

**BOROUGH OF MIDLAND PARK
280 GODWIN AVENUE
MIDLAND PARK NJ 07432
NOVEMBER 10, 2022**

8:00 P.M. OPEN PUBLIC MEETING MINUTES

On November 10, 2022 at 8:00 P.M., the Mayor and Council of the Borough of Midland Park conducted a meeting at Borough Hall in the Council Chambers located at 280 Godwin Avenue as previously advertised. Agenda items for the meeting were also listed on the Borough website. There was also an option for the public to access the meeting electronically by dialing this Toll-Free number 1-866-899-4679, Access Code: 766-030-917.

Council President Peet called the meeting to order, noting the date as November 10, 2022, 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 was 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.

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| Roll Call: | Mayor Shortway | Absent | 7:44 P.M. exited Closed Session |
| | Councilman DeBlasio | Present | |
| | Councilman Damiano | Present | |
| | Councilman Iannone | Present | |
| | Councilman Kruis | Present | |
| | Councilwoman DeLuca | Present | |
| | Council President Peet | Present | |

ALSO PRESENT: Borough Attorney Robert Regan, and Borough Administrator/Clerk Wendy Martin

PRESENTATION:

Ray Chapman – Legislative Resolution

Council President Peet called upon **Councilwoman DeLuca** to present Ray Chapman with the Legislative Resolution and honor him for his volunteer work for the Borough of Midland Park.

APPROVAL OF MINUTES:

A Motion to approve the Minutes of Work Session, Closed Session, and Open Public Meeting from the date of September 8, 2022 as all Governing Body members have previously received copies of the Minutes and copies are available to the Public at the Borough Clerk's Office.

Introduced by: Council President Peet **Seconded by: Councilman DeBlasio**

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| Roll Call: | Councilman DeBlasio | Aye |
| | Councilman Damiano | Aye |
| | Councilman Iannone | Abstain |
| | Councilman Kruis | Aye |
| | Councilwoman DeLuca | Aye |
| | Council President Peet | Aye |

OPEN TO THE PUBLIC:

Council President Peet opened the meeting to the public for general questions, concerns, and comments.

Christine Rutz Penna - 94 Cottage Street

Ms. Penna asked if the Borough would purchase a piece of property on Goffle Avenue, which is vacant, and

she would like it for Open Space and for a park.

Borough Administrator/Clerk Wendy Martin stated it was for sale in the amount of \$175,000.00 and .36 of an acre. The zoning is B2 Professional. Currently, the taxes received by the Borough is \$4,936.00. Ms. Martin asked Ms. Penna to email all information to her.

The **Mayor, Council**, and Borough Administrator/Clerk Wendy Martin will research and continue the discussion on this matter.

There being no one else from the Public and/or no callers were on the telephone, the Public Hearing was closed.

CHIEF FINANCIAL OFFICER'S REPORT:

Chief Financial Officer Laurie O'Hanlon updated the **Council** of the Borough's Budget. Ms. O'Hanlon reported the Budget is in a preliminary status. It has been calculated with estimate amounts, PBA contract is not finalized, Pension bill has not been received, and retirees' health benefits notices. Once these invoices and amounts are received, Ms. O'Hanlon will update the **Mayor and Council** further on the Budget.

LIAISON REPORTS:

Mayor Shortway was absent. No report was given.

Councilwoman DeLuca

Public Safety – Fire/Ambulance/Library

Councilwoman DeLuca stated the **Ambulance Corps** had its meeting on November 7, 2022. Let it be noted the title of Captain has been changed to Chief for the Ambulance Corps. The total number of calls for October 2022 were 78 with 628 miles driven. Wyckoff and Waldwick received 10 and 2 mutual aid respectively responses. Chief John Lazzari stated Wyckoff had one rig out of service for repairs. The **Fire Department's** monthly meeting was on November 9, 2022. In the Fire report, it was noted, 23 calls were received. Breakfast with Santa will be held on December 10, 2022 and Project Santa will have more details to follow. The **Library Board's** meeting has been changed and will be on November 21, 2022 due to a conflict in scheduling. Library Director Catherine Dileo reported progress on events and happening at the Library. Please see the Library's website for all future events.

