ordinance. If the Borough fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). The Borough shall not impose a development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance, nor shall the Borough retroactively impose a development

fee on such a development. The Borough shall not expend development fees after the expiration of its judgment of compliance.

Section 2: The provisions of this Ordinance are declared to be severable in nature; if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and/or phrases in this Ordinance, but shall remain in full force and effect, it being the legislative intent of the Borough Council that this Ordinance shall withstand the invalidity of any part thereof.

Section 3: All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or parts of ordinances now existing or in effect, unless the same be in conflict or inconsistent with any provision of this Ordinance, shall remain in full force and effect.

Section 4: This ordinance shall take effect upon passage, publication according to law and not until approved by the Superior Court of New Jersey pursuant to N.J.A.C. 5:93-8.2.

Section 5: The Borough Clerk is directed to forward a copy of this Ordinance to the Superior Court of New Jersey, the court-appointed Special Master, and the Executive Director of the Council on Affordable Housing for the State of New Jersey.

Mayor Febre opened the meeting to the public for any comments or questions relative to the foregoing ordinance.

Hearing none, Mayor Febre closed this portion of the meeting.

Council member Morrone moved for the adoption, seconded by Council member Messar; and so carried by unanimous roll call vote.

BE IT RESOLVED by the Mayor and Council of the Borough of Maywood that Ordinance #5-17 be and is passed upon second and final reading and that the Borough Clerk is hereby authorized and directed to advertise the same according to law.

ORDINANCE # 6-17

BOND ORDINANCE TO AUTHORIZE THE 2017 ROAD IMPROVEMENT AND CONSTRUCTION PROGRAM IN, BY AND FOR THE BOROUGH OF MAYWOOD, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$775,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS

BE IT ORDAINED by the Borough Council of the Borough of Maywood, in the County of Bergen, State of New Jersey, as follows:

Section 1. The Borough of Maywood, in the County of Bergen, State of New Jersey (the "Borough"), is hereby authorized to undertake the 2017 Road Improvement and Construction Program at the following locations in the Borough (including curb and sidewalk replacement and drainage improvements, where necessary):

William Street (from W. Passaic Street to W. Pleasant Avenue)
Duvier Place (from Lenox Avenue to dead end)
Fairway (entire length)
Magnolia Lane (from Brook Avenue to existing Magnolia Lane bridge) (road construction)
Brook Avenue (from Hergesell Avenue to new Magnolia Lane)

Depending upon the contract price and other exigent circumstances, and upon approval by the Borough Council, there may be additions to or deletions from the aforesaid list. It is hereby determined and stated that said roads being improved or constructed are or will be of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law"). Said improvements shall include all work, materials and appurtenances necessary and suitable therefor.

Section 2. The sum of \$775,000 is hereby appropriated to the payment of the cost of making the improvements described in Section 1 hereof (hereinafter referred to as "purpose"). Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvement shall be made as general improvements and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that (1) said purpose is not a current expense of the Borough, and (2) it is necessary to finance said purpose by the issuance of obligations of the Borough pursuant to the Local Bond Law, and (3) the estimated cost of said purpose is \$775,000, and (4) \$37,000 of said sum is to be provided by the down payment hereinafter appropriated to finance said purpose, and (5) the estimated maximum amount of bonds or notes necessary to be issued for said purpose is \$738,000, and (6) the cost of such purpose, as hereinbefore stated, includes the aggregate amount of \$105,000, which is estimated to be necessary to finance the cost of such purpose, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 4. It is hereby determined and stated that moneys exceeding \$37,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for the Borough, are now available to finance said purpose. The sum of \$37,000 is hereby appropriated from such moneys to the payment of the cost of said purpose.

Section 5. To finance said purpose, bonds of the Borough of an aggregate principal amount not exceeding \$738,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 6. To finance said purpose, bond anticipation notes of the Borough of an aggregate principal amount not exceeding \$738,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to

this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 7. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance, shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within the limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of the Borough and attested by the Borough Clerk or Deputy Borough Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance, and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 8. It is hereby determined and declared that the period of usefulness of said purpose, according to its reasonable life, is a period of ten years computed from the date of said bonds.

