

**BOROUGH OF MIDLAND PARK**  
**45 Witte Drive**  
**Midland Park NJ 07432**  
**April 8, 2021**

**8:00 PM Open Public Meeting Minutes**

On April 8, 2021 at 8:00 p.m., the Mayor and Council of Midland Park conducted an in person meeting as previously advertised, there was also an option for the public to access the meeting electronically by dialing this Toll-Free Dial in number [1 866 899 4679](tel:18668994679) Access Code: 766-030-917

Questions, Comments or Concerns were emailed in advance to the Borough Clerk at [wmartin@midlandparknj.org](mailto:wmartin@midlandparknj.org) no later than April 8, 2021 4:00 pm.

Agenda items for the meeting were listed on the Borough website. The foregoing electronic option was recommended due to the current situation involving the COVID-19 Virus and directives of State and County governments.

The **Mayor** called upon **Councilwoman DeLuca** to give this evening's Invocation, and then the **Mayor** led all present in the Pledge of Allegiance.

**Mayor Shortway** called the meeting to order, noting the date as April 8, 2021, and that there will be a 3-minute limit to each individual addressing the Governing Body during the Open Public portions of the meeting.

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

|                   |                                  |                |
|-------------------|----------------------------------|----------------|
| <b>Roll Call:</b> | <b>Mayor Shortway</b>            | <b>Present</b> |
|                   | <b>Councilman Damiano</b>        | <b>Present</b> |
|                   | <b>Councilman Kruis</b>          | <b>Present</b> |
|                   | <b>Councilman Sansone</b>        | <b>Absent</b>  |
|                   | <b>Councilwoman DeLuca</b>       | <b>Present</b> |
|                   | <b>Councilwoman Peet</b>         | <b>Present</b> |
|                   | <b>Council President Iannone</b> | <b>Present</b> |

**ALSO PRESENT:** Borough Attorney Regan and Acting Borough Administrator/Borough Clerk Martin

**PUBLIC ROLL CALL:**

Acting Administrator/Clerk Martin took a roll call of the public in attendance

Caller 1 – no comment

Caller 2 – no comment  
**Anthony Sikora – 41 Chestnut Street** – no comment  
**Annie Campbell – 25 Chestnut Street** – no comment  
Caller 5 – no comment  
Caller 6 – no comment

**APPROVAL OF MINUTES:**

**No minutes available for approval at this time.**

**OPEN TO THE PUBLIC:**

The **Mayor** opened the meeting to the public for general questions, concerns and comments.

Acting Administrator/Clerk Martin asked individual members of the Public to speak at this time.

**Mrs. Garcia – 38 Van Blarcom Avenue** - no comment

Caller 2 – no comment

**Anthony Sikora** – emailed his questions to Borough Clerk Martin and will speak when his email is addressed

**Annie Campbell** – no comment

Caller 5 – no comment

Caller 6 – no comment

**Linda Eliya – 96 Westbrook Avenue** – no comment

Caller 8 – no comment

At this time questions, concerns or comments emailed in advance to the Borough Clerk were addressed.

**Anthony Sikora –**

It is my understanding that Midland Park, like our neighboring towns, is in search of new ways to increase tax revenue without passing that cost to its residents. We know the Council and Mayor are constantly looking at viable options that will ultimately help support incentives for economic development to fill the empty retail spaces in town. And so, we want to understand the proposal of Ordinance #07-21 to ban any and all cannabis businesses in Midland Park.

Per the Bergen County Board of Elections, during the November 2020 election, approximately 2/3rds of the ballots cast in Midland Park voted in favor of allowing the legalization of cannabis in the state of New Jersey.

With this in mind, we would like clarification on how the Council came to propose this ordinance.

My questions are as follows:

1. What studies/polls/analyses has the town performed to determine the tax benefits vs detriments (both short-term and long-term) of allowing / banning cannabis businesses? What were the specific findings and can the results be shared with the public?
2. Was the public polled before proposing this ordinance? If so, can you share when and how?

3. The state has given a grace period of 180 days since Gov. Murphy signed the bill into law to vote on an ordinance. Can you advise why this is being voted on now?
4. If the ordinance to ban cannabis in town is discussed today and ultimately passed by the Council as of May 13, 2021 as laid out in the agenda, what will your next steps be to ensure the public is properly consulted and can you share a timeline of when this will happen?
5. What is the deadline to overturn the ban should it pass on May 13<sup>th</sup>?

Acting Administrator Martin stated the Borough has not conducted any studies, polls or analysis regarding the cannabis legislation that has been signed by Governor Murphy. Borough Attorney Regan explained the process this type of ordinance must go through, noting that passing this ordinance is a safety measure to ensure the Borough has flexibility with opting in at any time. Attorney Regan explained it is easy to repeal an ordinance but, at this time, once an ordinance is set to opt-in, should things go wrong, the municipality must wait five years to opt-out. Acting Administrator Martin explained the Governing Body's plan is to opt-out now, take time to review the impact on other municipalities and investigate all outcomes for Midland Park before making a decision.

