

**BOROUGH OF MIDLAND PARK
280 GODWIN AVENUE
MIDLAND PARK NJ 07432
JULY 13, 2023**

8:00 P.M. OPEN PUBLIC MEETING MINUTES

On July 13, 2023 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.

Mayor Shortway called the meeting to order, noting the date as July 13, 2023, 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.

Roll Call:	Mayor Shortway	Present
	Councilman Braunius	Present
	Councilman DeBlasio	Present
	Councilman Kruis	Present
	Councilwoman Peet	Present
	Council President DeLuca	Present

ALSO PRESENT: Borough Attorney Robert Regan, Borough Administrator/Clerk Wendy Martin and Deputy Clerk Mari J. Margiotta

PROCLAMATION:

Prostate Cancer Awareness Month – September 2023

APPROVAL OF MINUTES:

A Motion to approve the Minutes of the Work Session, Before Closed Session, and Open Public Meeting from the dates of April 27, 2023 and May 11, 2023 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:	Councilman DeBlasio	Seconded by:	Councilwoman Peet
Roll Call:	Councilman Braunius	Abstain on April 27, 2023 Minutes	
	Councilman DeBlasio	Abstain on both Minutes dates	
	Councilman Kruis	Aye	
	Councilwoman Peet	Aye	
	Council President DeLuca	Aye	

OPEN TO THE PUBLIC:

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

Due to the adoption of Daniel's Law, P.L.2021, c.371 the Borough only requires the Public to state their name and if they reside in the Borough of Midland Park for the Record.

Raymond Chapman stated he was glad to attend the meeting.

There being no one else from the Public present, the Public Portion was closed.

LIAISON REPORTS:

Mayor Shortway

Mayor Shortway reported there were two meetings he attended along with **Councilwoman Peet** and Borough Administrator/Clerk Wendy Martin with the subject matter of School Resource Officer.

Councilwoman Peet **Public Safety – Police/Board of Health/Bd of Education/Ridgewood Water**
Councilwoman Peet stated she attended the liaison and Board of Education meetings to discuss the School Resource Officer contract. This is an ongoing negotiation and cannot be discussed publicly. The monthly **Police Department's** activity report included statistics for: assisting citizens, criminal and noncriminal investigations, disorderly persons, traffic enforcements, radar posts, motor vehicle stops, parking enforcement, suspicious person, medical assistance, and three missing people, and a person arrested for a DUI with an assault by auto. **Ridgewood Water** mailed a notice informing and educating the residents of the lead line replacement. There are approximately 200 homes that need to have their water lines replaced. The **Board of Health** report stated there was progress.

Council President DeLuca **Public Safety – Fire/Personnel/Library**

Council President DeLuca stated for **Personnel** there was progress. The **Fire Department's** meeting was held on July 12, 2023. The June 2023 monthly statistics were as following: 27 calls, 2 mutual aids to Waldwick, 2 to Wyckoff, and 1 to Allendale. Fire Chief Matthew Tauber has indicated that Fire Official Michael Rau has been taking pictures and collecting information during his inspections and will at the end of each month download them to the Codes. Building Official Mark Berninger has provided the Fire Department with a list of structures that have solar panels, and that information has been entered into Codes. The newest member, Jack Bricca-Hall has begun the Firefighter 1 Class which is being held at the Bergen County Fire Academy. In the past week, the 1995 Ford Rescue Truck sold on Govdeals.com in the amount of \$31,750.00. The Fire Department will host an Open House on July 26, 2023 for anyone who interested in joining the Junior Firefighter program or becoming a full member volunteer. The **Library** Board will conduct their meeting on July 18, 2023 and the **Council President** will report at the next Mayor and Council Meeting. On July 11, 2023, the Library's Movie Night had 50 residents in attendance. The Borough wide Scavenger Hunt is underway with 70 families participating and will end on August 31, 2023. Please see the Library's website for additional programs for adults and children. The Friends of the Library first summer concert happened on July 12, 2023. They had 160 people enjoy the music. There will be three more concerts in the month of July. On June 28, 2023, the **Council President** celebrated Eid at the Mosque. The Iman sent his regards to the **Mayor** and **Council**.

Councilman Braunius **Office of Emergency Management/ Recreation/Chambers of Commerce**
Councilman Braunius stated there was progress for **Office of Emergency Management** and **Chambers of Commerce**. The **Recreation Department's** scheduled meeting had to be cancelled since a quorum was not met.