Section 9. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk of the Borough, and that such statement so filed shows that the gross debt of the Borough, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$738,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. Any funds received from private parties, the County of Bergen, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purpose shall be applied to the payment of the cost of such purpose, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purpose shall be reduced accordingly.

Section 11. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by

the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 12. The Borough intends to issue bonds or notes to finance the cost of the improvements described in Section 1 of this ordinance. If the Borough incurs such costs prior to the issuance of such bonds or notes, the Borough hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this ordinance.

Section 13. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Borough, and the Borough shall levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 14. This ordinance shall take effect twenty days after the first publication thereof after final passage.

Mayor Febre opened the meeting to the public for any comments or questions relative to the foregoing ordinance.

Hearing none, Mayor Febre closed this portion of the meeting.

Council member Morrone moved for the adoption, seconded by Council member Gervino; and so carried by unanimous roll call vote.

BE IT RESOLVED by the Mayor and Council of the Borough of Maywood that Ordinance #6-17 be passed upon second and final reading, and that the Borough Clerk is hereby authorized and directed to advertise the same according to law, and that the twenty day period of limitation within which a suit, action, or proceeding questioning the validity of such Ordinance can be commenced as provided in the Local Bond Law has begun to run from the date of first publication of this statement. A copy of this Ordinance has been posted on the Bulletin Board upon which public notices are customarily posted in the Borough Hall of the Borough, and a copy is available up to and including the time of such meeting to the members of the general public of the Borough who shall request such copies, at the Office of the Borough Clerk in said Borough in Maywood, New Jersey.

CORRESPONDENCE AND REPORT OF BOROUGH CLERK

Borough Clerk Pelligra reported on the following:

1. She reminded everyone the last day to register to vote prior to the June Primary Election is Tuesday, May 16, 2017; adding the Borough Clerk's office will be open from 8:30 am to 9:00 pm.
2. She stated the notice for the upcoming auction of unused borough property has been sent out for publication.
3. She stated the police department has requested the annual Click it or Ticket proclamation be placed on the next meeting agenda.
4. She reported we are in receipt of the preliminary flood insurance rate maps from FEMA and they are available in the Borough Clerk's office. She explained there were no changes for our municipality; however we are geographically located on one or more of the revised maps.

REPORT OF ADMINISTRATOR

Administrator Stern reported on the following:

1. She reported the authorizing resolution for payment and installation of the sunshades at the swim pool and Coaches Park is on tonight's agenda and explained once payment is made, we can submit the paperwork to receive the grant monies from the Bergen County Open Space Trust Fund. She stated we may apply for a future grant to install additional sunshades over bleachers in other locations.
2. She stated we still have no news regarding the \$60,000.00 from the train station grant; adding Mr. Polyniak continues to follow up with the State.
3. She reported items on the auction list will be available for bids from May 15 to May 30, 2017.

REPORT OF ATTORNEY

Attorney Dario stated he has a report for closed session.

COMMITTEE REPORTS

Council member Padovano reported on the following:

1. She reported on the following from the Recreation Department:
 - Soccer Registration
 - Summer Theater Program Registration
 - Teen Activity Club Registration
 - Summer Program Registration
 - "Hoops for Hope" – a three on three basketball tournament in Memorial Park on Saturday, June 24, 2017 with a rain date of Sunday, June 25, 2017. All proceeds will benefit Joseph Sanzari Childrens Hospital at the Hackensack University Medical Center Foundation.

Council member Gervino reported on the following:

1. He stated the Municipal Alliance sponsored a MADCAP dance this past Friday; adding the kids had a good time.

Council member DeHeer reported on the following:

1. He stated on April 26, 2017 he attended the Teterboro Airport Noise Abatement Meeting where the discussion was more about safety than noise. He encouraged residents to continue calling the Teterboro noise abatement hotline number listed on the borough website.
2. He spoke regarding concerns about abandoned shopping carts on both the north and south side of town. He thanked Borough Clerk Pelligra for her assistance and explained per borough ordinance, residents can contact borough hall and the DPW will remove the carts.
3. He stated Planning Board applications are starting to come in and he will have a report after their next meeting.

