

The Regular Meeting of the Municipal Council of the Borough of Hawthorne was held on the above date at 7:07pm, in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, with the following present:

Mayor .....	Richard S. Goldberg
Council President .....	Frank E. Matthews
Council Vice President.....	John V. Lane
Councilman .....	Dominic Mele
Councilwoman.....	Rayna Laiosa
Councilman.....	Mike Sciarra
Councilman .....	Joseph Wojtecki
Borough Administrator .....	Eric Maurer
Borough Attorney .....	Michael J. Pasquale
Borough Engineer Representative.....	Dr. Stephen T. Boswell
Borough Clerk .....	Lori Fernandez
<b><u>ABSENT</u></b>	
Councilman .....	Bruce A. Bennett

**FLAG SALUTE**

Council President Matthews invited all present to join him in the flag salute.

**STATEMENT**

Adequate notice of this meeting has been provided by the Annual Schedule of Regular Meetings heretofore adopted and posted on the Public Bulletin Board at the Municipal Building, emailed to The Hawthorne Press, The Herald News, The Record, The Gazette and all persons who have requested the mailing of such schedule, and a copy of said schedule has remained on file in the office of the Borough Clerk from and since December 12, 2019.

**APPROVAL OF MINUTES**

Minutes for the Regular Meeting of January 8, 2020; motion by Councilman Wojtecki, seconded by Council Vice President Lane, on roll call all voted yes with the exception of Councilman Sciarra who abstained. Motion carried.

**PUBLIC COMMENT** (Agenda Items Only)

Council President Matthews opened the meeting to the public. He stated if anyone desired to be heard, please raise your hand to be recognized, come forward to the microphone state your name and address and sign the sheet for the record. He stipulated this be for agenda items only. Seeing none, Council President Matthews entertained a motion to close public comment, moved by Councilman Wojtecki, seconded by Council Vice President Lane. Carried on voice vote.

**ADOPTION OF ORDINANCES** None.

**OLD BUSINESS**

Council Vice President Lane asked Mayor Goldberg for an update on the speeding on Pasadena Place. He reported the Chief of Police has all of the information, Pasadena Place is at the top of the list for stop signs and will have more information for him at the next meeting.

Councilman Wojtecki noted he requested the stump at the pool be removed over 18 months ago. He questioned what was being store at the Shell gas station at the five corners, he does not believe they have a certificate of occupancy. Mayor Goldberg stated he would call the owner and find out what is being stored there. He asked if the police could drive by to check out the cars that are parked all over the place along 179 Goffle Road, and if the tree stakes can be removed after 2 ½ years. Administrator Maurer stated it has been referred to Public Works.

Council President Matthews asked for follow-up on the sidewalk that has been dug up for over a month and a half forcing people to walk into the street at 130 Lincoln Avenue.

**NEW BUSINESS**

Council Vice President Lane reported there are delivery trucks that are blocking the southbound lane of traffic where they are constructing the self-storage building with no police directing traffic. Mayor Goldberg stated it will be taken care of.

**ADMINISTRATIVE AGENDA PRESENTED BY MAYOR GOLDBERG**

Mayor Goldberg attended the Chamber of Commerce’s Member of the Year dinner honoring Bob Van Dyk and Van Dyk Park Place on Friday night. Since Van Dyk Health Care, Inc.’s formation in 1953, their quality of care and service has set the standard for the assisted living and health care industry. It’s a service

distinguished by quality care, administered by a caring family with caring staff, and we are proud to have them be a part of our Hawthorne community. Congratulations to Bob and the Van Dyk Family. A “Post Office Committee” has been formed to discuss the problems and concerns about the mail delivery, the first meeting was this week. Thanks to Senator Menendez’, Senator Booker’s and Representative Pascrell’s offices for following up with the Borough. In April another meeting will be held with the Postmaster as a follow-up to our concerns. A meeting was held with John Bertollo and his new “Events Committee”, together with the Commanders of the VFW and the American Legion. We are working together on new ideas for both the Memorial Day Parade and Veterans Day Services. Mayor Goldberg commended Borough resident and Belleville Fireman Lou Fruncillo for his heroic actions on the morning of January 24 who saved the life of the driver of a burning car. Lou was home from work that day, heard the crash, and saw the car smoking. He ran to the scene of the accident, pulled the driver out from behind the wheel and brought him to a safer area. Lou went back to the now burning vehicle to make sure that there were no other occupants in the vehicle. Finding no one, he returned to the driver to find him unresponsive. Lou administered CPR until Borough EMS, Fire and Police arrived. He expressed admiration and his appreciation to Lou on behalf of the Borough, as well as EMS, Fire and Police personnel. In order to receive the Mayor’s ROAR card, visit him in the afternoon in his office or if you see him around town, he always has them on him.

## MAYORS APPOINTMENTS

Council President Matthews entertained a motion to appoint Mike Sciarra, Alternate Member of the Library Board of Trustees, effective February 5, 2020; moved by Council Vice President Lane, seconded by Councilman Wojtecki. On roll call, all voted yes with the exception of Councilman Sciarra who abstained, motion carried. Mayor Goldberg administrated the Oath of Office.

Council President Matthews entertained a motion to appoint Andrew Skae, Special Police Officer Class II of the Police Department of the Borough of Hawthorne effective January 18, 2020; moved by Councilman Mele, seconded by Council Vice President Lane. On roll call, all voted yes; motion carried. Mayor Goldberg administrated the Oath of Office.

Council President Matthews entertained a motion to appoint Zachary Grochowski, Special Police Officer Class II of the Police Department of the Borough of Hawthorne effective October 18, 2019; moved by Council Vice President Lane, seconded by Councilman Mele. On roll call, all voted yes; motion carried. Mayor Goldberg administrated the Oath of Office.

Council President Matthews entertained a motion to appoint Kevin T. Foley, Special Police Officer Class II of the Police Department of the Borough of Hawthorne effective March 12, 2020; moved by Councilman Mele, seconded by Council Vice President Lane. On roll call, all voted yes; motion carried. Mayor Goldberg administrated the Oath of Office.

## REPORTS

### Borough Attorney Michael J. Pasquale

Attorney Pasquale congratulated the appointees.

Passaic River Litigation – Attorney Pasquale spoke of resolution R36-20 on the agenda seeking approval of a settlement of litigation regarding the Passaic River. Hawthorne had previously paid \$45,000 to settle a claim brought in connection with a DEP lawsuit regarding pollution of the Passaic River at Newark Bay. Hawthorne and over 200 other communities and entities was sued by the chemical companies that created the contamination. Hawthorne’s E-Jif attorneys pursued claims under old insurance policies for indemnification and were able to settle so that the entire \$45,000 paid by Hawthorne would be paid.

Affordable Housing – A Case Management Conference was held before Judge Brogan in Superior Court on January 31<sup>st</sup>. The Court heard that an agreement had been reached with 204 Wagaraw Road and there was cautious optimism regarding 3 Ronson (Patriot site). Attorney Pasquale then gave a lengthy presentation regarding the resolution before the Council approving the settlement of the lawsuit with 204 Wagaraw Road. He began by going through the history of the Mount Laurel Doctrine with the ultimate disbanding of COAH by the New Jersey Supreme Court in 2015, returning oversight of affordable housing to the Courts. Hawthorne filed a complaint in July of that year and 204 Wagaraw a motion to intervene. After much negotiation with the special master, counsel for the intervenor, and counsel for Kohler, a final project dramatically different from the original 222-unit housing project first presented is before the Council. The current plan calls for 117 units of housing, plus a superintendent unit, with 17 units to be for persons of low and moderate income. There is a 30,000 square foot public storage building and sound wall along the common boundary with Kohler. There is a proposed 14,000 square foot gym and 2,000-2,500 square feet of retail. The maximum height is 45 feet for the residential and 50 feet for the public storage. There will be a \$200,000 payment to the Borough to create sound deadening improvements at the pistol range, gun club and compost site. There will be \$300,000 contributed for water and sewer connection fees. Attorney Pasquale, with concurrence of our planners, recommended the project is in the best interest of the Borough given proximity to the train station and the Mayor’s goal of making the site a destination and not just a housing project. Affordable housing is created to help meet the constitutional mandate. In the interim, a resolution

approving a settlement agreement will be presented to the Council at the next Council Meeting. Attorney Pasquale will also distribute a sketch plan for the site, a draft zoning ordinance amendment, and is working on getting an updated traffic study.

