



Mayor and Common Council Borough of Flemington

April 12, 2021

Online during COVID-19 Emergency

Call to Order (6:30 PM)

Executive Session (6:30 PM)

1. RESOLUTION 2021-84: RETIRING INTO EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE REGARDING A COLLECTIVE BARGAINING LABOR DISPUTE AND THE COURTHOUSE SQUARE PROJECT

Work Session (7:00 PM)

Regular Meeting (7:30 PM)

This meeting is being held in conformance with the Open Public Meetings Act.

Flag Salute

Roll Call:

Betsy Driver	Mayor
Caitlin Giles-McCormick	Council President
Jessica Hand	Council Member
Malik Johnston	Council Member
Jeremy Long	Council Vice President
Christopher Runion	Council Member
Kimberly Tilly	Council Member

- I. Mayor's Report
- II. Council Members' Reports
- III. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)
- IV. Approval of Minutes

Motion To: **Approve Minutes: March 22, 2021 Regular Council Meeting**

Motion To: **Approve Minutes: March 22, 2021 Executive Session**

Consent Agenda

1. RESOLUTION 2021-85: AUTHORIZING AN OFF-PREMISES DRAW RAFFLE FOR THE READING-FLEMING MIDDLE SCHOOL PTO ON JUNE 12, 2021
 2. RESOLUTION 2021-86: A RESOLUTION CELEBRATING NATIONAL AUTISM AWARENESS MONTH
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3. RESOLUTION 2021-87: CERTIFYING COMPLIANCE WITH THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S 'ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964'

Regular Agenda

1. ORDINANCE 2021-7: SECOND READING- BOND ORDINANCE PROVIDING FOR WATER UTILITY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$1,472,501 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,402,381 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF
 2. ORDINANCE 2021-9: FIRST READING- ORDINANCE TO AMEND CHAPTER 21 OF THE CODE OF THE BOROUGH OF FLEMINGTON ENTITLED "STORMWATER MANAGEMENT"
 3. ORDINANCE 2021-10: FIRST READING- CALENDAR YEAR 2021 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET COST OF LIVING ALLOWANCE AND TO ESTABLISH A CAP BANK WHEN THE COLA IS EQUAL TO OR LESS THAN 2.5 PERCENT (N.J.S.A. 40A:4-45.14)
 4. ORDINANCE 2021-11: FIRST READING- AN ORDINANCE AMENDING CHAPTER 11 TITLED UTILITIES IN THE CODE OF THE BOROUGH OF FLEMINGTON
 5. RESOLUTION 2021-88: FIRST READING- 2021 MUNICIPAL BUDGET
 6. RESOLUTION 2021-81: AUTHORIZING AN ADDENDUM TO A SALES AGREEMENT FOR BOROUGH PROPERTY AT 144 MAIN STREET
 7. RESOLUTION 2021-89: AUTHORIZING REIMBURSEMENT OF UP TO 10 DAYS OF PERSONAL TIME FOR EMPLOYEES WHO RECEIVED A COVID-19 DIAGNOSIS IN 2021
 8. RESOLUTION 2021-90: AUTHORIZING APPROVAL OF THE SETTLEMENT OF AN EMPLOYEE GRIEVANCE
 9. RESOLUTION 2021-91: AUTHORIZING AN AGREEMENT WITH THE NEW JERSEY DIRECT INSTALL PROGRAM TO INSTALL AN AIR-CONDITIONING UNIT AND LED LIGHTING AT THE FLEMINGTON FREE PUBLIC LIBRARY
 10. RESOLUTION 2021-92: AUTHORIZING AN ARRANGEMENT WITH FRENCHTOWN BOROUGH REGARDING STREET SWEEPING
 11. RESOLUTION 2021-93: AUTHORIZING HIRING STEPHEN ECKERT AS PART-TIME FIRE INSPECTOR
- V. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)
- VI. Attorney's Report
-

VII. Payment of the Bills

Motion To: **Pay the Bills**

VIII. Executive Session for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

IX. Adjournment

Motion To: **Adjourn**

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-84

DOC ID: 3471

**Retiring into Executive Session for the Purpose of Obtaining
Legal Advice Regarding a Collective Bargaining Labor
Dispute and the Courthouse Square Project**

WHEREAS, the Common Council of the Borough of Flemington desires to seek legal advice related to a labor grievance and legal advice related to the Courthouse Square project; and

WHEREAS, an executive session for this discussion is justified under N.J.S.A. 10:4-12, which cites:

Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body; and

matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; and

WHEREAS, a date cannot yet be given for when the minutes from the executive session may be made public;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the Borough of Flemington go into executive session for the above-started purposes.