Mayor Febre thanked Council member DeHeer for attending the meeting at Teterboro Airport and for following up with the resident regarding the shopping carts.

Council member Lindenau reported on the following:

1. He gave a shout out to Superintendent Gary Neumann and members of the DPW who kept the streets clean during the April 30, 2017 street fair as well as cleaning up after the event.

Council member Morrone reported on the following:

1. He stated kudos on the sunshades that were installed at the swim pool.
2. He stated swim pool registration begins tomorrow; adding we have already received several non-resident applications.
3. He reported from the Board of Education that Superintendent Jordan is reminding everyone there is a lice epidemic at Memorial School and asked parents to check their children.

4. He spoke regarding a new email address for the swim pool.

Administrator Stern explained the email is for in-house use only.

5. He reported the library is collecting used books for Better World Books; adding you may drop off books at the library or contact Caitlyn Hull for further information at 201-845-2915.
6. He reminded residents commingled recyclables are to be placed at the curb no later than 6:00 am on the scheduled pick-up day and asked residents to cover their receptacles on windy days.
7. He stated a town-wide shredding event will be held on Saturday, November 4, 2017 from 9:00 am to 1:00 pm, rain or shine, in the Maywood Avenue School parking lot.

Council President Messar reported on the following:

1. He gave a shout out to the Maywood Public Schools and Police Department for a very successful Bicycle Rodeo; adding twenty students attended.
2. He gave a shout out to Mayor Febre and wished him a Happy Birthday.

REPORT OF MAYOR

Mayor Febre reported on the following:

1. He gave a shout out to DPW Superintendent Neumann and thanked him for the process he developed to paint the swim pool.

Administrator Stern stated this new method does not require the entire pool to be re-painted each year which saves the Borough time and money.

Mayor Febre asked Administrator Stern to look into obtaining extra borough email addresses.

ACTION LIST ITEMS

NONE

RESIGNATIONS – ACCEPTANCE OF THE FOLLOWING

NONE

APPOINTMENTS – APPROVAL OF THE FOLLOWING

1. **Summer Recreation Program Counselors:** Daniel Conte, Ahmed Bailey, Gabrielle DeMaio, Michael Contento and Nelson Camargo at \$8.50 per hour.
2. **Summer Theater Program Counselors:** Kyle Sandberg and Maxine Montany at \$8.50 per hour.
3. **Swim Pool Employees:** David Wells as Swim Pool Manager at a salary of \$13,000.00; Austin Wey as Assistant Swim Pool Manager at a salary of \$8,531.28; and Michael Walker as Assistant Swim Pool Manager at a salary of \$8,531.28.

Full Time Lifeguard/Head Swim Team Coach – Christina Cusmano at \$9.00 per hour plus \$1,500.00.

Full Time Lifeguard/Assistant Swim Team Coach – Mark Tieleman and Michael Pacheco at \$9.00 per hour plus \$800.00.

Full Time Lifeguards/Swim Instructors – Bessi Tozluku, Lauren Kreutzer and Jennifer Antonietti at \$11.00 per hour.

Full Time Lifeguards – Timothy Waanders at \$9.00 per hour; Valeria Oshepkova, Kyle Kalomeris, Patrick Waanders, Alana Gomez, and Alison Wickersheim at \$8.75 per hour.

Part Time Lifeguards – Alison Torrebka at \$8.75 per hour; Carolyn Alcantara, Von Degusman, Eishner J. Sibug, Ashley Sloan, Camryn Eisenberg, and Gianna Gervino at \$8.50 per hour; and Mackenzie Schieli, Ashley Becan, Mackenzie Carroll and Daniel Esposito at \$8.25 per hour.

Part Time Camp Lifeguards – Andrew Esposito at \$8.75 per hour; Kyle Balasny, Matthew Tieleman, Nadine McManus, and Alec Balasny at \$8.50 per hour; and Grace Grinco at \$8.25 per hour.

Substitute Lifeguards – Francesca Farrell, Robert Farrell, and Alana Spendley at \$9.00 per hour; Guiermo Martinez and Rhiannon Ramirez at \$8.75 per hour, and Emily Jackson at \$8.25 per hour.