Bandshell – The Committee had its first meeting of the year. Fundraising has begun. More to follow.

**Borough Engineer Dr. Stephen T. Boswell**

Goffle Hill Water Storage Tank LSRP Services – The work is complete. Close out documents will be prepared.

Mary Street Water Storage Tank LSRP Services – The soil samples all came back clean. Stockpiled soil will be scheduled for removal. Final grading will then continue for the remaining site.

Lafayette Avenue Streetscape, Phase 2 – Final close out documents and a two-year maintenance bond were submitted to the Borough along with a final change order in the amount of \$6,996.40 for as-built quantities.

2019 NJDOT Municipal Aid Application – Arlington Avenue, Phase 2, and Alexandria Avenue – Minor punch list items including infrared remain.

2019 Road Improvement Program – The remaining punch list items need to be addressed.

Tuxedo Avenue Drainage Improvements – RM Tuit completed the work associated with the drainage pipe replacement and pavement restoration. Final close out documents were submitted to the Borough along with a final change order in the amount of \$3,600 for as-built quantities.

Passaic Avenue Sewer Lining – Passaic County is working with the contractor, National Water Main, to provide the necessary information to accept or approve a detour plan for Wagaraw Road. Access to the sewer for lining will be from the manhole at Wagaraw Road. National Water Main has time available towards the end of this week to perform the lining work should the County act quickly with approving the detour.

Study for Pump Replacement at the South Station Water Facility – The pump supplier is in the process of selecting pumps, and then is scheduling a site visit for later this week, possibly Thursday, to confirm the conditions and pump selection. One concern is the amount of chlorine in the water, Hawthorne's Water Operator, Ron Gonzalez, is aware of the schedule. Based on the site inspection, our study can be finalized.

Lafayette Avenue Streetscape Lighting – Post & Kelly completed the master photo cell installation on Monday, February 3<sup>rd</sup>. A centralized eye has been installed to turn all the lights on and off at the same time.

2020 Road Improvement Program – The Borough is introducing the Bond Ordinance for this project on Wednesday, February 5<sup>th</sup>.

2020 NJDOT Municipal Aid Application – Parmelee Avenue – The Borough is introducing the Bond Ordinance for this project on Wednesday, February 5<sup>th</sup>.

Library Lights – There is a substantial program in the State of New Jersey, the Borough can get up to 30% of the cost back with a \$50,000 minimum to spend.

**Borough Administrator Eric Maurer**

After a meeting with an NJDOT rep to review documents for the close out of the downtown revitalization streetscape grant, they accepted most of the required documentation for the project close-out. The Borough will then receive the remaining \$30,000 that is due. The Borough received \$10,575 from the making of the movie in the Fall, and a check was received for the value of the Bobcat from the accident in the Spring. The Supplemental Debt Statements for the Bond Ordinances are complete. A reminder to residents, garbage and recycling is not permitted to be put out until 5:00pm the day before collection, and bulky waste collection occurs on the first garbage collection day of the month. Delivery of the pedestrian street crossing signs was this week and installation will take place over the next month or so weather permitting. Letters have been sent out to residents who have not yet had their re-inspections done by ASI. Homeowners who have had their inspections done will receive letters on or about February 17<sup>th</sup>. PSE&G has advised the Borough they want to begin a bare steel replacement project directed by the BPU. Unfortunately, most of those streets are the ones that have been repaved. Administrator Maurer has asked for a meeting with them and will report back. There is a potential tenant for some of the limited remaining rental spaces for antennas on top of the Longview tank. If the site meets their needs, Administrator Maurer will seek approval from the Council. Antenna leases on the tank currently provide the Borough in excess of \$600,000 annually. Administrator Maurer requested a meeting with the Finance Committee for next Monday to discuss the 2020 Salary Ordinance, revisions to the Fee Ordinance and a schedule for review of the 2020 Budget.

### **Questions for the Administration**

Councilman Wojtecki reported the Shade Tree Commission meeting had residents objecting to the trees that were taken down during the last road reconstruction program and speaking out of order. He requested a representative from the DPW, whether it be an engineer or someone from administration, be present to answer resident's questions. He asked for the status of the pruning list, Administrator Maurer stated they are getting caught up with the pruning list. Mayor Goldberg suggested holding the Shade Tree Commission meetings in the Court Room if there is a concern for the safety of the Shade Tree members.

Councilman Sciarra asked Attorney Pasquale what the height of the storage building should be, he replied the residential buildings on the site can be 4 stories up to 45ft, the public storage building can be 4 stories up to 50 feet but not less than the height of the residential building.

Councilwoman Laiosa asked if there were locations picked for the solar pedestrian crossing signs and how many signs were purchased. Administrator Maurer stated they do have locations picked and 13 signs were purchased. She asked Attorney Pasquale if he received responses about her questions regarding remediation on 204 Wagaraw. Attorney Pasquale stated he got a partial response, he isn't sure if they will be putting a walking path in to the Passaic River, and there is no Response Action Outcome (RAO) on the property yet. They are aware that a vapor barrier will have to be installed.

Councilman Mele asked Dr. Boswell what the maximum amount of the grant for the library is. He stated it can be anywhere from \$50,000 to \$12.5 million, we are applying for \$88,000 with the total amount being \$240,000. He asked where the rest of the money will come from, Mayor Goldberg stated the rest of the money will come from the library and there is talk of revitalizing the Library Foundation to raise the rest of the money. Councilman Mele asked if the fence can be moved back off the sidewalk on Diamond Bridge.

Council Vice President Lane asked who residents can talk to if they have questions about their revaluation. Administrator Maurer stated that information will be in their letter. He asked if the purchase of a new Bobcat has been looked into yet. Administrator Maurer stated there is some disagreement amongst the DPW as to what is needed, they do have another Bobcat.

Council President Matthews entertained a motion to record the Administrative Agenda, moved by Councilman Mele, seconded by Council Vice President Lane. Carried on voice vote.

### **INTRODUCTION OF ORDINANCES**

#### **ORDINANCE NO. 2243-20**

#### **AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 247 FLOOD DAMAGE PREVENTION**

BE IT ORDAINED by the Municipal Council of the Borough of Hawthorne, in the County of Passaic and State of New Jersey, that:

Section One. Chapter 247, Flood Damage Prevention, is hereby repealed and replaced, with the revised Chapter to read as follows:

#### ARTICLE I

#### STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

##### 247.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Municipal Council of the Borough of Hawthorne, Passaic County, New Jersey does ordain as follows:

##### 247.2 FINDINGS OF FACT

- a) The flood hazard areas of the Borough of Hawthorne are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

##### 247.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a) Protect human life and health;
- b) Minimize expenditure of public money for costly flood control projects;



- c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) Minimize prolonged business interruptions;
- e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### 247.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b) Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

### ARTICLE II DEFINITIONS

#### 247.5 DEFINITIONS AND WORD USAGE

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**AH Zone-** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone

**AO Zone-** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

**Appeal** — A request for a review of the Construction Official’s interpretation of any provision of this ordinance or a request for a variance.

**Area of Shallow Flooding** — A designated AO or AH zone on a community’s Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** — Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

**Base Flood** — A flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** – The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**Basement** — Any area of the building having its floor subgrade (below ground level) on all sides.

**Best Available Flood Hazard Data** — The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM.

**Best Available Flood Hazard Data Elevation** — The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data Elevation may be depicted on an Advisory Flood Hazard Area Map, Work Map or Preliminary FIS and FIRM.

**Breakaway Wall** — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

**Development** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**Digital Flood Insurance Rate Map (DFIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Elevated Building** — A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**Elevation Certificate** – An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

**Erosion** — The process of gradual wearing-away of land masses.

**Existing Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**FEMA Publication** – Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited to technical bulletins, desk references, and American Society of Civil Engineers Standards documents.

**Flood Design Class** – An American Society of Civil Engineers (ASCE) classification of buildings and other structures for determination of flood loads and conditions and determination of minimum elevation requirements on the basis of risk associated with unacceptable performance.