Council President Peet

Board of Health/Board of Education/Ridgewood Water

Council President Peet stated the **Board of Health** will meet on November 14, 2022 and reports progress. The meeting of the **Board of Education** will be held on November 15, 2022. The **Council President** will be at the New Jersey League of Municipalities but will report at the next Mayor and Council Meeting any information she may receive. The Governing Body received the Board of Education 3-year projected outlook report for the buildings and grounds. In January 2023 will be the next meeting. On November 3, 2022, **Ridgewood Water** and the participating municipalities met to continue discussions how bonding will be handled for the remediations of the issues in the communities. Midland Park has 207 residents that are affected by the lead lines. If the homeowner sells their home, the lead line must be resolved.

Councilman DeBlasio

Recreation/Information Technology/Municipal Alliance

Councilman DeBlasio stated the **Municipal Alliance** reported progress. The connection at the Wortendyke Water Station had an issue. Phil Scaglione, Director of **Information Technology** was contacted by the Ridgewood Water. Mr. Scaglione responded by saying Ridgewood Water has the control. The situation was resolved. Mr. Scaglione stated he is gathering information for a possible of location of the main hub of the server. **Recreation** Director Kathy LaMonte reported to the **Councilman**, that the Veterans Day ceremony will be moved inside due to weather forecasts. The Holiday Tree Lighting is scheduled for December 2, 2022. The details are being finalized. The Councilman recapped the fall and winter sports.

Councilman Damiano **Finance/Public Works/Chamber of Commerce/Economic Development**
Councilman Damiano noted there was progress reported for the **Finance, Chamber of Commerce, and Economic Development** committees and/or departments. The Borough's **Public Works** is continuing its collection of the fall leaf program. The total number of leaves collected is 1135 yards. The 2022 Road Resurfacing Project has begun on Birch Street, West Street, Swap Lane, Van Dyke Avenue, Fairview Avenue, and Smith Place. The County has completed the replacement of the ADA ramps on Goffle Road. On November 14, 2022, Greenwood Avenue will be closed due to construction.

Councilman Iannone **Public Safety – Police/Property Maintenance/Personnel**
Councilman Iannone reported for the **Police Department from November 1 to 10, 2022**. There were 84 public service details which consisted of assists in community service, assisting citizens and other similar assignments and requests. In regard to **Property Maintenance**, there was a tree issues on Prospect Avenue, and a few vehicle complaints in various locations. Progress has been reported for **Personnel**.

Councilman Kruis **Planning Board/Building Dept/Fire Prevention/OEM**
Councilman Kruis reported the **Planning Board's** meeting will be meeting by the end of November 2022. The **Building Department** stated progress has been made with the municipal inspections. Fire Official Michael Rau's **Fire Prevention** report consisted of mandatory training seminars were attended for compliance. The **OEM** grants have been submitted to the State. The Borough's PPE inventory is at a satisfactory level.

ADMINISTRATOR'S REPORT:

Borough Administrator/Clerk Wendy Martin and Sgt. Noah Van Vliet received a letter from a resident complimenting the Borough and the Mosque for their respectful actions in the community. Ms. Martin reported the municipality's residents only received 49 warnings from Ridgewood Water concerning water usage. The General November Election Day went smoothly, and the Board Workers Midland Park have been continuing with their diligence. Ms. Martin congratulated the re-election of Councilwoman Nancy Cronk Peet and the election of Council-Election Mark Braunius.

ORDINANCES ON FINAL:

1. ORDINANCE #17-2022

“AN ORDINANCE AMENDING CHAPTER 34 ZONING, SECTION 16, OFF-STREET PARKING AND LOADING TO ADD 34-16.7 INSTALLATION OF ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT (EVSE) AND MAKE-READY PARKING SPACES”

This Ordinance sets forth procedures for the installation of Electric Vehicle Supply/Service Equipment (EVSE) and Make-Ready parking spaces and establishes associated regulations and other standards within the Borough of Midland Park of the County of Bergen.