Mr. Sikora reminded the Governing Body that two-thirds of the ballots cast in Midland Park were in favor of the legalization of cannabis and he does not want the Governing Body to let this fall by the wayside without considering the potential revenue source.

**Michael Donato – 914 N. Monroe Street**

"I urge the council to reject 07-21 related to the legal operation of cannabis establishments. There is much support within the town for local business, and for the safe and legal use of cannabis. While not conclusive, the evidence leans towards positive benefit for the town, and at the very least I ask the council to give the community some time to weigh in, as there's still plenty of time within the 180 window to make a decision on legality within the borough. Additionally, I'd ask it be made known what the non-profit organizations that are providing this guidance, and what is the science and data supporting it? I feel there has not been adequate consideration to the benefits of allowing this, and only consideration to imaginary pitfalls that we haven't thought of yet. Additionally, there are other avenues the town can take to safely vet a potential cannabis business that wants to operate in town. I would ask the council to reject this and allow more discourse and research on the topic. The potential benefits certainly would suggest at least a more thorough discussion on this matter before we close the doors on it for five years."

Acting Administrator Martin stated she has spoken to Mr. Donato and informed him that the New Jersey League of Municipalities has recommended this ordinance.

**Sal Falciglia – 80 Woodside Avenue**

"1- With the BOE currently working on a plan to improve the fields to help with the long term use for both BOE and recreation use does the town have a plan to work with the BOE to possibly pool resources, use open space funds etc to help with the cost of these improvements that benefit not just the schools but the town as a whole as Midland Park doesn't have many fields for recreational use.

**Councilwoman Peet** addressed this question: The liaisons from both entities have spoken regarding this issue and, as of now, are waiting for financial information from the Business Administrator of the Board of Education. Once that is received, there will be consideration of a referendum to get the community's input.

2- I have 2 young kids that love going to the Dairy Street Park almost daily and was wondering if there's any plans to improve the equipment? The slides don't slide anymore as they have been exposed to UV light for decades, also every time it rains a section of the play area floods and becomes a soupy mess.

Acting Administrator Martin stated the Borough has applied for grants to replace all the playground equipment.

3- In light of current concerns over transparency with the recreation department does the council have any plans to change or amend its rules to become more transparent as the recreation department deferred residents concerns at their last meeting on Monday night to the town council.

Acting Administrator Martin reported the Recreation Director continues to work with the sports organizations, noting that the Borough does not govern them but does work with them.

**Claire Becker – 266 Paterson Avenue**

"Why are the same people running town teams after they lost the 501 status?"

Borough Attorney Regan stated that there are no individuals running the sports teams after having lost the 501 status.

Also,

"How have these people been made accountable and what consequences did they face?"  
As a resident I would like to see them banned from running town teams. Let's vote.

Borough Attorney Regan noted that individual was asked to step down from the association in 2019.

**RESOLUTION #078-21 - Budget by Title**

**WHEREAS**, the provisions of N.J.S.A. 40A:4-8 and N.J.S.A. 40A:4-9 have been followed.

**NOW, THEREFORE, BE IT RESOLVED**, that a majority of the full authorized membership of Borough Council of the Borough of Midland Park, affirmatively concurs that the 2021 Municipal Budget on Introduction may be read by title only.

**Introduced by: Councilman Damiano**

**Seconded by: Councilwoman DeLuca**

**Roll Call: Councilman Damiano**

**Aye**

**Councilman Kruis**

**Aye**

**Councilman Sansone**

**Absent**

**Councilwoman DeLuca**

**Aye**

**Councilwoman Peet**

**Aye**

**Council President Iannone**

**Aye**

**INTRODUCTION OF THE 2021 BUDGET**

**Introduced by: Councilwoman Peet**

**Seconded by: Councilwoman DeLuca**

**Roll Call: Councilman Damiano**

**Aye**

**Councilman Kruis**

**Aye**

**Councilman Sansone**

**Absent**

**Councilwoman DeLuca**

**Aye**

**Councilwoman Peet**

**Aye**

**Council President Iannone**

**Aye**

**LIAISON REPORTS:**

**Mayor Shortway**

**Mayor Shortway** reported he will be attending a meeting on Saturday, April 10<sup>th</sup>, with the North West Bergen County Mayors; on Tuesday, April 13<sup>th</sup>, he will be meeting with all the Bergen County Mayors and, as of now, there is no conference with the Governor this month.

**Councilwoman DeLuca**

**Public Safety – Fire/Ambulance/Library**

**Councilwoman DeLuca** reported the **Ambulance Corps** held the monthly meeting on April 5<sup>th</sup>: they answered 59 calls for service during March; the new ambulance has arrived; members will be receiving instructions on Saturday, April 10<sup>th</sup> and they are planning on something for the public to see the new rig but nothing is definitive as of now.