- **All appointments are subject to the completion of all requirements set forth by the Borough.**

Council member Morrone moved the appointments, seconded by Council member Messar; and so carried with the exception of Council member Gervino abstaining to the appointment of Gianna Gervino as a Part time Lifeguard.

COUNCIL APPROVAL OF THE FOLLOWING

1. From Board of Fire Officers request permission for the Maywood Fire Apparatus to attend the Saddle Brook Memorial Day Parade on Sunday, May 28, 2017 and the Rochelle Park Memorial Day Parade on Monday, May 29, 2017.
2. Removal of Hector Hernandez from the Maywood Fire Department effective May 9, 2017.

Council member DeHeer moved for the approvals, seconded by Council member Lindenau; and so carried by unanimous roll call vote.

RESOLUTIONS BY TITLE – CONSIDERATION OF THE FOLLOWING

RESOLUTION # 76-17

RESOLUTION AUTHORIZING NEGLIA ENGINEERING TO PROVIDE PROFESSIONAL SERVICES FOR THE ROADWAY IMPROVEMENT PROJECT FOR WILLIAM STREET, DUVIER PLACE AND FAIRWAY

WHEREAS, the Mayor and Council of the Borough of Maywood deem it necessary to continue with the Roadway Improvement Program which includes the roadway improvements to William Street, Duvier Place and Fairway; and

WHEREAS, to facilitate same the Borough needs to retain the services of an Engineer for the Borough for professional surveying, engineering services and construction management; and

WHEREAS, the Borough Engineer, Neglia Engineering having submitted a proposal for such services dated April 19, 2017 in the amount of a lump sum of \$ 23,200.00, representing professional surveying, design, permitting and contract documents preparation and in the amount of \$ 21,890.00, to be invoiced on an hourly basis not to exceed said amount representing construction management; and

WHEREAS, the Borough Engineer, Neglia Engineering has the expertise for such duties and having significant familiarity with the Borough is the best candidate for the appointment; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Maywood, County of Bergen, State of New Jersey that the Mayor be and he is hereby authorized and directed to execute, and the Borough Clerk to attest, to any and all documents necessary to execute the agreement between the Borough of Maywood and Neglia Engineering for professional surveying, engineering services and construction management services for the Roadway Improvement Project which includes William Street, Duvier Place and Fairway for the Borough of Maywood.

RESOLUTION # 77-17
RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION COSTS FOR
SUNSHADES AT VARIOUS LOCATIONS

WHEREAS, the Borough of Maywood is in need of purchase and installation of sunshades at the Maywood Swim Pool picnic area and concession stand, children's pool and Coaches' Park; and

WHEREAS, pursuant to the regulations established within the State of New Jersey and Contract # A81422 the parts and service will be purchased from General Recreation, Inc., P.O. Box 440, Newtown Square, PA. 19073 at a total price of \$49,334.00; and

WHEREAS, pursuant to Resolution # 36-17 amending the Code of the Borough of Maywood, purchases in excess of \$12,500 require Mayor and Council approval; and

WHEREAS, the Borough of Maywood pursuant to N.J.S.A.40A:11-12 (a) and N.J.A.C. 5:34-7.29(c), may by resolution and without advertising for bids, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Maywood, Bergen County, New Jersey, that the Borough of Maywood hereby authorizes the purchase and the installation of the various sunshades from General Recreation, Inc., P.O. Box 440, Newtown Square, PA. 19073, at the total price of \$ 49,334.00, NJ State Contract # A81422, in accordance with its proposal as submitted by General Recreation Inc., which was most advantageous to the Borough of Maywood, price and other factors considered.

RESOLUTION # 78-17
RESOLUTION AUTHORIZING ADVERTISEMENT FOR THE PUBLIC
RECEIPT OF BIDS FOR THE COLLECTION OF SOLID WASTE AND/OR
RECYCLABLE MATERIALS AND THEIR TRANSFER AND/OR DISPOSAL

WHEREAS, the existing agreement between Gaeta Recycling Co., Inc. and the Borough of Maywood for the collection, transfer and disposal of solid waste generated within the Borough of Maywood is scheduled to expire in August of 2017; and

WHEREAS, the existing agreement between Borough of Paramus and the Borough of Maywood for the collection, transfer and disposal of recyclable materials generated within the Borough of Maywood is scheduled to expire in 2017; and

WHEREAS, pursuant to N.J.S.A. 40A:11-15, contracts for such services may be awarded for up to a term of five (5) years following public advertisement and receipt of bids therefor.