**Flood or Flooding** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Insurance Rate Map (FIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

**Floodplain Management Regulations** — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodproofing Certificate** – Certification by an engineer or architect to certify a floodproofing design for a non-residential building.

**Floodway** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than 0.2 foot.

**Freeboard** — A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Highest Adjacent Grade** — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

**Historic Structure** — Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved State program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in States without approved programs.

**Lowest Floor** — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

**Manufactured Home** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Manufactured Home Subdivision** — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**New Construction** — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

**Preliminary Flood Insurance Rate Map**— The draft version of the FIRM released for public comment before finalization and adoption.

**Recreational Vehicle** — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Start of Construction** — (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement,

footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance — A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

Violation — The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation — the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

### ARTICLE III GENERAL PROVISIONS

#### 247.6 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Hawthorne, Passaic County, New Jersey.

#### 247.7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Hawthorne, Community No. 340400, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report "Flood Insurance Study, Passaic County, New Jersey (All Jurisdictions)" dated April 17, 2020.
- b) Flood Insurance Rate Map for Passaic County, New Jersey (All Jurisdictions) as shown on Index and panels 34031C0206F, 34031C0207F, 34031C0208G, 34031C0209G, 34031C0216G, and 34031C0217G, whose effective date is April 17, 2020.
- c) Best Available Flood Hazard Data. These documents shall take precedence over effective panels and FIS in construction and development regulations only. Where the effective mapping or Base Flood Elevation conflict or overlap with the Best Available Flood Hazard Data, whichever imposes the more stringent requirement shall prevail.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps and advisory documents are on file or will be on file at 445 Lafayette Avenue, Hawthorne, New Jersey.

#### 247.8 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,000 or imprisoned for not more than 90 days, or both, for



each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Hawthorne, from taking such other lawful action as is necessary to prevent or remedy any violation.

#### 247.9 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### 247.10 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- a) Considered as minimum requirements;
- b) Liberally construed in favor of the governing body; and,
- c) Deemed neither to limit nor repeal any other powers granted under State statutes.

#### 247.11 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Hawthorne, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### ARTICLE IV ADMINISTRATION

#### 247.12 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in section 247.7. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; a description of the flood design class and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to 0 foot elevation NAVD 88 datum, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to 0 foot elevation NAVD 88 datum to which any structure has been floodproofed.
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 247.17(B); and,
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- e) Any forms, plans, or information required pursuant to any applicable FEMA publication

#### 247.13 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### 247.14 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Official shall include, but not be limited to:

##### A. PERMIT REVIEW

- a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 247.18(a) are met.
- d) Review all permit applications to determine whether proposed building sites are reasonably safe from flooding;
- e) Review all permit applications to determine whether development complies with all applicable FEMA Publications;

- f) Review all permit applications to determine whether development complies with all applicable New Jersey Land Use requirements;

#### B. USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with section 247.7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer sections 247.17 A, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 247.17 B, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

#### C. INFORMATION TO BE OBTAINED AND MAINTAINED

- a) Obtain and record on a current Elevation Certificate the actual elevation (in relation to 0 foot elevation NAVD 88 datum) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures:
  - i. verify and record on a Floodproofing Certificate the actual elevation (in relation 0 foot elevation NAVD 88 datum); and
  - ii. maintain the floodproofing certifications required in section 247.12.
- c) Record the study date of the Best Available Flood Hazard Data (and other documents) used to determine the actual elevation of the lowest floor (including basement) of all new or substantially improved structures; and
- d) Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### D. ALTERATION OF WATERCOURSES

- a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Engineering and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

#### E. SUBSTANTIAL DAMAGE REVIEW

- a) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
- b) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Engineering.
- c) Ensure substantial improvements meet the requirements of sections 247.17(A), SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, 247.17(B), SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION and 247.17(C), SPECIFIC STANDARDS, MANUFACTURED HOMES.

#### F. INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 247.15.

#### G. REPORT CHANGES IN FLOODING CONDITIONS

Obtain and record changes in flooding conditions and report the technical or scientific data to the Federal Insurance Administrator on a six (6) month basis or sooner in accordance with Volume 44 Code of Federal Regulations Section 65.3.

### 247.15 VARIANCE PROCEDURE

#### A. APPEAL BOARD

- a) The Planning Board as established by the Municipal Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b) The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.
- c) Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided by statute.
- d) In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- i. the danger that materials may be swept onto other lands to the injury of others;
  - ii. the danger to life and property due to flooding or erosion damage;
  - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. the importance of the services provided by the proposed facility to the community;
  - v. the necessity to the facility of a waterfront location, where applicable;
  - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vii. the compatibility of the proposed use with existing and anticipated development;
  - viii. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e) Upon consideration of the factors of section 247.15 A (d) and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- f) The Construction Official shall maintain the records of all appeal actions, including technical information, the justification for their issuance, and report any variances to the Federal Insurance Administration upon request.

## B. CONDITIONS FOR VARIANCES

- a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items i.-xi. in section 247.15 A (d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e) Variances shall only be issued upon:
  - i. A showing of good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section 247.15 A (d), or conflict with existing local laws or ordinances.
- f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## ARTICLE V PROVISIONS FOR FLOOD HAZARD REDUCTION

### 247.16 GENERAL STANDARDS

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

#### A. ANCHORING

- a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b) All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

## B. CONSTRUCTION MATERIALS AND METHODS

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

## C. UTILITIES

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- d) For all new construction and substantial improvements on the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## D. SUBDIVISION PROPOSALS

- a) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

## E. ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

## 247.17 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 247.7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in section 247.14 B, USE OF OTHER BASE FLOOD DATA, the following standards are required:

### A. RESIDENTIAL CONSTRUCTION

- a) New construction and substantial improvement of any residential structure located in an A, or AE zone shall have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1;
- b) Require within any AO or AH zone on the municipality's DFIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

### B. NONRESIDENTIAL CONSTRUCTION

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment:  
either



- a) Elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1; and
- b) Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

- a) Be floodproofed so that below the more restrictive, base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, the structure is watertight with walls substantially impermeable to the passage of water;
- b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 247.15 A ii.
- d) Record the method and elevation used above and, the Best Available Flood Hazard Design Data elevation, date and revision in the local Development Permit.

### C. MANUFACTURED HOMES

- a) Manufactured homes shall be anchored in accordance with section 247.16 A.
- b) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
  - i. Be consistent with the need to minimize flood damage,
  - ii. Be constructed to minimize flood damage,
  - iii. Have adequate drainage provided to reduce exposure to flood damage, Be elevated on a permanent foundation such that the top of the lowest floor is at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1 and, as required by N.J.A.C 7:13-3. AO or AH zone elevation based upon the highest adjacent grade, plus the depth number specified in feet, plus one (1) foot (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures,
  - iv. Record the method and elevation used above and, the Best Available Flood Hazard Design Data elevation, date and revision in the local Development Permit.
  - v. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
  - vi. All recreational vehicles located within an area of special flood hazard shall either:
    - i. Be on site for fewer than 180 consecutive days,
    - ii. Be fully licensed and ready for highway use, or
    - iii. Meet the requirements of sections 247.12 and 247.17(C) above.

### 247.18 FLOODWAYS

Located within areas of special flood hazard established in section 247.7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- b) If section 247.18 A is satisfied, all new construction and substantial improvements must comply with Article V PROVISIONS FOR FLOOD HAZARD REDUCTION.
- c) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, , no new construction, substantial improvements, fill, or other development shall be permitted, unless it is demonstrated that the cumulative the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

Section 2. If any section, subsection or part of this ordinance is adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not impair or invalidate the remainder of this ordinance.

Section 3. This Ordinance shall take effect 20 days after final adoption and publication as provided by law.

BE IT RESOLVED, this Ordinance does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Governing Body in the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, on March 4, 2020 and at said time and place all persons interested will be

given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in The Record once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage, moved by Councilman Mele, seconded by Councilman Sciarra.

### **Discussion**

Council Vice President Lane asked Attorney Pasquale if the newspaper can be given a condensed version of an ordinance instead of publishing the whole thing. Attorney Pasquale stated they will be able to publish an introduction summary of some of the ordinances. On roll call, all voted yes, motion carried.