The **Councilwoman** reported the **Fire Department** will hold the next meeting on Wednesday, April 14<sup>th</sup> so she will give a report at the next Council meeting; she has spoken to the Chief, and he indicated the Department is in good shape and the new engine is scheduled to be done in October.

**Councilwoman DeLuca** reported the **Library Board** will be meeting on April 20<sup>th</sup> and she will give a report at the next Council meeting. She noted the virtual programs being offered for children and adults are posted on the weekly updates from the Borough and on the Library's website. The **Councilwoman** noted the Library is planning to host outdoor programs in May and the Friends of the Library is holding a fundraiser on April 12<sup>th</sup> and 13<sup>th</sup>, with all information on the Library's website.

**Councilman Damiano**

**Finance/Recreation/Information Technology**

**Councilman Damiano** reported progress for **Finance** and **Information Technology**.

The **Councilman** reported the **Board of Recreation** held a meeting on April 5<sup>th</sup>: the summer camp registration has started, and 36 kids have signed up with more expected and there is uncertainty regarding Waldwick's participation in the program.

**Council President Iannone**

**Public Safety – Police/ Personnel/Ridgewood Water**

**Council President Iannone** reported the **Police Department** has responded to 688 calls during March; the Chief, the two Lieutenants and one of the Sergeants have attended numerous seminars regarding the legalization of marijuana.

The **Council President** reported he attended the April 6<sup>th</sup> **Ridgewood Water's** virtual presentation: they will be implementing a new software platform, Water Smart, allowing for more personalized customer involvement in water usage data and consumption analysis; there will be a 2-way communication option using the Water Smart messaging platform; water usage

strategies and leak alerts will be available; every customer will have access to a personalized portal; it is mobile friendly and will integrate bill paying, eliminating the need for a third-party site. The **Council President** noted another virtual presentation will be given on April 20<sup>th</sup>.

**Councilman Kruis**

**Planning Board/Building Dept/Fire  
Prevention/OEM/Property Maintenance**

**Councilman Kruis** reported the **Planning Board** will be meeting later this month so he will have a report at the next Council meeting.

The **Councilman** met with the **Building Inspector**: there are changes coming in the next few months regarding fees and procedures for home improvement.

**Councilman Kruis** reported he received a nice report from the **Fire Prevention/Office of Emergency Management Official**: to date the official reimbursement amount is \$154, 040.36 and approximately \$50,000 is being requested from FEMA for Tropical Storm Isaias which has not yet been received; the Fire Prevention Official has performed 11 inspections with 2 reinspection's; addressed 19 violations, issued 9 certificates and is very busy with sale-of-home inspections. The **Councilman** stated the OEM Coordinator reported the Personal Protection Equipment supplies are all good at this time.

**Councilman Sansone**

**Public Works/Chamber of Commerce/Economic  
Development Committee**

**Due to Councilman Sansone's** absence, no report was given.

**Councilwoman Peet**

**Board of Health/ Board of Education/Municipal Alliance**

**Councilwoman Peet** reported the **Board of Health** has had 23 reported active COVID cases as of today; there have been 329 active cases this year; rodent concerns continue, in 2020, there were nine infestation complaints and while there has been only one so far in 2021, residents must be mindful of household waste and leaf piles; it applies to not only chipmunks and squirrels but also rats; the rabies clinic will be held on May 10<sup>th</sup>, 6:30 P.M. to 8 P.M. and will be a drive through. Borough Clerk Martin stated no licenses will be issued at the clinic, all licenses will be by mail or drop off at the drop box. **Councilwoman Peet** noted the Board of Health will hold their meeting after the clinic.

The **Councilwoman** reported the **Board of Education** met on April 6<sup>th</sup> and for details please visit their website.

**Councilwoman Peet** reported the **Municipal Alliance** will be having their next meeting on April 19<sup>th</sup> and she will give a report at the next Council meeting.

**ADMINISTRATOR'S REPORT**

Acting Borough Administrator Martin had no report at this time.

**ORDINANCES ON FINAL:**

**1. ORDINANCE #05-21**

**“AN ORDINANCE TO AMEND CHAPTER 7 OF THE CODE OF THE BOROUGH OF MIDLAND PARK ENTITLED, “TRAFFIC” (SNOW EMERGENCIES)**

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

**Section 1.**

Chapter 7 of the Code of the Borough of Midland Park, Traffic, §7-3, Parking, Subsection 7-3.3, Snow Emergencies, be and is hereby amended to read as follows:

**§7-3.3. Snow/Ice Emergencies; Temporary Parking Prohibition For Snow Plowing and Removal.**

- a. Whenever snow and/or ice has fallen and the accumulation of snow and/or ice is such that it covers the streets or highways, an emergency shall exist and no vehicle shall be parked on any street or highway within the Borough. The above parking prohibitions shall remain in effect after the snow has ceased until the streets have been plowed sufficiently and to the extent that parking will not interfere with the normal flow of traffic.
- b. Any unoccupied vehicle parked or standing in violation shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.