Councilman DeBlasio **Information Technology/Building Department/Municipal Alliance**

Councilman DeBlasio reported the **Building Department** had 119 inspections for the month of June 2023. There were zoning certificates issued for a new nail salon, children and adult hair salons, and a physical therapy facility. The Habben Building experienced a power outage which effected the Police Department's body camera footage. **Information Technology** Philip Scaglione is continuing his assessment of the backup server and the transfer switch. Mr. Scaglione is working on the Police Department's audit for the (CJIS) Criminal Justice Information Services which is needed for accreditation. Mr. Scaglione has also upgraded Microsoft on the staffs' workstations, installation of the CODES system, pricing on security at the Recreation Barn and the keypad entrance system at Borough Hall, and handling issues with the CAD

system at the Fire Department. The **Councilman** stated there was progress for the **Municipal Alliance**.

Councilman Kruis **Property Maintenance/ Public Works/Planning Board**
Councilman Kruis stated the **Property Maintenance** position will be advertised since John Torry has resigned. The **Councilman** received the June 2023 report from the Superintendent of the Department of **Public Works**, Matthew Tauber, who wrote the following updates: the 2023 line striping project has started, 30 basins in the Borough will be repaired, the fence between the Library and 222 Franklin Avenue has been replaced, the Borough has received \$15,000.00 from the Department of Environmental Protection for stormwater assistance, several of the large equipment and vehicles have been auctioned including a Fire Department rescue truck. On July 6, 2023, Mr. Tauber and Sgt. Noah Van Vliet attended a meeting with the Railroad and the Department of Transportation at the Grove Street railroad crossing. The Railroad is applying to the DOT for funding for new signals and a drop-down gate. Recent heavy rains have left the streets and drainage areas in the Borough with debris. The Department of Public Works have quickly cleared these areas of any clogging materials. The five (5) large concrete slabs along Godwin Avenue have been replaced. All regular scheduled work such as: mowing, garbage pickup, and community events setup have been completed by the DPW staff. The **Planning Board** will have a meeting on July 17, 2023.
Councilwoman Peet asked if the fence between the Library and 225 Franklin was paid by insurance. Borough Administrator/Clerk Wendy Martin replied that the damaged fence was submitted to insurance. Only a partial amount was covered.

ADMINISTRATOR'S REPORT:

Borough Administrator/Clerk Wendy Martin, **Mayor Shortway**, and Deputy Clerk Mari Margiotta attended the Administrators meeting today in Allendale where County Executive Tedesco was the speaker. Ms. Martin also attended the Clerk's Association meeting and received CEUs in the Ethics category. The 2nd Quarter Safety Report was posted after the department head meeting. The Borough received the Tax Map CAD file. The file is being reviewed by Gary Callahan from Schwanawede/Halls and Borough Tax Assessor Neil Rubenstein for any subdivisions and updates. The traffic at the Mosque during the celebration of Eid went smoothly. There was an after-event meeting held with Chief Michael Powderley, Sgt. Noah Van Vliet, OEM Michael Rau, and the Imam Shaykh Moutaz Charaf. Ms. Martin declared there were 299 OPRA requests to date in the Clerk's Office. The Cell Tower bid will be held on August 2, 2023. The Blood Born Pathogen training compliance has been completed. The Borough has received (3) submissions for the vacancy on the Board of Recreation.

ORDINANCE ON FINAL:

1. ORDINANCE #18-2023

AN ORDINANCE TO AMEND CHAPTER 10 OF THE CODE OF THE BOROUGH OF MIDLAND PARK ENTITLED "BUILDING AND HOUSING" TO PROVIDE REGULATIONS OF INVASIVE PLANTS IN THE BOROUGH OF MIDLAND PARK

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 10 of the Code of the Borough of Midland Park, Building and Housing, is amended to add a new § 10.8, Planting, Growing and/or Cultivating Of Invasive Plants In The Borough of Midland Park to read as follows:

§ 10-8.1 Purpose.

It is determined that invasive plants are often difficult to control and can cause significant damage to property. The purpose of this Section is to preserve and protect public and private property in the Borough of Midland Park from the damaging spread of Invasive Plants, to protect indigenous and other plant materials

from the invasive spread of Invasive Plants and to maintain the general welfare of the residents of the Borough of Midland Park.

§ 10-8.2. Definitions.

As used in this Section, the following terms shall have the meanings indicated:

BAMBOO

Shall mean woody perennial grass plant species classified under the taxonomic family Poaceae, that may be known as monopodial (running) bamboo, sympodial (clumping) bamboo, “common” bamboo, golden bamboo and arrow bamboo.

BUFFER ZONE

Shall mean a clear distance of 5 feet from any property line, street, public property or Borough right-of-way, or from any neighboring property, whichever is the most restrictive for the Invasive Plants owner.

INVASIVE PLANTS OWNER

Shall mean any property owner or resident who has planted and/or grows Invasive Plants, or who maintains Invasive Plants on the property, or who permits Invasive Plants to grow or remain on a property, prior to the effective date of this Ordinance.

INVASIVE PLANT SPECIES

Shall mean all native and non-native vines and vegetation that grow beyond the boundaries of the property lines and are competitive, persistent and pernicious. These plants may damage trees, vegetation, and structures. Examples include, but are not limited to, those plants and vegetation as detailed in www.invasivespeciesinfo.gov.

PROPERTY MAINTENANCE OFFICIAL AND/OR CODE ENFORCEMENT OFFICER

Shall mean the Borough employee designated as the Property Maintenance Official and/or Code Enforcement Officer for the Borough of Midland Park, or his designee.

§ 10-8.3. Prohibitions.

- a. No owner, tenant or occupant of a property, or person, corporation or other entity, shall plant, install or cause or permit the planting or installation of Invasive Plants upon any property located within the Borough of Midland Park.
- b. Any existing Invasive Plants may not be replanted or replaced after any such Invasive Plants has died or been destroyed, uprooted or otherwise removed.
- c. Any person who plants or replants Invasive Plants within the Borough limits after the effective date of this Ordinance shall be in violation thereof and subject to penalties as set forth herein.

§ 10-8.4. Duty to Confine.

- a. In the event any Invasive Plants is located upon any property within the Borough of Midland Park prior to the effective date of this prohibition, the owner and occupant of said property shall jointly and severally be required to confine such species to prevent the encroachment, spread, invasion or intrusion of same onto any other private or public property or public right-of-way.
- b. Within 180 days of the adoption of this Ordinance, Invasive Plants owners shall notify the Code Enforcement Officer/Property Maintenance Official, in writing, by certified mail, return receipt requested, confirming the presence of Invasive Plants on the property prior to the effective date of this Ordinance.
 1. No existing Invasive Plants shall be permitted to remain in any buffer zone, and it shall be removed.
 2. Invasive Plants that have been confirmed to have already encroached onto another property prior to the effective date of this Ordinance shall be removed from the affected property by the Invasive Plant owner and the affected property shall be restored to preexisting conditions at the Invasive Plants owner’s expense, as well as ensuring compliance with the other provisions of this Section.
 3. In lieu of confining the species, the property owner or occupant may elect to totally remove the Invasive Plants from the property and all affected properties.

4. Failure to properly confine such Invasive Plants shall require removal as set forth below. The cost of said removal shall be at the Invasive Plants property owner's expense.
5. This duty to confine shall not apply if the property owner and/or occupant can establish to the satisfaction of the Borough that the Invasive Plants which are on his/her property at the time of the adoption of this Ordinance originated on another property.
6. Invasive Plants owners that fail to comply with the requirements of this Ordinance within 120 days from the adoption of this Ordinance shall be subject to penalties as set forth herein.

§ 10-8.5. Removal.

- a. In the event any Invasive Plants located upon any property within the Borough of Midland Park, prior to the effective date of this prohibition, is found to have encroachment of Invasive Plants plant or root, either by receipt of a complaint or as otherwise determined by the Code Enforcement Officer/Property Maintenance Official after observation and/or inspection, and the Code Enforcement Officer/Property Maintenance Official confirms encroachment or invasion on any adjoining/neighborly private or public property or public right-of-way (hereinafter "the affected property"), the Borough shall serve notice to the Invasive Plants property owner, in writing, that the Invasive Plants has invaded other private or public property(ies) or public right-of-way (rights-of-way) and demand the removal of the Invasive Plants from the affected property and demand confinement in accord with Section 4 of this Ordinance.
- b. The Property Maintenance Official and/or Code Enforcement Officer shall provide notice to the Invasive Plants property owner, as well as to the owner of the affected property(ies), by certified, return receipt requested mail and regular mail.
- c. Within 30 days of receipt of such notice, the Invasive Plants property owner shall submit to the Property Maintenance Official and/or Code Enforcement Officer a plan for the removal of the Invasive Plants from the affected property, which plan shall include restoration of the affected property after removal of the Invasive Plants; a copy of which shall be provided to the owner of the affected property.
- d. Within 60 days of approval of the plan of removal and restoration, the removal and restoration shall be completed to the satisfaction of the Borough.

§ 10-8.6. Violations and Penalties.

- a. If an Invasive Plants owner fails to confine existing Invasive Plants in accord with Chapter 10, §10-8.4 or does not accomplish the removal of the Invasive Plants from such other private or public property or public right-of-way in accord with Section 5, the owner shall upon conviction, be liable to the penalty stated in Chapter 1, § 1-5 General Penalty. A summons may be issued per Chapter 10, §10-4.10. Each violation of any of the provisions of this section and each day that each such violation shall continue, shall be deemed to be a separate and distinct offense.
- b. When an encroachment is upon public property or a public right-of-way and the Invasive Plants property owner and/or occupant has not complied with the written notice provided as set forth above, the Borough of Midland Park, at its discretion, may remove or contract for the removal of such Invasive Plants from Borough property or the public right-of-way. The cost of said removal shall be the responsibility of the Invasive Plants property owner and/or occupant and shall be paid or assessed as a lien against the property on which the Invasive Plants growth originated. Such lien may be enforced in the same manner as unpaid taxes and assessments. The cost of said removal from Borough-owned property and/or the public right-of-way shall include the installation of an appropriate barrier to prevent future Invasive Plants invasion or other suitable remedy approved by the Borough.

§ 10-8.7. Enforcement.

The requirements under this Ordinance shall be enforceable by the Property Maintenance Official and/or Code Enforcement Officer or designee, including, but not limited to, the Borough Construction Official or Zoning Officer. The Midland Park Police Department can also enforce the provisions of this Ordinance.

§ 10-8.8.

The terms of this Ordinance shall not be deemed and are not intended to impair the provisions and enforcement of any other chapter of this Code, which shall remain in full force and effect.

§ 10-8.9.

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

§ 10-8.10.

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

§ 10-8.11.

This Ordinance shall take effect upon passage and publication according to law.

Introduced by: Councilman Kruis

Seconded by: Council President DeLuca

At this time Mayor Shortway opened the meeting to the public for any questions, comments, or concerns regarding Ordinance #18-2023.

Due to the Adoption of Daniel’s Law, P.L.2021, c.371, the Borough only requires the Public to state their name and if they reside in Midland Park for the Record.

Raymond Chapman, Midland Park resident asked what kind of invasive species does the Ordinance reference to? Borough Administrator/Clerk Wendy Martin replied the Ordinance refers to a list of invasive species located on a Government website. (www.invasivespeciesinfo.gov)

The Mayor closed the meeting to the public regarding Ordinance #18-2023.

Introduced by: Councilwoman Peet

Seconded by: Councilman Braunius

Roll Call:	Councilman Braunius	Aye
	Councilman DeBlasio	Aye
	Councilman Kruis	Aye
	Councilwoman Peet	Aye
	Council President DeLuca	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 #125-2023 Cancel Balances Capital Improvements Authorized and Receivables

WHEREAS, certain General Capital Improvement Authorizations balances remain dedicated to projects completed; and

WHEREAS, it is necessary to formally cancel said balances in the amount of \$31,470.98 (funded), so that the unexpended balances may be returned to respective funding sources: Capital Improvements Fund; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park, that the following unexpended and dedicated balances of General Capital Appropriations/Projects be canceled:

GENERAL CAPITAL APPROPRIATIONS:

ORD. #	DATE	PROJECT	AMOUNT	SOURCE
09-21	5/27/21	Englishmen-Witte-Butternut Road Improvements	\$ 31,416.50	C.I.F.
06-20	5/14/20	2020 Police Capital Requests	\$ 15.00	C.I.F.

13-21 7/8/21 Issuance of Bond \$ 39.48 C.I.F.
Unused: DPW loader & F.D. Equipment

Resolution #126-2023 Refund of Building Department Permit Fees

WHEREAS, the Construction Code Assistant has received refund requests from companies for the various permit fees required due to the residents canceled the jobs;

WHEREAS, the following companies permit fees will be refunded out of the Uniform Construction Code Fees revenue account;

Trinity Solar 2211 Allenwood Rd, Wall, NJ 07719

Solar installation at 36 Pine St (Blk #10.10 Lot #5) Permit #20230060

Electrical/Building/Fire fees in the amount of \$550.00, only 80% refundable = \$440.00

Bergen Water Softening LLC/Passaic Bergen Water Softening 2850 Rt.23N, Newfoundland, NJ 07435

Water softener installation at 16 Oak Hill Rd (Blk #25.10 Lot #41) Permit #20230165

Plumbing fee in the amount of \$75.00, fully refundable

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park that the Chief Financial Officer issue checks for the funds in the above stated amount, for said permits cancelled.

Resolution #127-2023 Approval to Submit a Grant Application and Execute a Grant Contract with the New Jersey Department of Transportation for the Park Avenue Section 1 Resurfacing Project
NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Midland Park formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as **MA-2024- Park Avenue Section 1 Resurfacing - 00601** to the New Jersey Department of Transportation on behalf of the Borough of Midland Park.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Midland Park and that their signature constitutes acceptance of the terms and conditions of the grand agreement and approves the execution of the grant agreement.

Resolution #128-2023 Various Zoning Board Escrow Refunds

WHEREAS, at the Zoning Board of Adjustment meeting of June 14, 2023 it was approved by Motion and recommended by the Zoning Board, to return the unused escrow to the following party:

Applicant	Pay To (if different than Applicant)	Address	Block	Lot	Account	Amount
Acme Markets, Inc.	To be refunded to: Cooper Levenson, PA, 1125 Atlantic Avenue, 3 rd Floor, Atlantic City, NJ 08401	136 Lake Ave	3	4.02	T-20-256-175	\$1,613.11
Bachmann, Robert & Diana		96 Millington Dr	10.19	18	T-20-300-039	\$14.71
Borzone, Maureen & Ray		35 Zimmer Ave	10.30	12	T-20-300-151	\$41.41
Borzone, Maureen & Ray		35 Zimmer Ave	10.30	12	T-20-300-276	\$37.53
Cornell, Michael		27 Franklin Ave	4	17	T-20-300-193	\$31.84
D'Alessandro, Stephen		57 Busteed Dr	7.06	10	T-20-300-371	\$29.08
Dorney, Denise & Dan		22 Cedar St	10.12	4	T-20-300-057	\$13.39
Flaherty, Sean		157 Highland Ave	15	18 & 21	T-20-300-017	\$62.40
The Frederic Companies		193 Hill St	11.04	31	T-20-300-095	\$113.20
Hill Street Homes LLC		31 Hill St	11.02	25	T-20-300-421	\$17.86
Hup, Harriet; Estate of	To be refunded to: McDonnell and Whitaker, LLP, 245 E. Main Street, Ramsey, NJ 07446	72 Cross Ave	20.08	10	T-20-300-396	\$277.04

Kenney, Susan & Michael		84 Westbrook Ave	10.2	23	T-20-256-132	\$41.39
Loracelli LLC	To be refunded to: Campanella Law Office LLC, 356 Franklin Avenue, Wyckoff, NJ 07481	289 Godwin Ave	21	13	T-20-256-192	\$894.88
Marino, Kenneth	To be refunded to: Martin and Matha Phillips Rental Account, 150 Washington Place, Ridgewood, NJ 07450	15 Franklin Ave	4	18.01	T-20-300-283	\$37.54
McKenna, Daniel J.		126-128 Madison Ave	51	4	T-20-300-001	\$212.36
Olivo, Benjamin		44 Millington Dr	10.19	8	T-20-256-187	\$44.15
Opderbeck, David & Susan		20 Smith Ln	7.01	5	T-20-300-107	\$40.90
Peer, Deborah & Kenneth		261 Vreeland Ave	11.03	22.01	T-20-300-031	\$14.71
Porchlight Grill		118 Godwin Ave	18	1	T-20-300-011	\$643.18
Smith, Scott & Nicole		20 Waldo Ave	25.14	5	T-20-300-059	\$13.39
Stacey, Donald & Donna	To be refunded to: Helen Wensing, 57 W. Summit Avenue, Midland Park, NJ 07432	57 W. Summit Ave	25	16.02	T-20-300-051	\$11.60
Turchick, Albert & Jean		2 Crest Dr	10.28	2	T-20-300-171	\$16.74
Whitney, Robert & Thelma		342 Park Ave	25.16	1	T-20-300-105	\$40.90
Zubok, Alexandra	To be refunded to: Sarah E. Lieberman Architects, LLC, 14 Tree Top Drive, Springfield, NJ 07081	222 Spruce St	10.21	12	T-20-256-184	\$44.15

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park that the Chief Financial Officer issue checks to the above payees for the amounts listed.

Resolution #129-2023 Opposition to NJ General Assembly Bill A-4376 Restrictions on Land Use

WHEREAS, pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Home Rule Act, as well as sections 253 and 332 of the federal Telecommunications Act (47 U.S.C. 253; 332(c)(7)), and a local jurisdiction’s police powers, as established by law, regulation and custom, a municipality retains the right and authority to establish reasonable regulations concerning the placement, installation and alteration of telecommunications facilities; and

WHEREAS, the Borough of Midland Park (“Municipality”) desires to retain these rights and authorities, consistent with state and federal laws, and which allow it to, among other things, establish regulations regarding the placement and alteration of telecommunications facilities which encourage judicious siting of said facilities in order to minimize the total number of facilities throughout the Municipality and which encourage collocation when possible, and which help to minimize the adverse visual impact of said facilities via careful design, landscaping and screening techniques, on the aesthetic character of the Municipality; and

WHEREAS, on February 8, 1996, the federal government adopted the Telecommunications Act which, among other things, preserves a local government’s authority over the “placement construction and modification of personal wireless service facilities” (47 U.S.C. §332(c)(7)(A)) while, at the same time, making it unlawful for a local government to prohibit or have the effect of prohibiting the provisions of personal wireless service (47 U.S.C. 332(c)(7)(B)(i)(II)), and provides that local government “shall not unreasonably discriminate among providers of functionally equivalent services” (47 U.S.C. §332(c)(7)(B)(i)(I)); and

WHEREAS, on November 18, 2009, the Federal Communications Commission (“FCC”) adopted a declaratory ruling at Docket WT Docket No. 08-165 titled “Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State

and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance” in regard to the provisions of the Telecommunications Act which require the timely siting, by establishing 90 and 150 day shot clock timeframe provisions for wireless siting applications; and

WHEREAS, on February 22, 2012, the federal government adopted the Middle-Class Tax Relief and Job Creation Act which, among other things, contains provisions designed to improve and expedite wireless siting applications by specifying that eligible facilities requests which do not substantially increase the size of an existing tower or base station must be approved by local governments, with this subset of telecommunications provisions becoming subsequently known as the Spectrum Act; and

WHEREAS, on January 17, 2012, the State of New Jersey adopted the New Jersey Collocation Law (N.J.S.A. 40:55D-46.2), which specifies, among other things, that site plan review may not be required if a proposed modification does not result in an area greater than 2,500 square feet for a wireless communications compound; and

WHEREAS, on October 17, 2014, the FCC adopted a Report and Order (the “Infrastructure Order”) at WT Docket No. 13-238 titled “Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies”, which clarified the provisions of the Spectrum Act by describing the types of modifications to wireless facilities which constitute an Eligible Facilities Request, as the term is used in the Spectrum Act, including that a modification may not increase the height of a facility by more than 10% of its existing height; and

WHEREAS, on June 9, 2020, the FCC adopted a Declaratory Ruling and Notice of Proposed Rulemaking at WT Docket No. 19-250 titled “Implementation of State and Local Governments’ Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012” in order to further clarify the provisions of the Spectrum Act in regards to what type of modification constitutes an Eligible Facilities Request, including specifying which modifications do not defeat the originally intended concealment elements of an existing facility, when the FCC mandated 90 and 150 day shot clocks commence and permitted height increases for towers outside the public right-of-way; and

WHEREAS, on October 27, 2020, the FCC adopted a Report and Order at WT Docket No. 19-250 titled “Implementation of State and Local Governments’ Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012” in order to further clarify the provisions of the Spectrum Act by specifying the extent to which an Eligible Facilities Request to modify an existing wireless may expand said facility in size and dimensions, including that an existing facility may be expanded by up to 30 feet in any one direction; and

WHEREAS, on September 26, 2018, the FCC adopted an order entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment,” (FCC-18-133A or the “Small Cell Order”), which was upheld for the most part by the Ninth Circuit Court of Appeals on August 12, 2020, concerning City of Portland et al. vs. the FCC; and

WHEREAS, the Small Cell Order places 60 and 90 day shot clock time limits on the municipal decision-making process for applications for the placement of small wireless facilities, the replacement of existing poles and the placement of new poles in the public right-of-way; and

WHEREAS, on June 27, 2022, A-4376 was introduced and sponsored by Carol A. Murphy of the 7th legislative district with said bill, among other things, intending to combine aspects of the above-referenced FCC rulings regarding the Telecommunications Act, the Spectrum Act and small wireless facilities in the public right-of-way, while also going well above and beyond said rulings in regard to its intention to preempt a local jurisdiction’s right and authority to manage its territory and rights-of-way; and

WHEREAS, on June 5, 2023, the Assembly Telecommunications and Utilities Committee amended and favorably reported A-4376; and

WHEREAS, if adopted, A-4376 would expand the existing preemption framework of the state and federal government by, among other things, accelerating review timeframes and precluding discretionary land use review for most new antenna installations on buildings and structures not previously approved for use for telecommunications facilities; and

WHEREAS, per A-4376, discretionary land use approvals would only be an option for a municipality if facility installation on a structure not previously used for antennas increased that structure's height by more than 20 feet, or expanded width by more than 20 feet or the width of a structure; and

WHEREAS, A-4376 encompasses both tower and rooftop sites on private land as well as small wireless antenna facilities on utility poles and other supporting structures in the public right-of-way; and

WHEREAS, the overarching effect of A-4376 would be to essentially eliminate nearly all effective control of a municipality's territory in regard to telecommunications facilities deployments; and

WHEREAS, this is an excessive and unreasonable loss of authority which runs contrary to the intention of the Municipal Land Use Law, the Home Rule Act and local police powers; and

WHEREAS, as a result, the Municipality strongly opposes passage of said bill A-4376 and desires to maintain its existing rights and authority to regulate telecommunications facilities within its jurisdiction.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Midland Park, County of Bergen and State of New Jersey that:

1. The 5 of 5 opposes New Jersey General Assembly bill A-4376.

2. The 5 of 5 urges the Assembly not to pass A-4376.

3. A copy of this resolution will be submitted to both chambers of the New Jersey Legislature, and any applicable legislative committees tasked with reviewing same, including the Assembly Telecommunications and Utilities Committee, which will be asked to reconsider its favorable report of A-4376.

APPROVED: []

DISAPPROVED: []

On July 13, 2023, according to the indicated vote.

Resolution #130-2023 Support of S-3807/A-5567 Local Bond Law N.J.S.A. 40A:2.22 Fire Vehicles

WHEREAS, the Local Bond Law, specifically *N.J.S.A. 40A:2-22*, sets the useful life of fire engines, apparatus, and equipment, when purchased new, at ten years and prohibits the bonding of passenger cars and station wagons; and

WHEREAS, the useful life fire engines, apparatus, and equipment, when purchased new, and the prohibition on the bonding of passenger cars and station wagons have been unchanged since this section of the law was enacted by *P.L. 1964, c.133*; and

WHEREAS, Fire Underwriters Survey has published the document entitled Insurance Grading Recognition of Used and Rebuilt Fire Apparatus, which states that apparatus should be retired at 20 years of age unless the apparatus meets the recommended annual, service, and acceptance level tests and has been deemed in excellent mechanical condition; and

WHEREAS, Senate Bill No. 3807 and its companion Assembly Bill No. 5567 seek to amend in part section 22 of the Local Bond Law to amend the maximum usefulness of fire engines, apparatus, and equipment, when purchased new, from 10 years to 20 years, and to removes the prohibition on the bonding of passenger cars and station wagons.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Midland Park, in the County of Bergen, State of New Jersey, does hereby support the passage of Senate Bill No. 3807 and its companion Assembly Bill No. 5567, which seek to amend in part section 22 of the Local Bond Law to amend the maximum usefulness of fire engines, apparatus, and equipment, when purchased new, from 10 years to 20 years and to removes the prohibition on the bonding of passenger cars and station wagons.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to Governor Philip D. Murphy, Senate President Nicholas P. Scutari, Speaker of the General Assembly Craig J. Coughlin, Senator Holly Schepisi, Assemblyman Robert Auth, and Assemblywoman DeAnne DeFuccio, and the New Jersey League of Municipalities.

Resolution #131-2023 Cancel Alliance Grant Expenses and Receivables

WHEREAS, the following Grant fund awarded by Bergen County, NJ for Alliance program usage needs

to be cancelled from the borough's budget; and

WHEREAS, it is necessary to formally cancel the unused funds for grant year July 1, 2022 – June 30, 2023 from the 2022 budget in the amount of \$795.41:

- Appropriation account # G-01- -041-766 and Receivable account # G-01- -041-751; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park, that the above unexpended balances from Bergen County Alliance grant programs be cancelled.

Resolution #132-2023 Junior Police Academy Registration Refund

WHEREAS, Officer Jason Tillson received the following Jr. Police Academy registration refund request due to camper attending another camp during the same week;

WHEREAS, a refund check is being requested to be made out to the following resident for the week of the Jr. Police Academy:

Wendy Goodell 11 Baldin Dr., Midland Park, NJ 07432 \$100.00

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park that the Certified Finance Officer will issue a check for the above refund amount.

Introduced by: Councilwoman Peet

Seconded by: Councilman Braunius

Roll Call: Councilman Braunius

Aye

Councilman DeBlasio

Aye

Councilman Kruis

Aye

Councilwoman Peet

Aye

Council President DeLuca

Aye

RESOLUTIONS:

1. Resolution #124–2023 Bills List

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

Current Fund ('22)	\$ 1,251.29
Current Fund	\$ 229,828.36
Unemployment Fund ('22)	\$ 264.22
Dog Fund	\$ 307.20
Capital Fund	\$ 41,304.14
Mun Open Space Fund	\$ 12,987.00
Trust Fund	\$ 12,937.76
TOTAL:	\$ 298,879.97

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	June 30 th Payroll	\$ 206,332.18
Current	July Health Payments	\$ 104,984.63
Current	July School Taxes	\$2,376,537.60
Current	Verizon (Mnl Ck)	\$ 307.97

NOW, THEREFORE, BE IT RESOLVED, by the Council President and Council of the Borough of Midland Park that the claims totaling \$2,987,042.35 approved and ratified respectively.

Introduced by: Councilman Braunius

Seconded by: Councilwoman Peet

Roll Call:	Councilman Braunius	Aye
	Councilman DeBlasio	Aye
	Councilman Kruis	Aye
	Councilwoman Peet	Aye
	Council President DeLuca	Aye

MOTION:

Council President DeLuca made a Motion to appoint Robert Sansone as Councilman to fill the vacancy of Lorenzo Damiano, until December 31, 2023.

Introduced by: Council President DeLuca **Seconded: Councilwoman Peet**

Roll Call:	Council President DeLuca	Aye
	Councilman DeBlasio	Aye
	Councilman Kruis	Aye
	Councilwoman Peet	Aye
	Council President DeLuca	Aye

OLD BUSINESS:

Council President DeLuca wanted to clarify her statement the Mayor and Council meeting during Old Business. The **Council President** stated the Boy Scouts of Troop 157 mostly planted flowers by the cemetery for service hours. A correction for the Record, the Boy Scouts of Troop 157 participated in the 2023 Beautification Event.

Borough Administrator/Clerk Wendy Martin responded to a question from **Councilwoman Peet** regarding background checks on counselors. There are (4) four core counselors at the Midland Park Summer Camp. The background checks are done every (5) five years for employees that are 18 years or older according to the policy since 2011. The Borough may pass their own standards if the Council chooses.

Ms. Martin informed the Governing Body of the junction box located by the Fire House on Witte Drive. Verizon has been contacted and Superintendent Matthew Tauber of the Department of Public Works will continue to communicate with Verizon until the issue is resolved.

The baseball/softball back stop has been researched with quotes and various opinions as to how to resolve the structure. Ken Schultz from the JIF has no mandated rules for the back stop. The Administrator will ask Mr. Tauber look into pricing further.

Ms. Martin suggested the Borough Planner David Novak attend a future meeting to discuss the options for 90 Midland Avenue.

NEW BUSINESS:

Borough Administrator/Clerk Wendy Martin received a report from the US Department of Wildlife concerning an injured deer. The State is setting up a feeder in order to trap the animal and give any aid that is needed.

Ms. Martin reported the long-awaited Energy Tax Receipts has been approved.

PUBLIC COMMENT:

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

Due to the adoption of Daniel's Law, P.L.2021, c.371, the Borough only requires the Public to state their name and if they reside in the Borough of Midland Park for the Record.

Raymond Chapman, resident of Midland Park stated that during a recent storm Mr. Chapman was pleased with the conditions of the roadways and drainage pipes due to the hard work of the Department of Public Works staff.

There being no one from the Public wished to speak, the Public Session was closed.

ADJOURNMENT:

There being no further business to discuss, on a Motion by **Councilman Braunius**, Seconded by **Councilman DeBlasio** and carried, **Mayor Shortway** adjourned the Open Public meeting at 8:35 P.M.

Respectfully submitted,



Wendy Martin, RMC
Borough Administrator/Clerk