### **BOND ORDINANCE NO. 2244-20**

BOND ORDINANCE PROVIDING FOR ROAD RECONSTRUCTION, INCLUDING MILLING, PAVING AND RESURFACING, AS WELL AS CURBING, HANDICAPPED RAMPS AND RELATED IMPROVEMENTS ON VARIOUS STREETS AND PROPERTIES DESCRIBED HEREIN OR HEREAFTER IDENTIFIED, ALL IN AND BY THE BOROUGH OF HAWTHORNE IN THE COUNTY OF PASSAIC, NEW JERSEY, APPROPRIATING NINE HUNDRED FIVE THOUSAND (\$905,000) DOLLARS THEREFOR AND AUTHORIZING THE ISSUANCE OF BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE SAME.

The Municipal Council of the Borough of Hawthorne, in the County of Passaic, New Jersey (not less than two-thirds of all members thereof affirmatively concurring), do hereby ORDAIN as follows:

Section 1. The improvement described in Section 3 of this Bond Ordinance is hereby authorized as a general improvement to be made or acquired by the Borough of Hawthorne, in the County of Passaic, New Jersey. For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$905,000, said sum being inclusive of all appropriations heretofore made therefor and including the sum of \$42,500 as the down payment for said improvement or purpose required by law and now available therefor in the Capital Improvement Fund of the Borough by virtue of provision in a budget or budgets of the Borough previously adopted. A portion of the funding, in total sum of \$55,000, is to be provided through a Community Development Block Grant (CDBG Grant).

Section 2. For the financing of said improvement or purpose and to meet the part of said \$905,000 appropriation not provided for by application hereunder of said down payment, and subject to receipt of the CDBG Grant, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$807,500 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$807,500 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which said obligations are to be issued is the resurfacing or reconstruction of parts or portions of roads, curbing, handicapped ramps and the construction or reconstruction of related facilities, on various streets or properties located in the Borough of Hawthorne, together with all work and materials necessary therefor or incidental thereto, all as shown on and in accordance with plans therefor prepared by Boswell, McClave Engineering, P.E., now on file in the office of the Borough Clerk, and hereby approved. The following locations are identified as being subject to the terms of this Ordinance: Garden Avenue, Barker Avenue, Little Street, Kingston Avenue, Warren Avenue, Park Avenue, and Cynthia Court and such other locations as may be later identified in the place of or in addition to the foregoing, as well as handicapped accessible ramps at various locations. The CDBG Grant pertains to handicapped ramps.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$807,500.

(c) The estimated cost of said purpose is \$905,000, the excess thereof over the said estimated maximum amount of bonds or notes being the amount of the said \$42,500 down payment and is subject to the \$55,000 CDBG Grant.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The chief financial officer is hereby authorized to sell part or all of

the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this Bond Ordinance is not a current expense and is a property or improvement which the Borough may lawfully acquire or make as a general improvement.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, and according to the reasonable life thereof computed from the date of the said bonds authorized by this Bond Ordinance is 20 years.

(c) The supplemental debt statement required by said Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Finance in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Law is increased by the authorization of the bonds and notes provided for in this Bond Ordinance by \$807,500 and that the said obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Law.

(d) An aggregate amount not exceeding \$200,000 for items of expense mentioned in and permitted under Section 40A:2-20 of said Law may be included in the foregoing estimate of the cost of said improvement or purpose.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitations of rate or amount.

Section 7. The capital budget of the Borough is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. Resolutions in the form promulgated by the Local Finance Board showing all detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption as provided for in said local bond law.

BE IT RESOLVED, this Ordinance does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Governing Body in the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, on March 4, 2020 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in The Record once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage, moved by Councilman Sciarra, seconded by Council Vice President Lane.

### **Discussion**

Council Vice President Lane stated this was discussed at length in Public Works and they are in agreement with the streets on the program.

Councilman Wojtecki noted there is no tree work mentioned in the ordinance. Dr. Boswell stated the Borough will get 25% more trees leaving them out of the contract.

Councilman Sciarra asked when the reconstruction will begin, Dr. Boswell stated around May 15<sup>th</sup> with a completion date around mid-July.

Councilwoman Laiosa suggested identifying the streets that are being repaved on the website. On roll call, all voted yes, motion carried.

### **BOND ORDINANCE NO. 2245-20**

**BOND ORDINANCE PROVIDING FOR ROAD RECONSTRUCTION, RESURFACING, DRAINAGE, CURB, SIDEWALK AND HANDICAPPED RAMP IMPROVEMENTS ON PARMELEE AS DESCRIBED SPECIFICALLY HEREIN, IN AND BY THE BOROUGH OF HAWTHORNE IN THE**

COUNTY OF PASSAIC, NEW JERSEY, APPROPRIATING FIVE HUNDRED SEVENTY ONE THOUSAND, EIGHT HUNDRED (\$571,800) DOLLARS THEREFOR, AND AUTHORIZING THE ISSUANCE OF BONDS OR NOTES IN THE AMOUNT OF ONE HUNDRED FOURTEEN THOUSAND (\$114,000) DOLLARS OF THE BOROUGH FOR FINANCING THE SAME.

The Municipal Council of the Borough of Hawthorne, in the County of Passaic, New Jersey (not less than two-thirds of all members thereof affirmatively concurring), do hereby ORDAIN as follows:

Section 1. The improvement described in Section 3 of this Bond Ordinance is hereby authorized as a general improvement to be made or acquired by the Borough of Hawthorne, in the County of Passaic, New Jersey. For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$571,800, said sum being inclusive of all appropriations heretofore made therefor and including the sum of \$6,000 as the down payment for said improvement or purpose required by law and now available therefor in the Capital Improvement Fund of the Borough by virtue of provision in a budget or budgets of the Borough previously adopted. An additional portion of the down payment for such work is provided through grants applied for and received by the Borough of Hawthorne in excess of the amount required by law for such purpose in total sum of \$451,800. The amount of be financed by way of bond or note of the Borough of Hawthorne is \$114,000.

Section 2. For the financing of said improvement or purpose and to meet the part of said \$571,800 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$114,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$114,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law. Said improvement is to be paid for in part by virtue of a grant from the New Jersey Department of Transportation in the amount of \$451,800, which sums beyond the amount utilized as down payment hereunder have been applied against or otherwise deducted from the amount to be financed hereunder.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which said obligations are to be issued is the resurfacing or reconstruction of parts or portions of road, the construction or reconstruction of drainage facilities, and the reconstruction and installation of, curbs, sidewalks and handicapped ramps on Parmelee Avenue, together with all work and materials necessary therefor or incidental thereto, all as shown on and in accordance with plans therefor prepared by Boswell, McClave Engineering, P.E., now on file in the office of the Borough Clerk, and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$114,000.

(c) The estimated cost of said purpose is \$571,800, the excess thereof over the said estimated maximum amount of bonds or notes being the amount of the down payment provided for by way of Department of Transportation Funds and down payment hereunder, as set forth herein.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this Bond Ordinance is not a current expense and is a property or improvement which the Borough may lawfully acquire or make as a general improvement.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, and according to the reasonable life thereof computed from the date of the said bonds authorized by this Bond Ordinance is 20 years.

(c) The supplemental debt statement required by said Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Finance in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Law is increased by the authorization of the bonds and notes provided for in this Bond Ordinance by \$114,000 and that the said obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Law.

(d) An aggregate amount not exceeding \$140,000 for items of expense mentioned in and permitted under Section 40A:2-20 of said Law may be included in the foregoing estimate of the cost of said improvement or purpose.

Section 5. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy



ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitations of rate or amount.

Section 6. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 7. The capital budget of the Borough is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. Resolutions in the form promulgated by the Local Finance Board showing all detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by said Local Bond Law.

BE IT RESOLVED, this Ordinance does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Governing Body in the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, on March 4, 2020 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in The Record once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage, moved by Council Vice President Lane, seconded by Councilman Wojtecki. On roll call, all voted yes, motion carried.