**Section 2. Fines and Penalties.**

Any person convicted of violating this Ordinance shall be subject to such fines and penalties as set forth in §1-5, General Penalty, of the Borough Code.

**Section 3. Severability.**

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

**Section 4. Inconsistent Ordinances Repealed.**

All ordinances or parts or ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

**Section 5. Effective Date.**

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

**Introduced by: Council President Iannone**

**Seconded by: Councilwoman DeLuca**

At this time, **Mayor Shortway** opened the meeting to the public for any questions, comments or concerns regarding Ordinance #05-21.

There is no public in person at the meeting.

Acting Administrator Martin reached out to the public on the line:

**Mrs. Garcia** – no comment

Caller 2 – no comment

**Anthony Sikora** – no comment

**Annie Campbell** – no comment

Caller 6 – no comment

Caller 7 – no comment

Caller 8 – no comment

**Laura Junta – 151 Birch Street** - no comment

There being no response, the **Mayor** closed the meeting to the public and called for a Roll Call Vote

of Council.

|                   |                                  |               |
|-------------------|----------------------------------|---------------|
| <b>Roll Call:</b> | <b>Councilman Damiano</b>        | <b>Aye</b>    |
|                   | <b>Councilman Kruis</b>          | <b>Aye</b>    |
|                   | <b>Councilman Sansone</b>        | <b>Absent</b> |
|                   | <b>Councilwoman DeLuca</b>       | <b>Aye</b>    |
|                   | <b>Councilwoman Peet</b>         | <b>Aye</b>    |
|                   | <b>Council President Iannone</b> | <b>Aye</b>    |

**CONSENT AGENDA:**

All matters listed below are considered by the Borough Council to be routine in nature. There will be no separate discussion of these items. If any discussion is desired by the Borough Council, that item will be removed from the consent agenda and considered separately:

**Resolution #079-21 Emergency Temporary Budget 2021**

**WHEREAS**, N.J.S.A. 40A:4-20 provides that where contracts, commitments, or payments are to be made prior to the final adoption of the 2021 budget, an emergency temporary appropriations can be made for the purpose and amount required in the manner and time therein provided; and,

**WHEREAS**, said emergency temporary appropriations in the amount of \$1,777,971.20 are included in the 2021 budget to be introduced.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Midland Park, County of Bergen, State of New Jersey, that the following emergency temporary appropriations are made and that a certified copy of this resolution be transmitted to the Chief Financial Officer for his or her records:

|                                       |                    |              |
|---------------------------------------|--------------------|--------------|
| <b>Administrative &amp; Executive</b> | Salaries & Wages   | \$ 25,462.20 |
|                                       | Other Expenses     | 14,000.00    |
| <b>Financial Administration</b>       | Salaries and Wages | \$ 18,190.00 |
|                                       | Other Expenses     | 1,000.00     |
| <b>Assessment of Taxes</b>            | Salaries and Wages | \$ 9,106.05  |
|                                       | Other Expenses     | 200.00       |
| <b>Collection of Taxes</b>            | Salaries and Wages | \$ 13,947.90 |
|                                       | Other Expenses     | 750.00       |
| <b>Legal Services and Costs</b>       | Other Expenses     | \$ 15,000.00 |
| <b>Engineering Services and Costs</b> | Other Expenses     | \$ 2,000.00  |
| <b>Public Building and Grounds</b>    | Salaries and Wages | \$ 9,757.80  |
|                                       | Other Expenses     | 5,000.00     |
| <b>Board of Adjustment</b>            | Salaries and Wages | \$ 4,000.00  |
|                                       | Other Expenses     | 793.00       |
| <b>Planning Board</b>                 | Salaries and Wages | \$ 4,000.00  |
|                                       | Other Expenses     | 566.00       |
| <b>Insurance</b>                      | Other Expenses     | \$120,000.00 |
| <b>Other Insurance</b>                | Other Expenses     | \$ 67,334.00 |
| <b>Fire Department</b>                | Other Expenses     | \$ 2,500.00  |
| <b>Police Department</b>              | Salaries and Wages | \$520,193.90 |
|                                       | Other Expenses     | 20,000.00    |
|                                       | Dispatch           | 1,350.00     |
| <b>Uniform Fire</b>                   | Salaries and Wages | \$ 3,862.60  |