Adopted: April 12, 2021

Attest:

Sallie Graziano, Borough Clerk

Betsy Driver, Mayor

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:
DOC ID: 3466

SCHEDULED

RESOLUTION 2021-85

Authorizing an Off-Premises Draw Raffle for the Reading-Fleming Middle School PTO on June 12, 2021

WHEREAS an application has been received by the Borough of Flemington to grant an Off-Premises Draw Raffle License; and

WHEREAS no objection has been received by the Borough Clerk;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that an Off-Premises Raffle License be granted:

TO: Reading-Fleming Middle School PTO

BENEFIT: funding sixth-grade send-off, assemblies, and other educational programs and materials

DATE: June 12, 2021

LOCATION: 50 Court St., Flemington, N.J.

TIME: 10 a.m.- 2 p.m.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors: Council Vice President Jeremy Long

DOC ID: 3467

SCHEDULED

RESOLUTION 2021-86

A Resolution Celebrating National Autism Awareness Month

WHEREAS, autism spectrum disorder (ASD) is a developmental disability encompassing a broad range of conditions characterized by challenges associated with social skills, repetitive behaviors, speech and nonverbal communication; and

WHEREAS, in 2020, the Centers for Disease Control and Prevention reported that approximately 1 in 54 children in the United States is diagnosed with an autism spectrum disorder; and

WHEREAS, according to the CDC 2020 Community Report A Snapshot of Autism Spectrum Disorder in New Jersey 1 in 32 children were identified with ASD in 2016; and

WHEREAS, autism is four times more likely to occur in boys than in girls, but can affect anyone, regardless of race, ethnicity, or other factors; and

WHEREAS, in 2015, it was estimated the United States incurred approximately \$268 billion in costs for autism research, educational spending, housing, transportation, employment, therapeutic services, caregiver costs, other insurance and non-covered expenses, and productivity losses; and

WHEREAS, early diagnosis and intervention programs lead to significantly improved outcomes for individuals with autism; and

WHEREAS, April 2021 is designated as National Autism Awareness Month to increase public awareness of the need to support individuals with autism and the family members, educators and other professionals who teach and care for individuals with autism.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington in the county of Hunterdon celebrates National Autism Awareness Month from April 1-30, 2021; and

BE IT FURTHER RESOLVED, that the Flemington Borough Council recognizes and commends the family members of children with autism for their sacrifices and dedication in providing for the special needs of children with autism and stresses the need to begin early intervention services soon after a child is diagnosed with autism.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-87

DOC ID: 3468

**Certifying Compliance with the U.S. Equal Employment
Opportunity Commission's 'Enforcement Guidance on the
Consideration of Arrest and Conviction Records in
Employment Decisions Under Title VII of the Civil Rights Act
of 1964'**

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, that the Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, RMC, Borough Clerk

CLERK'S CERTIFICATION

I hereby certify that this is a true copy of the resolution passed at the Flemington Borough Council meeting held on April 12, 2021.

Sallie Graziano, RMC, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/22/21 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

TABLED

ORDINANCE 2021-7

DOC ID: 3445

Second Reading: Bond Ordinance Providing for Water Utility Improvements, by and in the Borough of Flemington, in the County of Hunterdon, State of New Jersey; Appropriating \$1,472,501 Therefor and Authorizing the Issuance of \$1,402,381 Bonds or Notes of the Borough to Finance Part of the Cost Thereof

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$1,472,501, which sum includes \$70,120 as the amount of down payment for said improvements or purposes required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). Said down payment is now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$1,472,501 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 \$1,402,381 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$1,402,381 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued are various water utility improvements on Dewey Avenue (from Mine Street to Bonnell Street); Corcoran Street (from Park Avenue to Allen Street); Shields Avenue (from Mine Street to end of the water main); Pennsylvania Avenue Extension (from Route 31 to end of the water main); Hopewell Avenue (from East Main Street to North Main Street) said improvements to include, but not be limited to, as applicable, water main line improvements and/or replacement including, but not limited to, acquisition and installation, as applicable, of cement lined duct iron and/or copper piping; valve improvements; and acquisition and installation, as applicable, of fire hydrant assemblies; and, as applicable, associated traffic control, roadway pavement restoration, curb, sidewalk and driveway repairs and lawn restoration; and all

work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,402,381.