ORDINANCE NO. 2246-20

**BOND ORDINANCE PROVIDING FOR RECONSTRUCTION OR REPLACEMENT OF SIDEWALKS AND DRIVEWAY APRONS ON PARMELEE AVENUE, KINGSTON AVENUE, PARK AVENUE, AND WARREN AVENUE AS DESCRIBED SPECIFICALLY HEREIN, IN AND BY THE BOROUGH OF HAWTHORNE IN THE COUNTY OF PASSAIC, NEW JERSEY, APPROPRIATING THREE HUNDRED (\$300,000) THOUSAND DOLLARS THEREFOR, AUTHORIZING THE ISSUANCE OF BONDS OR NOTES FOR FINANCING PART OF THE COST THEREOF AND DIRECTING SPECIAL ASSESSMENT OF THE COST THEREOF.**

The Municipal Council of the Borough of Hawthorne, in the County of Passaic, New Jersey (not less than two-thirds of all members thereof affirmatively concurring), do hereby ORDAIN as follows:

Section 1. The improvement described in Section 3 of this Bond Ordinance is hereby authorized as a local improvement to be made or acquired by the Borough of Hawthorne, in the County of Passaic, New Jersey. For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$300,000, said sum being inclusive of all appropriations heretofore made therefor and including the sum of \$15,000 as the down payment for said improvement or purpose required by law and now available therefor in the Capital Improvement Fund of the Borough by virtue of provision in a budget or budgets of the Borough previously adopted.

Section 2. For the financing of said improvement or purpose and to meet the part of said \$285,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$285,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$285,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which said obligations are to be issued is in conjunction the reconstruction or replacement of sidewalks and driveway aprons, including the restoration of grounds adjacent thereto, grading, seeding or planting of trees or other materials along Parmelee Avenue, Kingston Avenue, Park Avenue and Warren Avenue together with all work and materials necessary therefor or incidental thereto, all as shown on and in accordance with

plans therefor prepared by Boswell, McClave Engineering, P.E., now on file in the office of the Borough Clerk, and hereby approved. The affected property owners, listed by block and lot as well as street address and name of record owner of each said lot are set forth on a list filed in the office of the Clerk, which list is hereby approved and made a part hereof.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$285,000.

(c) The estimated cost of said purpose is \$300,000, the excess thereof over the said estimated maximum amount of bonds or notes being the amount of the said \$15,000 down payment.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this Bond Ordinance is not a current expense and is a property or improvement which the Borough may lawfully acquire or make as a local improvement, the cost of which shall be specially assessed in the manner provided herein.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, and according to the reasonable life thereof computed from the date of the said bonds authorized by this Bond Ordinance is 10 years.

(c) The supplemental debt statement required by said Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Finance in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Law is increased by the authorization of the bonds and notes provided for in this Bond Ordinance by \$285,000 and that the said obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Law.

(d) An aggregate amount not exceeding \$70,000 for items of expense mentioned in and permitted under Section 40A:2-20 of said Law may be included in the foregoing estimate of the cost of said improvement or purpose.

(e) The number of annual installments within which the special assessments are to be levied on the lots and parcels of real estate affected by the improvement is five (5) years.

(f) The estimated maximum aggregate amount of the special assessment is \$285,000.

Section 5. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitations of rate or amount.

Section 6. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 7. The capital budget of the Borough is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. Resolutions in the form promulgated by the Local Finance Board showing all detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. The improvement described in Section 3 of this ordinance shall be undertaken as a sidewalk and driveway apron improvement and the cost thereof shall be assessed in the manner set forth in this paragraph. An accurate account of the cost of construction of the sidewalk and driveway apron, and improvements incidental thereto as described herein, shall be kept, and such cost shall be assessed upon the several properties fronting on the improvement, as nearly as may be in proportion to the particular benefit,

advantage or increase in value which the respective parcels of land or real estate shall be deemed to receive by reason of said improvement and in no case shall any assessment on any parcel of land exceed the amount of such peculiar benefit, advantage or increase in value, and if benefit so assessed shall not equal the cost, the balance shall be paid by the Borough.

Section 9. Unless notice of the pendency of this ordinance is given in accordance with N.J.S.A. 40:65-6, the Borough Clerk shall cause Notice of the proposed improvement to be given to the owner or owners of real estate affected thereby prior to the making of the improvement described in Section 3 hereof or the awarding of any contract for such improvement. The Notice shall contain a description of the property affected sufficient to identify it, a description of the improvement and a statement that unless the owner or owners complete the improvement within 30 days after service thereof, the Borough will make the improvement at the expense of the owner or owners. Such Notice shall be served in accordance with the provisions of N.J.S.A. 40:65-2 to N.J.S.A. 40:65-5, and the proof of service shall be filed with the officer of the Borough in charge of the records of tax liens of the Borough within ten days after service thereof.

Section 10. The owner of any land upon which any assessment for the local improvement shall have been made may pay such assessment in the number of equal yearly installments herein determined, with legal interest on the unpaid balance of the assessment. The first of the installments shall be due and payable two months after the confirmation of the assessment, and such subsequent annual installment and interest shall be payable in each successive year thereafter at such time as the governing body shall by resolution determine, provided that any owner of land so assessed shall have the privilege of paying the whole of any assessment or of any balance of installments with accrued interest thereon at any time. Whenever any such installment shall remain unpaid for thirty (30) days from and after the time it shall become due and payable, the whole assessment or balance thereof shall become and be immediately due and payable and shall draw interest at the rate imposed upon the arrearage of taxes in the Borough and shall be collected in the same manner as provided by law for other past-due assessments. Such assessment shall remain a lien upon the land described herein until the assessment with all installments and accrued interest thereon shall be paid and satisfied. Notwithstanding anything herein to the contrary, the Borough shall have the right to waive default as may be permitted by law.

Section 11. This Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by said Local Bond Law.

BE IT RESOLVED, this Ordinance does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Governing Body in the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, on March 18, 2020 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in The Record once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage, moved by Councilman Mele, seconded by Councilman Sciarra. On roll call, all voted yes, motion carried.

ZONING ORDINANCE NO. 2247-20

AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF HAWTHORNE CHAPTER 540, ZONING, TO CREATE SECTION 540-8(V), DRIVE THRU RESTAURANTS

BE IT ORDAINED by the Municipal Council of the Borough of Hawthorne in the County of Passaic and State of New Jersey that the following amendments be made to Chapter 540, Zoning.

SECTION 1. Chapter 540, Zoning, is hereby amended and supplemented so as to create Section 540(V), permitting certain specified drive thru restaurants in all business zones, with the said section to read as follows:

§ 540-8(V). Drive Thru Restaurants

1. Restaurants serving eat-in and take-out food, where permitted in any Business Zone or existing as a conforming or non-conforming use in any other Zoning District, may not engage in sale or distribution of food by way of drive thru window or other opening in an exterior wall of a building. Notwithstanding the same, a restaurant serving eat-in or take-out food and established as a coffee-based business, may be permitted to sell or distribute coffee, drinks and related foods through use of a drive thru lane or aisle and window or opening in an exterior wall, subject to the terms of this section.

- a. Hours of operation for such business shall be limited to 6:00 a.m. to 10:00 p.m.
- b. Prior to the issuance of any permit to construct such drive thru facility, site plan approval shall be applied for and granted by the Planning Board. The following standards shall apply:

1. Drive thru lanes shall be not less than 12 feet in width.
2. Order boards or other signs adjacent to the drive thru lanes shall have sound attenuation devices and illumination shall not be permitted after 10 p.m. No sign or order board shall have a height of greater than eight feet, measured from the ground below such sign, and have an area of greater than 32 square feet.
3. A by-pass lane shall be provided adjacent to the drive thru lane.
4. Vehicle stacking of at least four vehicles shall be accommodated in the drive thru lane.
5. Drive thru lanes on properties adjacent to residential zones or residential uses shall be screened from such adjoining property by way of opaque fence having a height of six feet or alternatively dense landscaping serving such purpose, as approved by the Planning Board. In addition to screening, the applicant shall provide a lighting plan demonstrating that light spillage is appropriately minimized.

SECTION 2. If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION 3. This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

BE IT RESOLVED, this Ordinance does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Governing Body in the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, on March 4, 2020 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in The Record once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage, moved by Councilman Wojtecki, seconded by Councilman Mele.