WHEREAS, it is necessary for the Borough professionals to prepare bid specifications for the collection of solid waste and/or recyclable materials and their transfer in accordance with the provisions of N.J.A.C. 7:26H-1 et seq. and the Uniform Bid Specifications for Solid Waste Collection and Disposal Service and the Uniform Bid Specifications for Recyclable Materials and Disposal Service promulgated thereunder.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Maywood, Bergen County, New Jersey that the Borough Clerk is hereby authorized and directed to place the required advertisement in the Our Town, the Record and the Star Ledger for the receipt of public bids therefor; and

BE IT FURTHER RESOLVED that the Borough professionals are directed to prepare and the Borough Clerk shall notice in accordance with the specifications for the handling of solid waste and/or recyclable materials generated within the Borough of Maywood.

Council member Messar moved for the adoptions, seconded by Council member Lindenau; and so carried by unanimous roll call vote.

INTRODUCTION OF ORDINANCES

NONE

NEW BUSINESS

OLD BUSINESS

MISCELLANEOUS BUSINESS

Council member DeHeer spoke about preventing the blowing of grass and landscaping debris into the street/cars by landscapers.

Borough Clerk Pelligra responded we could include this provision in the annual landscaper's license.

Mayor Febre asked the council if they reviewed the revised fee ordinance sent out by Borough Clerk Pelligra; adding he would like to put it on for introduction at the next meeting – Council was in agreement to put it on the next meeting agenda.

CLOSED SESSION – IF APPLICABLE

Council member Morrone made a motion to go into closed session; seconded by Council member DeHeer – All in Favor.

BOROUGH OF MAYWOOD **Closed Session Resolution #79-17**

BE IT RESOLVED by the Mayor and Council of the Borough of Maywood, pursuant to the provisions of the Open Public Meetings Act, that the Mayor and Council meet in closed session to discuss the following subject matter(s):

Contracts; Personnel

which subject matter(s) is (are) permitted to be discussed in closed session pursuant to the following designated subsection(s) of Section 7 of the Open Public Meetings Act:

- Sub-section 1 dealing with material rendered confidential by express provision of Federal or State law
- Sub-section 2 covering a matter in which release of information would impair a right to receive federal funds
- Sub-section 3 involving disclosure of material that would constitute an unwarranted invasion of privacy, including material related to an individual's personal and family circumstances, without the express written consent of the individual involved
- Sub-section 4 pertaining to collective bargaining agreements and the terms, conditions and negotiations thereof
- Sub-section 5 dealing with the acquisition of real property, the setting of bank rates, or the investment of public funds where discussion thereof would adversely affect the public interest
- Sub-section 6 dealing with tactics and techniques used in protecting the safety and property of the public where disclosure could impair such protection or investigation of violation of the law
- Sub-section 7 dealing with pending or anticipated litigation, contract negotiations, or matters falling within the attorney-client privilege
- Sub-section 8 concerning personnel matters dealing with employment, appointment, termination, or terms and conditions of employment of any person or persons, or the evaluation, promotion or disciplining of employees unless all employees involved consent to disclosure thereof
- Sub-section 9 involving deliberations after public hearing on a matter which may result in the imposition of a civil penalty or the suspension or loss of a license

AND BE IT FURTHER RESOLVED that, as precisely as can be determined at this time, the discussion conducted in the said closed session can be disclosed to the public upon taking final action thereon, provided disclosure shall not violate the attorney-client privilege or constitute an undue invasion of privacy; and

BE IT FURTHER RESOLVED that the Mayor and Council of the Borough of Maywood

() Will return to open session after this meeting.

(X) Do not envision that they will return to open session after this meeting but reserves the right to do so.

Date of Passage: 5/9/2017 Time: 8:30 PM

ADJOURNMENT

Council member Gervino moved the meeting be adjourned; seconded by Council member Padovano and so carried at 9:34 p.m.

Borough Clerk