(c) The estimated cost of said improvements or purposes is \$1,472,501, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of \$70,120, is the down payment for said improvements or purposes.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Hunterdon, and/or a private entity make a contribution or grant in aid to the Borough, for the improvements and purposes authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity, shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. 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 the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. 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 purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon 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 bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey

Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance is not a current expense and is an improvement which the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvements or purposes within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,402,381 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$324,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purposes or improvements hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond

counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING

DATED: March 22, 2021

SALLIE GRAZIANO,
Borough Clerk

ADOPTED ON SECOND READING

DATED:

SALLIE GRAZIANO,
Borough Clerk

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2021.

BETSY DRIVER
Mayor

TABLED: MARCH 8, 2021

ADOPTED ON FIRST READING

DATED: March 22, 2021

SALLIE GRAZIANO,
Borough Clerk

ADOPTED ON SECOND READING

DATED: April 12, 2021

SALLIE GRAZIANO,
Borough Clerk

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2021.

BETSY DRIVER
Mayor

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

ORDINANCE 2021-9

DOC ID: 3464

**Ordinance to Amend Chapter 21 of the Code of the Borough
of Flemington Entitled "Stormwater Management"**

FLEMINGTON BOROUGH, HUNTERDON COUNTY

WHEREAS, the Borough of Flemington, at its regular meeting of March 8, 2021 adopted a revised Stormwater Control Ordinance to align with the updated Stormwater Management Rules at N.J.A.C. 7:8; and

WHEREAS, it has been brought to the attention of the Borough of Flemington by the Hunterdon County Department of Planning and Land Use that some minor amendments are required in the Borough's ordinance.

NOW THEREFORE BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY THAT CHAPTER 21 OF THE CODE OF THE BOROUGH OF FLEMINGTON, ENTITLED, "STORMWATER MANAGEMENT" IS AMENDED AS FOLLOWS:

1. Section 21.4. "Design and Performance Standards for Stormwater Management Measures" shall be amended by deleting the first sentence of subparagraph M. in its entirety and replacing it with the following sentence, "Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Hunterdon County Clerk's Office."

2. Section 21.4 "Design and Performance Standards for Stormwater Management Measures" shall be further amended by deleting the entirety of subparagraph N and replacing it with the following, "N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to §21.4 of this ordinance and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Hunterdon County Clerk's Office and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with M above.

3. Section 21.9, "Requirements for a Site Development Stormwater Plan" shall be amended by deleting subparagraph (3) in its entirety and replacing it with the following, "3. The applicant shall submit 25 copies of the materials listed in the checklist for site development stormwater plans in accordance with §21.9.C of this ordinance.

4. Section 21.11, "Penalties" shall be deleted in its entirety and replaced by the following, Section 21.11, "Penalties" Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the maximum penalties permitted by law.

5. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

7. This Ordinance shall take effect upon final passage, publication, and filing, all in accordance with the law.

Introduced: April 12, 2021

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

ORDINANCE 2021-10

DOC ID: 2925

**First Reading: Calendar Year 2021 Ordinance to Exceed the
Municipal Budget Cost of Living Allowance and to Establish
a Cap Bank When the COLA is Equal to or Less Than 2.5
Percent (N.J.S.A. 40A:4-45.14)**

Borough of Flemington
County of Hunterdon

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% or the Cost-of-Living Adjustment (COLA), whichever is less, over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A:4-45.14 provides that a municipality may, in any year in which the COLA is equal to or less than 2.5% increase its final appropriations by a percentage greater than the COLA, but not to exceed the 3.5% rate as specified in the law, when authorized by ordinance; and,

WHEREAS, the COLA for 2021 has been certified by the Director of the Division of Local Government Services in the Department of Community Affairs as 2.5% and,

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, in any year in which the COLA is equal to or less than 2.5%, may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Borough Council of the Borough of Flemington in the County of Hunterdon finds it advisable and necessary to increase its 2021 budget by more than 2.50% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Borough Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$119,929.15 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Borough Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Flemington, in the County of Hunterdon, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the 2021 budget year, the final appropriations of the Borough of Flemington shall, in accordance with this ordinance and N. J.S.A. 40A:4-45.14, be increased by 3.5% amounting to \$167,900.81 and that the 2021 municipal budget for the Borough of Flemington be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Introduced: April 12, 2021

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

CERTIFICATION

I, Sallie Graziano, Municipal Clerk, hereby certify that this ordinance was duly introduced by the Borough of Flemington at a meeting held on April 12, 2021, and that a public hearing was held on _____, following which this ordinance was adopted by Borough Council at that same meeting. This ordinance has not been amended or repealed; it remains in full force and effect as of the date I have subscribed my signature.