**Discussion**

Councilman Sciarra asked if this ordinance is exclusive to coffee, Council President Matthews responded yes, exclusive to coffee shops. On roll call, all voted yes, motion carried.

**RESOLUTIONS:**

**OFF-CONSENT**

**R 31-20 Introduced by Council Vice President Lane**

WHEREAS, various appropriations in the 2019 Municipal Budget may be over expended and others under expended.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne that the Treasurer be and is hereby authorized to make the following transfers:

<u>TO</u>	<u>FROM</u>	<u>AMOUNT</u>	<u>TOTAL TRANSFER</u>
Streets & Roads S/W	Group Insurance O/E	\$1,600.00	\$1,600.00
	TOTAL TRANSFERS		<u>\$1,600.00</u>

Council President Matthews entertained a motion to approve off-consent agenda resolution R 31-20, moved by Council Vice President Lane, seconded by Councilman Mele. On roll call, all voted yes, motion carried.

**CONSENT: MR 01-20, R 32-20 through R 36-20**

**MR 01-20 Introduced by Councilman Mele**

BE IT RESOLVED by the Mayor and Council of the Borough of Hawthorne, in the County of Passaic and State of New Jersey, that:

1. The words and phrases used herein shall have the same meaning respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey.
2. Pursuant to the Authority granted under N.J.S.A. 39:4-197.6, the following location is hereby designated as a restricted parking space for use by persons who have been issued special vehicle identification cards by the Division of Motor Vehicles. No other person shall be permitted to park in this space.
3. The parking space will be located on the south side of Westervelt Avenue in front of the home beginning at a point three feet (3') west of the west curb cut for the driveway of the residence, extending west twenty feet (20') in front of the home.
4. The property, 10 Westervelt Avenue, is identified as Block 2 Lot 19 on the Borough Tax Map.



5. The handicap parking stall shall be in compliance with the American Disability Act (28 CFR Part 36) with proper signage and a painted blue curb.

6. The Police Department is hereby directed to have proper signs calling attention to the provisions of the resolution erected or placed upon said street.

This resolution shall take effect on adoption and posting of the signs required above.

**R 32-20 Introduced by Councilman Mele**

WHEREAS, the Municipal Council of the Borough of Hawthorne has heretofore established and created a Length of Service Awards Program (LOSAP) for the benefit of eligible volunteer Ambulance Corps members; and

WHEREAS, in accordance with the LOSAP program, a list of eligible members and corresponding award has been presented to the Administration, a copy of the same being annexed hereto;

WHEREAS, the list of eligible members and proposed award has been reviewed and approved by the Administration, the list has been posted in accordance with law, and funds have been certified by the Chief Financial Officer;

NOW, THEREFORE, BE IT RESOLVED, that the Municipal Council of the Borough of Hawthorne, does hereby approve the list of eligible members and proposed award of LOSAP benefits for eligible ambulance corps members as annexed hereto and made a part hereof and authorizes payment in accordance therewith.

**R 33-20 Introduced by Councilman Mele**

WHEREAS, Tax Sale Certificate #18-00004 was sold on October 23, 2018 in the amount of \$12,985.38 on Block 113 Lot 7 then assessed to Darlene Irvolina and said lien was originally purchased by Christiana T C/F CE1/Firsttrust PO Box 5021 Philadelphia, PA 19111-5021, and

WHEREAS, said lien was redeemed on January 30, 2020 in the amount of \$39,932.41 said lienholder is entitled to a refund including the amount of the lien \$12,985.38, penalty of \$779.12, search and recording fee of \$65.00, subsequent taxes of \$22,425.81, and interest on subsequent taxes of \$3,623.60 subsequent water of 51.05, and interest on subsequent water of 2.45 for a total of \$39,932.41 and

NOW, THEREFORE, BE IT RESOLVED, that the Collector of Taxes recommends that a check be issued by

The Treasurer from the Other Trust II/Trustee Account to P.O. Box 5021 Philadelphia, PA 19111-5021, in the amount of \$39,932.41 to reimburse the lienholder for the lien, penalty, subsequent payments and interest and a check from the Other Trust I account for \$32,000.00 for Premium paid.

Christiana T C/F CE1/Firsttrust      \$39,932.41      Premium \$32,000.00  
P.O. Box 5021  
Philadelphia, PA 19111-5021

**R 34-20 Introduced by Councilman Mele**

WHEREAS, the Borough of Hawthorne has filed a lawsuit entitled, In the Matter of the Application of the Borough of Hawthorne, County of Passaic, Docket No. PAS-L-2412-15, the purpose being the satisfaction of the Borough's Fair Share obligation to provide the realistic opportunity for the creation of low and moderate income housing pursuant to the 2015 decision rendered by the New Jersey Supreme Court regarding the same; and

WHEREAS, 204 Wagaraw Road, LLC, filed an Answer to the Complaint filed by the Borough and was granted intervenor status by the Superior Court of the State of New Jersey, County of Passaic; and

WHEREAS, in the period since the initial grant of intervenor status, the Borough and representative of 204 Wagaraw Road LLC, engaged in various Court proceedings and participated in numerous settlement conferences, working throughout with the Special Master appointed by the Court for such purpose, Christine Cofone; and

WHEREAS, as a result of those negotiations the parties have reached a settlement of all issues pertaining to the litigation as it relates to the parties and have created a Settlement Agreement, with attachments made a part thereof and incorporated by specific reference, and now seek approve of the Municipal Council, authorizing the execution of such agreement; and

WHEREAS, the Borough Attorney, joined by the Borough's Planner, Joseph Burgis, and the Special Master, have recommended the settlement as it will result in the partial satisfaction of the Borough's obligation to create the realistic opportunity for affordable housing in a manner largely consistent with the overall best interest of the residents of the Borough of Hawthorne;

NOW THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne that it does hereby approve of the proposed settlement reached between the Borough of Hawthorne and 204 Wagaraw Road, LLC, and does authorize the Mayor and Borough Clerk to execute and deliver the same as and for the action of the Borough of Hawthorne.

**R 35-20            Introduced by Councilman Mele**

WHEREAS, the Borough of Hawthorne has awarded a contract to Zuccaro, Inc. as part of Phase II of its Downtown Revitalization Project in total sum of \$339,280; and

WHEREAS, the Municipal Council approved two changes orders, including a change order expanding the scope of the work entailed in the contract to include the installation of stamped concrete material at its Municipal Pool Complex; and

WHEREAS, Zuccaro, Inc. has submitted to the Borough project close-out documents including therewith Change Order Number 3, dated January 20, 2020, increasing the total contract by \$6,996.40 based upon actual quantities encountered in the field, the same being approved by the Borough Engineer; and

WHEREAS, the determining of actual quantities was anticipated by the contract documents and could not have been known at the time the contract was awarded, making the award of a change order appropriate in the opinion of the Borough Attorney; and

WHEREAS, the Chief Financial Officer has certified availability of funds pursuant to Bond Ordinance 2209-18, Line Item C-04-2150-55-2209-002, so as to allow for the award of change order in the amount of \$6,996.40 and increasing the contract to a total certified amount of \$364,740.40;

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne, that it does approve Change Order Number Three in the amount of \$6,996.40 to the contract of Zuccaro, Inc., and does further authorize the issuance of final payment under the contract in the amount of \$39,226.35.

**CERTIFICATION OF AVAILABILITY OF FUNDS**

As required by NJSA 40A:4-57, NJAC 5:30-14.5 and any other applicable requirement of law, I Laurie A. Foley, Chief Financial Officer of the Borough of Hawthorne, have determined that there are available, sufficient funds, not committed to any other purpose, pursuant to Bond Ordinance 2209-18, Line Item C-04-2150-55-2209-002, so as to allow for the award of a change order in the amount of \$6,996.40 and increasing the contract to a total certified amount of \$364,740.40 for installation of stamped concrete and related improvements as part of Phase II of the Downtown Revitalization Project of the Borough.