WHEREAS, supporting the transition to electric vehicles contributes to Borough of Midland Park's commitment to sustainability and is in the best interest of public welfare; and

WHEREAS, installation of EVSE and Make-Ready parking spaces encourages electric vehicle adoption; and

WHEREAS, the Borough of Midland Park encourages increased installation of EVSE and Make Ready parking spaces; and

WHEREAS, adoption of this ordinance supports the State of New Jersey's goals to reduce air pollutants and greenhouse gas emissions from the transportation sector as outlined and supported by various programs related to NJ's 2019 Energy Master Plan, Global Warming Response Act (P.L.2007, c.112 (C.26:2C-37 et al.)), and EV Law (P.L. 2019, c. 362); and

WHEREAS, P.L. 2021, c.171, signed into law on July 9, 2021, requires EVSE and Make-Ready parking spaces be designated as a permitted accessory use in all zoning or use districts and establishes associated installation and parking requirements; and

WHEREAS, adoption of this ordinance will support the Master Plan of Borough of Midland Park adopted in concurrence with P.L. 1975 c.291, s.1 eff. Aug. 1, 1976, and is consistent with goals of the Master Plan; and

WHEREAS, the Borough of Midland Park is amending the Zoning Ordinance to establish standards and regulations for the safe and efficient installation of EVSE and Make-Ready parking spaces at appropriate locations.

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

FIRST: ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT

A. Purpose

The purpose of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:

1. Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
2. Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
3. Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
4. Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

B. Definitions

Certificate of Occupancy: The certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act, and the regulations. See "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and regulations adopted pursuant thereto.

Charging Level: The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

1. Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
2. Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
3. Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

Electric vehicle: Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

Electric Vehicle Supply/Service Equipment or (EVSE): The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

Make-Ready Parking Space: means the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-Ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).

Private EVSE: EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).

Publicly-accessible EVSE: EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).

C. Approvals and Permits

1. An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
2. EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in 1. above.
3. All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
4. The zoning officer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of the Borough of Midland Park's land use regulations.
5. An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the zoning officer, provided the application meets the following requirements:
 - a. the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
 - b. all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
 - c. the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.1.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
6. An application pursuant to Section 5. above shall be deemed complete if:
 - a. the application, including the permit fee and all necessary documentation, is determined to be complete,
 - b. a notice of incompleteness is not provided within 20 days after the filing of the application, or
 - c. a one-time written correction notice is not issued by the zoning officer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.

7. EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
8. A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

D. Requirements for New Installation of EVSE and Make-Ready Parking Spaces

1. As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development which includes a residential component, the developer or owner, as applicable, shall:
 - a. prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
 - b. within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
 - c. within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
 - d. Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
 - e. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
2. As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in 1. above shall:
 - a. Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 - b. Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - c. Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
 - d. Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities if there will be 101 to 150 off-street parking spaces.
 - e. Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
 - f. In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
 - g. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
 - h. Notwithstanding the provisions of this Section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

E. Minimum Parking Requirements

1. All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to Section 34.16.

2. A parking space prepared with EVSE, or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.
3. All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
4. Additional installation of EVSE and Make-Ready parking spaces above what is required in Section D. above may be encouraged but shall not be required in development projects.

F. Reasonable Standards for All New EVSE and Make-Ready Parking Spaces

1. Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
2. Installation:
 - a. Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
 - b. Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
 - c. To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
 - d. Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
3. EVSE Parking:
 - a. Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.
 - b. Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
 - c. Public Parking. Pursuant to N.J.S.A. 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of this Municipal Code or Section 7-14. Signage indicating the penalties for violations shall comply with Section 5. below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.
 - d. Private Parking. The use of EVSE shall be monitored by the property owner or designee.
4. Safety
 - a. Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Section 5. below.
 - b. Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with Borough of Midland Park's ordinances and regulations.
 - c. Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-

feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.

- d. EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
- e. Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- f. Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- g. Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the Borough of Midland Park shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

5. Signs

- a. Publicly-accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
- b. All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
- c. Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with b. above.
- d. In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:
 - 1) Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
 - 2) Usage fees and parking fees, if applicable; and
 - 3) Contact information (telephone number) for reporting when the equipment is not operating or other problems.
- e. Signage shall be restricted to the required regulatory signs and static signs pertaining solely to the premises where the EVSE is installed.

6. Usage Fees

- a. For publicly-accessible municipal EVSE: In addition to any parking fees, the fee to use parking spaces within the municipality identified as EVSE spaces shall be specified in Chapter 90 Fees and Charges for each hour that the electric vehicle is connected to the EVSE.

- b. Private EVSE and non-municipal Publicly-accessible EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

SECOND: SEVERABILITY

If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause, or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

THIRD: REPEAL OF PRIOR ORDINANCES

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

FORTH: EFFECTIVE DATE

This ordinance shall take effect after final passage and publication as provided by law.

At this time **Council President Peet** opened the meeting to the public for any questions, comments, or concerns regarding Ordinance #17-2022.

There being no response, the **Council President Peet** closed the meeting to the public regarding Ordinance #17-2022.

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| Introduced by: Councilman Kruis | Seconded by: Councilman Iannone |
| Roll Call: Councilman DeBlasio | Aye |
| Councilman Damiano | Aye |
| Councilman Iannone | Aye |
| Councilman Kruis | Aye |
| Councilwoman DeLuca | Aye |
| Council President Peet | Aye |

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 #180-2022 Chapter 159 FEMA Hillside Culvert (Hurricane Ida)

WHEREAS, N.J.S. 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the Budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the Budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Midland Park has received a total of \$35,581.75 from the State of New Jersey and wishes to amend its 2022 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Midland Park hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Budget of the Year 2022 in the sum of \$35,581.75, which is now available as a revenue for:

Miscellaneous Revenue

Special Items of General Revenue Anticipated with Prior Written Consent
of the Director of the Division of Local Government Services:

Revenues Off-Set with Appropriations:

FEMA-Federal Emergency Management Agency

BE IT FURTHER RESOLVED, that a like sum of \$35,581.75 to be and the same is hereby appropriated under the caption of:

General Appropriation

Programs Off-Set by Revenues:

FEMA-Federal Emergency Management Agency

BE IT FURTHER RESOLVED, that the CFO did an electronic filing of this revenue to the Director of the Division of Local Government Services along with attachment.

Resolution #181-2022 Budget Transfers 2022

WHEREAS, transfers are permitted between budget appropriations during the last two months of the fiscal year; except for out-of-cap expenses;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Midland Park, in the County of Bergen, New Jersey, that transfers between 2022 Budget Appropriations be made as follows:

| <u>Department</u> | <u>Account Name</u> | <u>Account #</u> | <u>To</u> | <u>From</u> |
|-------------------|----------------------|------------------|-------------|-------------|
| Municipal Clerk | Clerk - Salary | 2-01--052-101 | \$ 3,000.00 | |
| Legal Services | Settlements | 2-01--005-217 | | \$ 3,000.00 |
| Tax Collection | Printing Costs | 2-01--004-222 | \$ 500.00 | |
| Legal Services | Settlements | 2-01--005-217 | | \$ 500.00 |
| Utilities | Gasoline | 2-01--031-201 | \$20,000.00 | |
| Utilities | Electricity | 2-01--031-203 | \$10,500.00 | |
| Dept Public Works | Salary-Seasonal | 2-01--019-109 | | \$10,500.00 |
| Tax Assessment | Appeal Costs | 2-01--003-221 | | \$ 5,000.00 |
| Solid Waste | Solid Waste Disposal | 2-01--031-301 | | \$15,000.00 |
| Tech Support | Supplies | 2-01--057-203 | \$ 1,500.00 | |
| Legal Services | Settlements | 2-01--005-217 | | \$ 1,500.00 |

Resolution #182-2022 Municipal Alliance Grant Funding

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989, to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth, and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The Borough Council of the Borough of Midland Park, County of Bergen, State of New Jersey, recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore, has an established Municipal Alliance Committee; and,

WHEREAS, the Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Borough Council has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Bergen;

NOW, THEREFORE, BE IT RESOLVED, by the Borough of Midland Park, County of Bergen, State of New Jersey hereby recognizes the following:

1. The Borough Council does hereby authorize submission of a strategic plan for the Midland Park Municipal Alliance grant for fiscal year 2023 in the amount of:

| | |
|------------|------------|
| DEDR | \$3,836.33 |
| Cash Match | \$ 959.08 |
| In Kind | \$2,877.25 |

2. The Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance audit requirements.

Resolution #183-2022 Tax Appeal 868 Godwin Avenue – Block 55; Lot 7.01

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, “Dirnan, Inc. v. Borough of Midland Park”, Docket Nos. 012506-2020, 012346-2021, and 009949-2022, which matters involve appeals of the assessment for the tax years 2020, 2021, and 2022 on certain premises known as Block 55 Lot 7.01 and being more commonly known as 686 Godwin Avenue; and

WHEREAS, the parcel is assessed for the 2020, 2021 and 2022 tax years at \$550,000.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2020, 2021 and 2022 tax years.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Midland Park that it does hereby authorize settlement of the above-captioned matter based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the appeal filed for the 2020 tax year shall be withdrawn.

2. The Stipulation of Settlement shall provide that the assessment for the 2021 tax year on said parcel shall be established at \$500,000.00.

3. The Stipulation of Settlement shall provide that the assessment for the 2022 tax year on said parcel shall be established at \$475,000.00.

4. Plaintiff agrees to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owner shall be payable in the form of a credit or cash refund made payable to “Andrew S. Kessler, Esq., Trust Account” against future taxes due for the first quarter following the entry of judgment.

BE IT FURTHER RESOLVED that the Borough Attorney and Tax Assessor be and are hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

Introduced by: Councilwoman DeLuca

Seconded by: Councilman DeBlasio

Roll Call:

| | |
|-------------------------------|------------|
| Councilman DeBlasio | Aye |
| Councilman Damiano | Aye |
| Councilman Iannone | Aye |
| Councilman Kruis | Aye |
| Councilwoman DeLuca | Aye |
| Council President Peet | Aye |

RESOLUTIONS:

1. Resolution #179-2022 Bills List

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

| | |
|---------------|----------------------|
| Current Fund | \$ 157,120.11 |
| Capital Fund | \$ 30,195.13 |
| Dog Fund | \$ 16.20 |
| Trust Fund | <u>\$ 3,330.00</u> |
| TOTAL: | \$ 190,661.44 |

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 | October 28 th Payroll | \$ 238,298.16 |
| Current | November School Taxes | \$1,716,561.08 |
| Current | November Health Payments | \$ 88,645.47 |

NOW, THEREFORE, BE IT RESOLVED, by the Council President and Council of the Borough of Midland

Park that the claims totaling \$2,234,166.15 approved and ratified respectively.

Introduced by: Councilman Damiano Seconded by: Councilman Kruis

Roll Call:

| | |
|-------------------------------|------------|
| Councilman DeBlasio | Aye |
| Councilman Damiano | Aye |
| Councilman Iannone | Aye |
| Councilman Kruis | Aye |
| Councilwoman DeLuca | Aye |
| Council President Peet | Aye |

OLD BUSINESS:

No Old Business at this time.

NEW BUSINESS:

Borough Administrator/Clerk Wendy Martin stated as mandated by the State, Chief Financial Officer Laurie O'Hanlon has completed the required Best Practices inventory. Ms. Martin has review the questions and signed off as the Municipal Clerk. In the year of 2020, there were 60 questions, in 2021 there were 48 questions and this year, 2022 there were 56 questions. According to the point system, the Borough of Midland Park will be receiving the full amount of State aid as there were no deductions.

PUBLIC COMMENT:

Ray Chapman, 225 Vreeland Avenue congratulated the reelection of Councilwoman Peet and the return of Council-Elect Mark Braunius. Mr. Chapman thanked the Mayor and Council for the Legislative Recognition award and also thanked James Capalbo for being his right-hand man.

James Capalbo, 89 Millington Avenue, concerning the resident's question earlier regarding the parcel of land on Goffle Avenue. Is the price negotiable?

Borough Administrator/Clerk Wendy Martin responded with 'yes', the amount is negotiable.

ATTORNEY REGAN READ THE RESOLUTION

Resolution #184-2022 After Closed Session 11-10-2022

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;

X 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: contract negotiations the nature of the contract and interested party is in 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);

X 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).

 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 Seconded by: Councilman Damiano

| | | |
|-------------------|-------------------------------|------------|
| Roll Call: | Councilman De Blasio | Aye |
| | Councilman Damiano | Aye |
| | Councilman Iannone | Aye |
| | Councilman Kruis | Aye |
| | Councilwoman DeLuca | Aye |
| | Council President Peet | Aye |

At this time the public was notified Mayor and Council will be going into an After Closed Session and no further action will be taken.

ADJOURNMENT:

There being no further business to discuss, on a Motion by **Councilman DeBlasio**, Seconded by **Councilman Iannone** and carried, **Mayor Shortway** adjourned the Open Public meeting at 8:48 P.M. and convened immediately into the After Closed Session.

Respectfully submitted,



Wendy Martin, RMC
Borough Administrator/Clerk