Sallie Graziano, RMC, Municipal Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano
Initiator: Rebecca Newman
Sponsors:

SCHEDULED

ORDINANCE 2021-11

DOC ID: 3452

**An Ordinance Amending Chapter 11 Titled Utilities in the
Code of the Borough of Flemington**

BE IT ORDAINED that Chapter 11 titled Utilities in the Code of the Borough of Flemington be amended as shown in the attached document.

Introduced: April 12, 2021

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Financial Approval
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2021-88

DOC ID: 3447

First Reading: 2021 Municipal Budget

BE IT RESOLVED that the 2021 Municipal Budget, shown in the attached document, be adopted by the Council of the Borough of Flemington, County of Hunterdon, State of New Jersey.

Introduced: April 12, 2021

Adopted:

ATTACHMENTS:

- 1009_introbudget_2021 (PDF)

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/22/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2021-81

DOC ID: 3458

**Authorizing an Addendum to a Sales Agreement for Borough
Property at 144 Main Street, Block 38, Lot 1.01**

WHEREAS, Council desires to amend the due diligence period and time and date of closing for the sale of Borough property at 144 Main St., Block 38, Lot 1.01, to Tidbits NJ LLC, as reflected in the attached document;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington hereby approves the above-referenced addendum to the agreement for the sale of Borough Property at 144 Main Street.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

ADDENDUM TO CONTRACT FOR SALE
BY AND BETWEEN

TIDBITS NJ, LLC ("BUYER")
AND
THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON
("SELLER")
FOR
LOT 1.01, BLOCK 38, BOROUGH OF FLEMINGTON, HUNTERDON COUNTY
(144 MAIN STREET)

The undersigned parties agree to amend the Contract of Sale of Real Estate dated October 5, 2020, for the above referenced property as follows:

1. Paragraph 1—*Time and Place of Closing*. The closing date is amended to reflect within thirty (30) days of the conclusion of the due diligence period.
2. Paragraph 22 – *Due Diligence Period*. The period of time for the Buyer to complete their due diligence is extended to July 1, 2021. The Seller shall grant Buyer and its agents access to the Property for such purposes upon twenty-four hours written notice, which can be transmitted via email.

It is understood and agreed that this Addendum is in addition to the terms and provisions of the Contract of Sale of Real Estate by and between the parties hereto along with all Riders and Addendums preceding this Addendum. Where any clause or clauses in this Addendum are inconsistent with any clause or clauses of the Contract referred to herein, it is understood that this Addendum shall prevail and supersede any inconsistent clause or clauses in the Contract.

The parties have read and understand this Addendum to the Contract for Sale fully. It is signed in accordance with New Jersey law by the Buyer and by the Sellers.

DATED: _____

TIDBITS NJ, LLC, Buyer

DATED: _____

THE BOROUGH OF FLEMINGTON, Seller

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-89

DOC ID: 3463

**Authorizing Reimbursement of Up to 10 Days of Personal
Time for Employees who Received a COVID-19 Diagnosis in
2021**

Whereas, the Coronavirus (COVID-19) pandemic has impacted the workforce in ways never before seen, and

Whereas, the Mayor and Council of the Borough of Flemington have deemed it in the best interest of the Borough and its employees to reimburse employees up to ten (10) days of personal time if they have received a documented Covid diagnosis during the 2021 calendar year.

Now, Therefore, Be It Resolved by the Mayor and Council of the Borough of Flemington that the Chief Financial Officer be authorized to pay any employee with a Covid diagnosis in the year 2021 up to ten (10) days without using any personal, sick, or vacation time.