**R 36-20            Introduced by Councilman Mele**

WHEREAS, the Borough of Hawthorne, as well as other municipal entities and authorities, was named as a third-party defendant in a matter initiated by the New Jersey Department of Environmental Protection against various defendants claiming that said defendants discharged hazardous substances into the Passaic River; and

WHEREAS, the Borough, by prior resolution, authorized settlement of the third-party claims filed against it in total sum of \$95,000, with \$50,000 coming from State Aid and \$45,000 directly from the Borough; and

WHEREAS, the Borough, nevertheless, authorized its insurance defense provider, known as the E-JIF, to pursue reimbursement claims against private insurance providers to the Borough; and

WHEREAS, as a result of those efforts, the Continental Insurance Company and the Glens Falls Insurance Company have agreed to pay to the Borough the full sum it expended by way of settlement of claims by issuing payment to the Borough of \$45,000 and further agreeing to reimbursement of defense counsel expenses all in accordance with a Settlement Agreement incorporated herein by reference;

NOW THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne that it does hereby approve of the proposed settlement reached between the Borough of Hawthorne and Continental Insurance Company and the Glens Falls Insurance Company, and does authorize the Mayor and Borough Clerk to execute and deliver the same as and for the action of the Borough of Hawthorne.

Council President Matthews entertained a motion to approve consent agenda resolutions MR01-20 and R 32-20 through R 36-20, moved by Councilman Mele, seconded by Councilman Sciarra.

**Discussion**

Councilman Wojtecki commented on MR 01-20. He stated there are currently 14 houses between Goffle Road and North 8<sup>th</sup> Street that have approximately 17 parking spaces. He is asking to table the resolution for

one meeting and have the police look at that area to see how it is populated at night, he doesn't think that area can handle one more handicapped parking space.

Councilwoman Laiosa asked if our insurance company has been put on notice that there may be some Federal claims against the Borough. Attorney Pasquale stated we have not been put on notice by anyone that they intend to name the Borough as a third party in any lawsuit.

Statement from Councilwoman Laiosa

“Tonight, we are approving the settlement agreement with 204 Wagaraw Road. As the Hawthorne Environmental Commission Chair, I've been involved with both applications at the Planning Board and Zoning Board representing Hawthorne. In December 2011, I testified at the Planning Board for “Hawthorne’s Market Place” which proposed a shopping center with a food supermarket and retail space which the applicant addressed all the commission’s concerns about storm water management. The proposed use of supermarket and additional retail suited the industrial/commercial zone and the Planning Board Approved this application. Unfortunately, the applicant was unable to secure the anchor supermarket due to citizens in Hawthorne protesting Walmart.

In 2015, the Applicant proposed 219 residential units, 6,000 square feet of retail, and 4,000 square feet of office space at the Zoning Board. As the Chair, I testified several times and raised significant stormwater management concerns and flooding. This application was denied at the Zoning Board.

In light of the recent court case ruling for affordable housing, Hawthorne is required to implement Round 3 affordable housing. With this settlement agreement with 204 Wagaraw Road, it will satisfy part of our affordable housing requirements. The stormwater issues that I raised during the 2015 application process will be addressed and will be reviewed and approved by the NJDEP”.

On roll call, all voted yes, with the exception of Council Vice President Lane who abstained from R 32-20, motion carried.

**REPORTS OF SPECIAL COUNCIL COMMITTEES**

Councilman Sciarra reported the Hawthorne Board of Education has given notice of a board member vacancy. Any interested person needs to be a resident of Hawthorne with a term ending December 31, 2020. The interested person should send a letter providing information about themselves and that summarizes their interest in the position by 4:00pm Friday, February 21<sup>st</sup>. Interviews will be held at the Board of Education’s Special Public Board meeting on Tuesday, March 3<sup>rd</sup>. Letters should to be sent to Trude Engle, Business Administrator/Board Secretary at 445 Lafayette Avenue, her email is [TEngle@Hawthorne.K12.nj.us](mailto:TEngle@Hawthorne.K12.nj.us). The next Board of Education meeting will be held at Roosevelt Elementary School on February 11<sup>th</sup> at 7:00pm. The Library Board of Trustees meeting will be held on Wednesday, February 12<sup>th</sup> at 4:30pm.

Councilwoman Laiosa reported the Environmental Commission and Green Team meetings have been cancelled and will be combined on February 27<sup>th</sup>. The Gateway Project kicked off, the rain gardens have been excavated and are ready to be planted. The Boys & Girls Club is having a Beefsteak dinner on March 7<sup>th</sup> at the Boys & Girls Club.

Council Vice President Lane reported there was an Ordinance Committee meeting to go over the ordinance that was introduced at tonight’s meeting regarding the coffee restaurant drive-throughs. Meeting dates have been set for the year for the Ordinance Committee. He asked Mayor Goldberg for an update from the Board of Health on the flu shots. Mayor Goldberg has not had a chance to look into it as yet.

Council President Matthews reported the Chamber of Commerce wishes to thank everyone who supported the Company of the Year dinner last Friday. The Planning Board met last evening with two items on the agenda, one being a Certificate of Compliance for a mail and copy center on Lincoln Avenue next to Bella Fig restaurant. The Finance Committee will meet next Monday at 4:45pm. Council Vice President Lane asked if it is a UPS store, Mayor Goldberg stated it is just a general copy store and mail.

**BILLS**

Vendor Name	Description	Amount	Check Id
A-VAN ELECTRICAL	MISC. PARTS & SUPPLIES WATER	\$ 24.59	12457
ACORN TERMITE & PEST CONTROL	MONTHLY PEST CONTROL BORO HALL	100.00	27596
ACTION DATA SERVICES	PR#2 1/17/2020	513.08	27597
ACTION DATA SERVICES	PR#2 1/17/2020	128.27	12455
AGRA ENVIRONMENTAL SVC	MONTHLY WATER LAB TESTING	200.00	12456
AGRA ENVIRONMENTAL SVC	MONTHLY WATER LAB TESTING	506.25	12456
AGRA ENVIRONMENTAL SVC	MONTHLY WATER LAB TESTING	600.00	12456
AGRA ENVIRONMENTAL SVC	MONTHLY WATER LAB TESTING	281.25	12456
AGRA ENVIRONMENTAL SVC	MONTHLY - AGRA LICENSE FEES	700.00	12456

ASLAN & COMPANY, INC.	CLEANING CONTRACT BORO HALL	1,450.00	27598
BARCIA BROS FENCE CO INC	RESCUE 5 FENCE CHANGE ACCIDENT	1,500.00	27599
BERGENFIELD FIRE TRAINING CTR	LIVE FIRE TRAINING	4,000.00	27600
BERGENFIELD FIRE TRAINING CTR	LIVE FIRE TRAINING 4 VISITS	1,600.00	27600
BOSWELL ENGINEERING, INC	PRO ENGINEERING SERVICES	1,656.00	27601
BOSWELL ENGINEERING, INC	PRO ENG SERVICES	1,729.50	27601
BOSWELL ENGINEERING, INC	PRO ENG SERVICES	207.00	27601
BOSWELL ENGINEERING, INC	PRO ENG SERVICES	207.00	27601
BRAEN STONE INDUSTRIES, INC	ROAD DEPT - STONE SUPPLIES	500.00	27602
BRAEN STONE INDUSTRIES, INC	ROAD DEPT - STONE SUPPLIES	174.30	27602
BROWN'S JANITORIAL SUPPLY	JANITORIAL SUPPLIES BORO HALL	155.08	27603
BROWN'S JANITORIAL SUPPLY	JANITORIAL SUPPLIES BORO HALL	59.79	27603
CANON SOLUTIONS AMERICA INC	COPIER MONTHLY MAINTENANCE FEE	16.08	12458
CANON SOLUTIONS AMERICA INC	COPIER MONTHLY MAINTENANCE FEE	16.07	27604
COASTAL DISTRIBUTION PATERSON	CONST. & DEBRIS TRANSFER FEES	986.04	27605
COMMUNICATION SPECIALISTS	R-6 EMEGENCY RADIO REPAIRS	69.00	27606
DOWNES TREE SERVICE, INC.	JULY TREE REQUESTS - REMOVALS	550.00	27607
DOWNES TREE SERVICE, INC.	SEPTEMBER TREE PRUNING LIST	3,850.00	27607
DOWNES TREE SERVICE, INC.	TREE REMOVAL REQUESTS SEPT.	6,700.00	27607
DOWNES TREE SERVICE, INC.	OCTOBER PRUNING REQUESTS	1,750.00	27607
ELLEN BROGNO	EYEGLASS & LENSES	210.00	27608
FIFTH AVENUE LANDSCAPING	REMOVE DEBRIS 77 PASSAIC AVE	225.00	27609
FIREFIGHTER ONE LLC	RESCUE 5	1,874.17	27610
FIREFIGHTER ONE LLC	RESCUE 5	1,345.32	27610
FIREFIGHTER ONE LLC	RESCUE 5 OR UNIT 59	3,091.76	27610
FIREFIGHTER ONE LLC	BLANKET ORDER SCBA REPAIRS	664.20	27610
FREMGEN POWER EQUIPMENT INC	TIE DOWN SLINGS-10' X 2"	110.00	27611
GODWIN TOOL & HARDWARE SUPPLY	MISC PARTS & SUPPLIES ROAD	14.78	27612
GODWIN TOOL & HARDWARE SUPPLY	MISC PARTS & SUPPLIES WATER	33.96	12459
HAWTHORNE AUTO LAB	VEHICLE MAINTENANCE - ROAD	2,206.60	27613
HAWTHORNE AUTO LAB	2019 VEHICILE MAINT DRAWDOWN	267.47	27613
HAWTHORNE AUTO LAB	2019 VEHICILE MAINT DRAWDOWN	399.65	27613
HAWTHORNE BOARD OF EDUCATION	SCHOOL SECURITY STAFF JAN 2020	462.50	27614
HAWTHORNE PRESS INC	LEGAL NOTICE 11/26/19 MTG	29.64	27615
HAWTHORNE PRESS INC	LEGAL NOTICE 2020 SHEDULE	75.66	27615
HOME SUPPLY & LUMBER CO., INC.	MISC. PARTS / SUPPLIES - ROAD	31.15	27616
IDEMIA IDENTITY & SECURITY	LIVESCAN FINGERPRINT SYSTEM	10,745.00	27617
IDEMIA IDENTITY & SECURITY	LIVESCAN FINGERPRINT SYSTEM	1,421.00	27617
JERSEY ELEVATOR INC	BORO HALL ELEVATOR MONTHLY SVR	164.72	27618
JESCO INC	W-7 BK HOE REPAIRS	10,549.26	12460
LAURIE FOLEY	REIMB PYMT 2 MUN LIENS	26.00	27619
LORI FERNANDEZ	REIMB SNACKS FOR RE-ORG	52.50	27620
LOWES HOME IMPRV BUSINESS ACCT	TOOLS	77.12	12461
METLIFE	JAN 2020 ACT TM05001743 0001	324.84	27621
NJ TRANSIT	PERMIT#P1625-1775-01	802.00	27622
NORA C. ADAMS	SPAN INTERP 1/16/2020	200.00	27623
OAKLAND MARINE & EQUIPMENT INC	OUT DOOR POWER EQUIPMENT	17.00	27624
OAKLAND MARINE & EQUIPMENT INC	OUT DOOR POWER EQUIPMENT	20.00	27624
OAKLAND MARINE & EQUIPMENT INC	OUT DOOR POWER EQUIPMENT	33.95	27624
P & A AUTO PARTS, INC	AUTO SUPPLIES ROAD - EQUIPMENT	111.55	27625
P & A AUTO PARTS, INC	AUTO SUPPLIES ROAD - AUTO/TRUC	285.03	27625
PAINO ROOFING COMPANY INC	LIBRARY ROOF MAINTENANCE CONTR	966.00	27626
PASCACK DATA SERVICES	2/1-2/29/2020	1,905.50	27627
PASCACK DATA SERVICES	2/1-2/29/2020	1,905.50	12462
PC RICHARD & SON	HP 15.6 INTEL i3 DUAL CORE	1,599.95	27628
R.M. TUIT PAVING &	TUXEDO AVE DRAINAGE	16,950.00	27629
RC ADVERTISING	SPECIAL EVENT SUPPLIES	499.37	5542
STRATEGIC SAFETY DYNAMICS LLC	BLUE/YELLOW CHEVRON STRIPE	156.10	27630
T.M. FITZGERALD & ASSOCIATES	BLUE RECYCLING CANS	2,230.00	58
T.M. FITZGERALD & ASSOCIATES	BLUE RECYCLING CANS	0.00	58
T.M. FITZGERALD & ASSOCIATES	BLUE RECYCLING CANS LIDS	670.00	58
T.M. FITZGERALD & ASSOCIATES	SHIPPING	435.00	58
TANIS HARDWARE	VARIOUS SUPPLIES	72.96	27631
TANIS HARDWARE	HARDWARE PARTS & SUPPLIES	120.64	12463



TANIS HARDWARE	HARDWARE PARTS & SUPPLIES	256.69	27631
TANIS HARDWARE	HARDWARE PARTS & SUPPLIES	193.89	27631
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	91.20	27632
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	45.60	27632
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	45.60	27632
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	22.80	27632
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	45.60	27632
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	45.60	27632
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	45.60	12464
THE PAIGE CO., INC	MIRACLE BOX LETTER/LEGAL	20.00	27632
TREASURER, STATE OF NJ	HAWTHORNE COMPOST WAGARAW RD	1,015.00	5543
VERIZON	150-716-970-0001-04 1/16-2/15/	278.84	27634
VERIZON	000601742153 54Y 1/17-2/16/202	101.96	27634
VERIZON WIRELESS (N)	742284815-00001 1/20-2/15	240.06	27633
VITAL COMMUNICATIONS, INC.	REVALUATION TAPE UPDATES	100.00	27635
W.B. MASON CO INC	OFFICE CHAIR	286.00	27636
W.B. MASON CO INC	OFFICE SUPPLIES FOR DPW OFFICE	319.52	27636
W.B. MASON CO INC	OFFICE SUPPLIES FOR DPW OFFICE	9.79	27636
W.B. MASON CO INC	OFFICE SUPPLIES FOR DPW OFFICE	38.23	27636
W.B. MASON CO INC	ERGO HOLE PUNCH ELECTRIC	181.02	27636
W.B. MASON CO INC	METAL BOOKENDS / PR	4.24	27636
W.B. MASON CO INC	SHREDDER OIL	2.59	27636
W.B. MASON CO INC	KEYBOARD WRIST SUPPORT	28.49	27636
W.B. MASON CO INC	2020 DESK CALENDAR	18.89	27636
WM B MAHWINNEY AMBULANCE CORPS	4TH QTR 2019 AMBULANCE NUTRITI	1,250.00	27637
	TOTAL	\$98,299.36	

Council President Matthews entertained a motion to approve the bills and forward them to the Treasurer for payment, moved by Councilman Sciarra, seconded by Councilman Mele. On roll call, all voted yes, with the exception of Council Vice President Lane who abstained from bills pertaining to the Fire Department and Ambulance Corps., and Councilman Wojtecki who abstained from bills pertaining to the Fire Department. Motion carried.

### **PUBLIC COMMENT**

Council President Matthews opened the meeting to the public. He stated if anyone desires to be heard, please raise your hand to be recognized, come forward to the microphone and state your name and address. Seeing none, Council President Matthews entertained a motion to close the public portion of the meeting, moved by Councilman Mele, seconded by Councilman Wojtecki. Carried on voice vote.

## **THE NEXT REGULAR MEETING OF THE MUNICIPAL COUNCIL IS WEDNESDAY, FEBRUARY 19<sup>th</sup> at 7:00 PM**

### **ADJOURNMENT**

At 8:47pm Council President Matthews entertained a motion to adjourn the regular meeting, moved by Councilman Wojtecki, seconded by Councilman Mele. Carried on voice vote.

PERSONS WITH DISABILITIES WHICH REQUIRE AIDES SUCH AS: SIGN LANGUAGE INTERPRETER, TELECOMMUNICATIONS, BRAILLE, TAPES OR LARGE PRINT, SHOULD NOTIFY THE BOROUGH CLERK'S OFFICE TEN DAYS PRIOR TO ATTENDANCE AT A MEETING SO ACCOMMODATIONS MAY BE MADE.

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Frank E. Matthews, Council President

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Lori Fernandez, RMC, CMC Borough Clerk