|                               |                    |                        |
|-------------------------------|--------------------|------------------------|
| Emergency Mgt Svc             | Salaries and Wages | \$ 6302.15             |
|                               | Other Expenses     | 500.00                 |
| Department of Public Works    | Salaries and Wages | \$ 84,782.50           |
|                               | Other Expenses     | 2,000.00               |
| Department of Public Works    | Snow Storms        | \$ 50,000.00           |
| Recycling                     | Salaries and Wages | \$ 5,280.00            |
|                               | Other Expenses     | 33,000.00              |
| NW Regional Health Commission | Other Expenses     | \$ 10,000.00           |
| Recreation                    | Salaries and Wages | \$ 11,958.55           |
|                               | Other Expenses     | \$ 5,000.00            |
| Property Maint                | Salaries and Wages | \$ 1,200.00            |
| Uniform Construction Code     | Salaries and Wages | \$ 46,749.55           |
|                               | Other Expenses     | 150.00                 |
| Utilities                     | Other Expenses     | \$ 125,000.00          |
| Statutory Expenditures        | Other Expenses     | \$ 36,000.00           |
| Mayor and Council             | Other Expenses     | \$ 250.00              |
| Municipal Clerk               | Salaries and Wages | \$ 21,294.40           |
|                               | Other Expenses     | 1,000.00               |
| Vehicle Maintenance           | Other Expenses     | \$ 7,500.00            |
| Animal Control                | Other Expenses     | \$ 1,600.00            |
| Prosecutor                    | Salaries and Wages | \$ 1,264.00            |
| I.T. Services                 | Salaries and Wages | \$ 15,000.00           |
|                               | Other Expenses     | \$ 1,350.00            |
| Fire Prevention               | Other Expenses     | \$ 2,250.00            |
| Municipal Court               | Salaries and Wages | \$ 22,622.00           |
|                               | Other Expenses     | 1,000.00               |
| Memorial Public Library       | Salaries and Wages | \$ 49,358.80           |
|                               | Other Expenses     | \$ 71,400.00           |
| NW Bergen Utilities Authority | Other Expenses     | \$ 276,095.00          |
| Waldwick Sewer                | Other Expenses     | \$ 6,000.00            |
| Waldwick Pistol Range         | Other Expenses     | \$ 5,880.00            |
| Ho-Ho-Kus Interlocal          | Salaries           | \$ 17,170.80           |
| <b>TOTAL</b>                  |                    | <b>\$ 1,777,971.20</b> |

**Resolution #080-21 Support S-3522 Public Employees' Retirement System**

**WHEREAS**, county, municipal, and other local governments have met their pension obligations as employers for more than a decade while the State of New Jersey has continued to underfund the pension systems in varying degrees since 1996 and thus created one of the worst publicly funded retirement systems in the entire nation; and,

**WHEREAS**, despite fulfilling their fiduciary duties in meeting their pension obligations, local governments across the State will experience double digit percentage increases in total employer pension contributions in 2021 as determined in figures recently published by the Division of Pension and Benefits in the State Department of Treasury; and,

**WHEREAS**, even more alarming for local government employers is the fact that the unfunded accrued liability once again increased in 2021 to a staggering \$26.6 billion for the Public Employee's Retirement System ("PERS") alone, causing in part, a decrease in the funded ratio for the Local Part of PERS to 65.4%, the State Part to 31.2%, and the combined rate to a disconcerting 52.2% far below the target funded ratio of 75.0%; and,

**WHEREAS**, S-3522 would divide PERS into two parts: A State Part for State employees, and a Local Part for all other employees; and

**WHEREAS**, the legislation creates a seven-member board consisting of three labor employee representatives, three management representatives, and one determined by the Board, tasked with operating the retirement system and directing policies and investments to achieve and maintain full funding; and

**WHEREAS**, this legislation is similar to the legislation that separated the Police and Fire Retirement System (P.L. 2018, c. 55) except for the control of investments and that management has an equal representation on the board, which was overwhelmingly supported by the legislature and signed by the Governor; and

**WHEREAS**, S-3522 would protect local governing bodies from the State of New Jersey further directing property taxpayer dollars to subsidize its long mismanagement and underfunding of the pension systems as it would provide the new balanced board of trustees of PERS with the ability to determine or modify member benefits, direct policies and investments to achieve full funding, and serve as fiduciary of the system;

**Now, Therefore, Be it Resolved** that the governing body Borough of Midland Park does in fact hereby support S-3522, which would establish a new board of trustees for the Local Part of PERS to preserve the structure and integrity of the more solvent Local Part.

**Be it Further Resolved** that certified copies of this Resolution shall be forwarded to Governor Phil Murphy, Senate President Stephen M. Sweeney, Speaker of the General Assembly Craig Coughlin, Senator Kristin Corrado, Assemblyman Kevin Rooney, Assemblyman Christopher DePhillips, and the New Jersey League of Municipalities.

**Resolution #081-21 Resolution Urging Legislature to Amend Senate Bill 3454, also Known as Assembly Bill 5342 to Permit Law Enforcement Officers to Perform their Duties Without Substantial Risk of Civil and Criminal Liability**

**WHEREAS**, Senate Bill 3454 (also known as Assembly Bill 5342) (collectively “the Legislation”); and

**WHEREAS**, the Legislation prohibits law enforcement officers from engaging in certain actions when investigating an individual under the age of 21 for possession of marijuana, hashish, cannabis, or alcohol. The legislation criminalizes the conduct of officers who respond to a call for service or are investigating the underage use of marijuana, hashish, cannabis, or alcohol by:

- No longer allowing the odor, possession or consumption of marijuana, hashish, cannabis or alcohol to be used as reasonable articulable suspicion to initiate a stop of an individual under the age of 21, nor does it provide probable cause to search the person’s personal property or vehicle.
- No longer allowing for marijuana, hashish, cannabis or alcoholic beverages, observed in plain sight to constitute probable cause to initiate a search of an individual under the age of 21 or that individual’s personal property or vehicle.
- An individual under the age of 21 shall not be arrested, detained, or otherwise taken into custody except to the extent required to issue a written warning.
- Officers are further prohibited from contacting the minor’s parent or guardian to advise them of the minor’s possession or consumption of marijuana, hashish, cannabis or alcoholic beverages for the minor’s first offense.