Adopted: April 12, 2021

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:
DOC ID: 3465

SCHEDULED

RESOLUTION 2021-90

**Authorizing Approval of the Settlement of an Employee
Grievance**

Flemington Borough, Hunterdon County

This Resolution seeks to approve the execution of a Settlement Agreement ("Agreement") by and among Teamsters Local Union No. 469 (the "Union"), The Borough of Flemington ("Employer") and Joshua D. Parks ("Employee");

WHEREAS, the Employee is employed by the Employer as a Water Superintendent in the Employer's Department of Public Works and is a member of the Union; and

WHEREAS, the Employee pursuant to the terms of the Collective Negotiations Agreement ("CNA") between the Union and the Employer filed a Grievance with the Employer wherein the Employee alleged that on August 31, 2020, the Employer's Department of Public Works Director advised him that he would not be properly compensated for working weekends and two (2) holidays during the current COVID-19 pandemic; and

WHEREAS, the Employer denied the Grievance; and

WHEREAS, pursuant to the terms of the CNA, the Union filed for arbitration with the Public Employment Relations Commission ("PERC"), with referenced to the Employee's Grievance with PERC assigning the arbitration Case Number: AR-2021-182; and

WHEREAS, an arbitration was scheduled for April 6, 2021 before Arbitrator Susan Panepento; and

WHEREAS, the parties have sought to settle and terminate fully and finally all differences and disputes between them with reference to the Employee's Grievance and the pending arbitration before PERC;

WHEREAS, the Employee and the Employer have engaged in negotiations which have culminated in a settlement which is agreeable to all parties, and a copy of that settlement is attached to and made part of this Resolution;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey approve the entry and execution of the proposed settlement.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

ATTACHMENTS:

- draft settlement agreement to flemington(DOCX)

DRAFT

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is executed by and among Teamsters Local Union No. 469 (the "Union"), The Borough of Flemington ("Employer") and Joshua D. Parks ("Employee");

WHEREAS, the Employee is employed by the Employer as a Water Superintendent in the Employer's Department of Public Works and is a member of the Union; and

WHEREAS, the Employee pursuant to the terms of the Collective Negotiations Agreement ("CNA") between the Union and the Employer filed a Grievance with the Employer wherein the Employee alleged that on August 31, 2020, the Employer's Department of Public Works Director advised him that he would not be properly compensated for working weekends and two (2) holidays during the current COVID-19 pandemic; and

WHEREAS, the Employer denied the Grievance; and

WHEREAS, pursuant to the terms of the CNA, the Union filed for arbitration with the Public Employment Relations Commission ("PERC"), with referenced to the Employee's Grievance with PERC assigning the arbitration Case Number: AR-2021-182; and

WHEREAS, an arbitration was scheduled for April 6, 2021 before Arbitrator Susan Panepento; and

WHEREAS, the parties now desire to settle and terminate fully and finally all differences and disputes between them with reference to the Employee's Grievance and the pending arbitration before PERC;

IT IS HEREBY AGREED by and among the Union, the Employer, and Employee as follows:

1. In full consideration of Employee's signing of this Agreement, and Employee's agreement to be legally bound by these terms, the Employer will pay the Employee the gross amount of Four Thousand Dollars and Zero Cents (\$4,000.00) less all legally applicable and authorized withholdings and deductions. Payment shall be made within fourteen (14) days of the execution of this Agreement by all parties. As further consideration of the Employee signing this Agreement, and the Employee's agreement to be legally bound by these terms, the Employer shall provide the Employee with an additional 7.5 days of compensation time, which cannot be cashed in by the Employee and must be used solely for time off subject to the written approval of the Director of Public Works which approval shall not be unreasonable denied or withheld.
2. Employee recognizes and understands that he would not otherwise be entitled to this payment and additional compensation time if he did not agree to enter into and be legally bound by the terms of this Agreement.
3. The parties agree that this Agreement shall resolve any and all claims on the part of the Union and/or the Employee with respect to the Grievance and the arbitration bearing Case No.: AR-2021-182.
4. Upon receipt of the payment referenced in paragraph 1 of this Agreement and written proof provided by the Employer to the Union and the Employee that the Employee's employment records have been updated to reflect the additional 7.5 days of compensation time, the Union

DRAFT

shall withdraw, with prejudice, Case No.: AR-2021-182 pending before the Public Employment Relations Commission.