**WHEREAS**, the Legislation will discourage officers from enforcing underage use and possession of marijuana, hashish, cannabis, or alcohol and will specifically expose officers to civil

and criminal liability for the deprivation of civil rights, even if the officer did not act with specific intent to deprive a person of his or her civil rights; and

**WHEREAS**, the Governing Body believes that the Legislation will result in officers avoiding situations where criminal conduct has occurred to limit exposure to civil and criminal liability; and

**WHEREAS**, the Governing Body is of the opinion that the Legislation creates significant burdens on law enforcement and will obstruct police officers from performing their duties and conducting lawful investigations of individuals under the age of 21, who possess or consume any amount of marijuana, hashish, cannabis, or alcohol in any public place, including a school, criminalizing law enforcement actions; and

**WHEREAS**, the Legislation will severely limit the ability of law enforcement agencies to police our community effectively, increase risks to children from illicit drugs and alcohol, and fail to protect society from criminal drug activity and impaired drivers to the detriment of public safety.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council that it does hereby indicate its strenuous opposition to the Legislation and urge members of the State Senate and General Assembly to immediately enact amendatory Legislation so as to permit law enforcement personnel to perform their duties in the interest of safety and general welfare without substantial risk of civil and criminal liability.

#### **Resolution #082-21 National Day of Prayer**

**WHEREAS**, Civic prayers and national days of prayer have a long and venerable history in our constitutional republic, dating back to the First Continental Congress in 1775; and

**WHEREAS**, The Declaration of Independence, our first statement as Americans of National purpose and identity, made “The Laws of Nature and Nature’s God” the foundation of our United States of America, and asserted that people have inalienable rights that are God given; and

**WHEREAS**, The Supreme Court has affirmed the right of state legislatures to open their sessions with prayer, and the Supreme Court and the U. S. Congress themselves begin each day with prayer; and

**WHEREAS**, in 1988, legislation setting aside the first Thursday in May in each year as a National Day of Prayer was passed unanimously by both Houses of Congress and signed by President Ronald Regan; and

**WHEREAS**, The National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God, to give thanks for blessings received, to request healing for wounds endured, and to ask God to guide our leaders and bring wholeness to the United States and her citizens; and

**WHEREAS**, it is fitting and proper to give thanks to God by observing a day of prayer in Midland Park when all may acknowledge our blessings and gratitude for them, while recognizing the need for strengthening religious and moral values in our State and Nation; and

**WHEREAS**, this year marks the 70<sup>th</sup> Annual National Day of Prayer with this year’s theme:

**“LORD pour out Your LOVE, LIFE, and LIBERTY.”**

**NOW, THEREFORE**, I, Harry Shortway Jr., Mayor of Midland Park do hereby proclaim Thursday, May 6<sup>th</sup>, 2021 to be designated as

#### **A DAY OF PRAYER IN MIDLAND PARK**

and encourage our citizens to observe the day in ways appropriate to its importance and significance.

#### **Resolution #083-21 United States EEO Commission Compliance**

**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 Decision Under Title VII of the Civil Rights Act of 1964,” as amended, 42 U.S.C. Sec. 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 Mayor and Council of the Borough of Midland Park, 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.

**Introduced by: Councilwoman DeLuca**

**Seconded by: Council President Iannone**

|                   |                                  |               |
|-------------------|----------------------------------|---------------|
| <b>Roll Call:</b> | <b>Councilman Damiano</b>        | <b>Aye</b>    |
|                   | <b>Councilman Kruis</b>          | <b>Aye</b>    |
|                   | <b>Councilman Sansone</b>        | <b>Absent</b> |
|                   | <b>Councilwoman DeLuca</b>       | <b>Aye</b>    |
|                   | <b>Councilwoman Peet</b>         | <b>Aye</b>    |
|                   | <b>Council President Iannone</b> | <b>Aye</b>    |

## **RESOLUTIONS:**

### **1. Resolution #077-21 – Bills List**

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

|                    |                      |
|--------------------|----------------------|
| Current Fund (’20) | \$ 627.99            |
| Current Fund       | \$ 20,335.91         |
| Dog Fund           | \$ 2.40              |
| Capital Fund       | \$ 349,379.25        |
| Trust Fund         | \$ 200.00            |
| <b>TOTAL:</b>      | <b>\$ 370,545.55</b> |

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

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

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

|         |                                |               |
|---------|--------------------------------|---------------|
| Current | March 31 <sup>th</sup> Payroll | \$ 190,287.48 |
| Current | PERS Annual Payment            | \$ 206,332.00 |
| Current | PFRS Annual Payment            | \$ 618,886.00 |

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Midland Park that the claims totaling **\$1,386,051.03** approved and ratified respectively.

Introduced by: Councilman Damiano

Seconded by: Councilwoman Peet

|            |                           |        |
|------------|---------------------------|--------|
| Roll Call: | Councilman Damiano        | Aye    |
|            | Councilman Kruis          | Aye    |
|            | Councilman Sansone        | Absent |
|            | Councilwoman DeLuca       | Aye    |
|            | Councilwoman Peet         | Aye    |
|            | Council President Iannone | Aye    |

**2. Resolution #084-21 – Appoint D.P.W. Full Time Laborer – Joseph Papapietro**

**WHEREAS**, the Borough of Midland Park finds it necessary to fill the Full-Time position of Laborer of the Department of Public Works; and

**WHEREAS**, the position was advertised, and candidates were interviewed, resulting in the appointment recommendation by the Borough Superintendent of Department of Public Works of Joseph Papapietro as DPW Laborer.

**WHEREAS**, the salary established in Ordinance #04-21 provides the following title and salary to Mr. Joseph Papapietro DPW Laborer at the annual salary of \$45,000.00.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Midland Park, that Joseph Papapietro be confirmed as full time Laborer, effective April 1, 2021.

Introduced by: Council President Iannone

Seconded by: Councilman Kruis

|            |                           |        |
|------------|---------------------------|--------|
| Roll Call: | Councilman Damiano        | Aye    |
|            | Councilman Kruis          | Aye    |
|            | Councilman Sansone        | Absent |
|            | Councilwoman DeLuca       | Aye    |
|            | Councilwoman Peet         | Aye    |
|            | Council President Iannone | Aye    |

**ORDINANCES ON INTRODUCTION:**

**1. ORDINANCE #06-21**

**“AN ORDINANCE TO AMEND CHAPTER 3 OF THE CODE OF THE BOROUGH OF MIDLAND PARK ENTITLED, “POLICE REGULATIONS” (Feeding Wildlife Prohibition)**

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

**Section 1.**

Chapter 3 of the Code of the Borough of Midland Park, Police Regulations, §3-14, Feeding of Unconfined Wildlife, Subsection 3-14.3, Prohibited Conduct, be and is hereby amended to read as follows:

**§3-14.3. Prohibited Conduct.**

No person shall feed, in any public park, on any other property owned or operated by the Borough of Midland Park, or any private property, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers). The within prohibition shall not apply to bird feeders on private property, provided that same are located six (6) feet off the ground and do not exceed a

maximum number of three (3) bird feeders on any property.

**Section 2. Fines and Penalties.**

Any person convicted of violating this Ordinance shall be subject to such fines and penalties as set forth in §1-5, General Penalty, of the Borough Code.

**Section 3. Severability.**

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

**Section 4. Inconsistent Ordinances Repealed.**

All ordinances or parts or ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

**Section 5. Effective Date.**

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

**Introduced by: Councilman Kruis**

**Seconded by: Council President Iannone**

|                   |                                  |               |
|-------------------|----------------------------------|---------------|
| <b>Roll Call:</b> | <b>Councilman Damiano</b>        | <b>Aye</b>    |
|                   | <b>Councilman Kruis</b>          | <b>Aye</b>    |
|                   | <b>Councilman Sansone</b>        | <b>Absent</b> |
|                   | <b>Councilwoman DeLuca</b>       | <b>Aye</b>    |
|                   | <b>Councilwoman Peet</b>         | <b>Aye</b>    |
|                   | <b>Council President Iannone</b> | <b>Aye</b>    |

**1. ORDINANCE #07-21**

**“AN ORDINANCE BY THE BOROUGH OF MIDLAND PARK IN THE COUNTY OF BERGEN, NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 34-1.4, PROHIBITED USES IN ALL ZONES, OF THE BOROUGH CODE” (Prohibited Cannabis)**

**WHEREAS**, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;

- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

**WHEREAS**, Section 31a of the Act authorizes municipalities by Ordinance to adopt regulations governing the number of cannabis establishments (defined in Section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, Section 31b of the Act authorizes municipalities by Ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

**WHEREAS**, Section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

**WHEREAS**, pursuant to Section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such Ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

**WHEREAS**, the Mayor and Council of the Borough of Midland Park has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Borough of Midland Park in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough’s residents and members of the public who visit, travel, or conduct business in the Borough of Midland Park, to amend the Borough of Midland Park’s zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Borough of Midland Park; and

**WHEREAS**, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to

unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

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

1. Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Midland Park, except for the delivery of cannabis items and related supplies by a delivery service.

2. Chapter 34 of the Borough Code, Zoning, Section 34-1, General Provisions, Subsection 34-4.1, Prohibited Uses In All Zones, is hereby amended to read as follows: "In every Zoning District referred to in Section 34-2 of this Chapter, no land or building shall be used or allowed to be used for any class of cannabis establishment, cannabis distributor or retailer, or cannabis delivery service as said terms are defined in Section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service."

3. Any person found guilty of violating the provisions of this Ordinance shall be subject to such fines and penalties as set forth in Section 1-5 of the Borough Code.

4. Any article, section, paragraph, subsection, clause, or other provision of the Midland Park Borough Code inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.

5. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

6. This Ordinance shall take effect upon its passage and publication and filing with the Bergen County Planning Board, and as otherwise provided for by law.

**Introduced by: Councilwoman Peet**

**Seconded by: Councilman Kruis**

|                   |                                  |               |
|-------------------|----------------------------------|---------------|
| <b>Roll Call:</b> | <b>Councilman Damiano</b>        | <b>Aye</b>    |
|                   | <b>Councilman Kruis</b>          | <b>Aye</b>    |
|                   | <b>Councilman Sansone</b>        | <b>Absent</b> |
|                   | <b>Councilwoman DeLuca</b>       | <b>Aye</b>    |
|                   | <b>Councilwoman Peet</b>         | <b>Aye</b>    |
|                   | <b>Council President Iannone</b> | <b>Aye</b>    |

**OLD BUSINESS/NEW BUSINESS:**

There was no Old or New Business to discuss.

**PUBLIC COMMENT:**

Once again, the **Mayor** opened the meeting to the public and the Council for any comments, questions, or concerns.

**Mrs. Garcia** – thanked everyone, especially **Mayor Shortway** for his presence and oversight of traffic by the new Starbucks



Caller 2 – no comment

**Anthony Sikora** – thanked the Council for addressing his questions, for the work they do to bring businesses to the town and for considering all the options available.

**Annie Campbell** – thanked everyone for all they do for the town

**Jessica Hastek – 23 Colonial Road** - thanked everyone for all they do

**Linda Eliya** – no comment

Callers 8 & 9 have left the meeting

There being no further response and no further business to address, at 8:44 P.M., the following resolution was read by the Borough Attorney and adopted by the Council. The Borough Clerk stated no formal action will be taken. The Council then convened into a Second Closed Session.

**Resolution #084A-21 - 2<sup>nd</sup> Closed Session – After April 8, 2021**

**WHEREAS**, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting; and

**WHEREAS**, the Governing Body of Midland Park has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public; and

**WHEREAS**, the regular meeting of this Governing Body will reconvene;

**NOW, THEREFORE, BE IT RESOLVED**, that the Borough Council of Midland Park will go into closed session for the following reason (s) as outlined in N.J.S.A. 10:4-12:

\_\_\_\_\_ Any matter which, by express provision of Federal Law, State Statute or Rule of Court shall be rendered confidential or excluded from discussion in public (Provision relied upon): \_\_\_\_\_

\_\_\_\_\_ Any matter in which the release of information would impair a right to receive funds from the federal government;

\_\_\_\_\_ Any matter the disclosure of which constitutes an unwarranted invasion of individual privacy;

\_\_\_\_\_ Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body (Specify contract): \_\_\_\_\_;

\_\_\_\_\_ Any matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed;

☒ Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

\_\_\_\_\_ Any investigations of violations or possible violations of the law;

\_\_\_\_\_ Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any 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 (If pending or anticipated litigation, the matter is: \_\_\_\_\_. If contract negotiations the nature of the contract and interested party is \_\_\_\_\_)

*Under certain circumstances, if public disclosure of the matter would have a potentially negative impact on the Borough's position in the litigation or negotiation, this information may be withheld until such time that the matter is concluded or the circumstances no longer present a potential impact);*

☒ Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any

specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting (Subject to the balancing of the public's interest and the employee's privacy rights under South Jersey Publishing, 124 N. J. 478, the employee(s) and nature of discussion is: **Personnel- Administrator Position, Library & Recreation.**

Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility;

**BE IT FURTHER RESOLVED**, that the Borough Council hereby declares that its discussion of the aforementioned subject(s) may be made public at a time when the Borough Attorney advises the Borough Council that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough, or any other entity, with respect to said discussion. That time is currently estimated as the time of said matter.

**BE IT FURTHER RESOLVED** that the Borough Council, for the aforementioned reasons, hereby declares that the public is excluded from the portion of the meeting during which the above discussion shall take place, and hereby directs the Borough Clerk to take the appropriate action to effectuate the terms of this resolution.

**Introduced by: Councilwoman DeLuca**  
**Roll Call: Councilman Damiano**  
**Councilman Kruis**  
**Councilman Sansone**  
**Councilwoman DeLuca**  
**Councilwoman Peet**  
**Council President Iannone**

**Seconded by: Council President Iannone**  
**Aye**  
**Aye**  
**Absent**  
**Aye**  
**Aye**  
**Aye**

Respectfully submitted,

Wendy Martin, R.M.C.  
Borough Clerk