5. Although the parties believe that they provide timely notice of cancellation of the arbitration hearing to Arbitrator Panepento to avoid payment of any late cancellation charges, should there be any late cancellation charges assessed, the parties agree that they shall each be responsible for 50% of any such late cancellation charges.
6. Employee represents and agrees that he has been encouraged to discuss all aspects of this Agreement with the Union, counsel or other personal advisor of his choice and that he has carefully read and he fully understands all of the provisions of this Agreement, and that he is voluntarily entering into this Agreement of his own free will and not under any undue duress.
7. Employee agrees that the Union has properly represented him throughout the grievance and arbitration process and was made aware of his rights in the matter and that he is satisfied with the resolution of this matter and the Union's services.
8. This Agreement is made on a non-precedent setting basis with respect to the interpretation of the Collective Negotiations Agreement, and may not be presented in connection with any other matter regarding the interpretation of the Collective Negotiations Agreement in any way. This Agreement is not an admission of any violation of the Collective Negotiations Agreement or violation of any applicable federal, state, or local law.
9. The foregoing constitutes the entire agreement amongst the parties with reference to the resolution of the above-referenced Grievance and Arbitration, and there are no other written or oral understandings, promises, or agreements directly or indirectly related to this Agreement that are not incorporated herein in full. This Agreement may not be modified except in writing signed by the parties.
10. This Agreement shall be performed, interpreted and enforced according to the laws of the State of New Jersey. Any action arising out of, or relating to, any of the provisions of this Agreement may be brought and prosecuted only in the courts of, or located in, the State of New Jersey.

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The parties hereto, intending to be legally bound, hereby affix their signatures below:

FOR TEAMSTERS LOCAL UNION NO. 469 FOR THE BOROUGH OF FLEMINGTON

Date: _____

Date: _____

FOR THE EMPLOYEE

Joshua D. Parks

Date: _____

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Financial Approval
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2021-91

DOC ID: 3462

Authorizing an Agreement with the New Jersey Direct Install Program to Install an Air-Conditioning Unit and LED Lighting at the Flemington Free Public Library

WHEREAS, the Borough of Flemington desires to install a 5-ton air conditioning unit at the Flemington Free Public Library, and also replace the lights with LED lighting; and

WHEREAS, the New Jersey Direct Install Program (NJDI) has reviewed the planned upgrades and qualified them for up to 80% reimbursement under the NJDI;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the Borough of Flemington hereby authorizes participation in the New Jersey Direct Install Program for a project that will include installing a 5-ton air conditioning unit at the Flemington Free Public Library and replacing lights with LED lighting.

BE IT FURTHER RESOLVED that the New Jersey Direct Install Program will reimburse the Borough for up to 80% of the cost.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk, and other officials as needed, are authorized to sign any documents authorizing an agreement with the New Jersey Direct Install Program for the work described above.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Financial Approval
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

RESOLUTION 2021-92

DOC ID: 3469

**Authorizing an Arrangement with Frenchtown Borough
Regarding Street Sweeping**

WHEREAS, The Borough of Frenchtown has a need for street sweeping services; and

WHEREAS, The Borough of Flemington has the available equipment and manpower to perform this service; and

WHEREAS, The Borough of Flemington is willing to provide this service according to the following terms:

The Borough of Frenchtown will reimburse the Borough of Flemington at a rate of \$250 per hour, portal to portal, which fee covers all labor, vehicle and fuel costs.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington authorizes the above-stated arrangement with the Borough of Frenchtown, for the use of Flemington Borough equipment and DPW personnel.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 04/12/21 07:30 PM
Department: Clerk of the Borough
Category: Appointments
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-93

DOC ID: 3470

Authorizing the Hiring of Stephen Eckert as a Part-Time Per Diem Fire Inspector

WHEREAS, Flemington Borough Council adopted Resolution 2021-80 on March 22, 2021, authorizing the Fire Official to advertise for and hire licensed fire inspectors as needed to conduct some of the required fire inspections of commercial and residential properties in the borough, and

WHEREAS, The Fire Official has conducted interviews and recommends hiring Stephen Eckert of Hillsborough, NJ, as a part-time per diem fire inspector at a rate of \$20 per hour; and

WHEREAS, the licensing fees generated by the inspections will cover the expense with no negative impact to any other aspect of the Borough budget or financial commitment to the Fire Department; and

WHEREAS, Mr. Eckert is fully certified by the State of New Jersey as a Fire Official;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington authorizes the hiring of Stephen Eckert of Hillsborough, NJ as a part-time per diem fire inspector at a rate of \$20 per hour, to start immediately.

Adopted: April 12, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk