

**Mayor and Common Council
Borough of Flemington**

September 27, 2021

Online during COVID-19 Emergency

Call to Order (6:30 PM)

Present: Mayor Driver; Council Members Tilly, Hand, Long, Giles-McCormick, Johnston, Runion; Attorneys St. Angelo and Maraziti; Clerk Graziano

1. Motion To: **Amend Resolution 2021-199 to Include Obtaining Legal Advice regarding Flemington Center Urban Renewal, LLC and the study of Liberty Village as an Area in Need of Redevelopment**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

2. RESOLUTION 2021-199: 2021-199: RETIRING INTO EXECUTIVE SESSION - ATTY ADVICE ON WELL EASEMENT, FCUR AND LIBERTY VILLAGE

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Executive Session (6:30 PM)

Minutes kept separately. The session ended at 6:55 p.m. and Council returned to open session. Mayor Driver announced that there was discussion about the litigation settlement regarding Flemington Center Urban Renewal and discussion about a new well easement; action will be taken later tonight on both. There was a brief discussion about the Liberty Village area in need of redevelopment; no action is anticipated regarding that. The meeting adjourned for a few minutes prior to the start of the work session.

Work Session (7:00 PM)

Discussion of Certified Local Government designation studied by the Historic Preservation Commission

HPC Consultant John Hatch and HPC member Richard Giffen joined for this discussion. Mr. Hatch said the Certified Local Government designation is an effort to standardize, strengthen and make more transparent the commission's historical preservation guidelines. If this designation is attained, the Borough can access grants of from \$15,000 to \$50,000 for various planning activities. In order for Flemington to qualify as a Certified Local Government, the HPC ordinance needs a few adjustments.

Mr. Giffen said the main benefits of the designation are the additional funding opportunities and annual training. We would also get access to state Historic Preservation Office resources and survey support tools. He summarized the suggested ordinance changes.

There was some discussion about vacancies on the HPC and how the grant process is handled. The session ended at 7:23 p.m., and council adjourned until the 7:30 start of the regular meeting.



Regular Meeting (7:30 PM)

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

Flag Salute

Roll Call:

Attendee Name	Title	Status	Arrived
Caitlin Giles-McCormick	Council President	Present	
Jessica Hand	Council Member	Present	
Malik Johnston	Council Member	Present	
Jeremy Long	Council Vice President	Present	
Christopher Runion	Council Member	Present	
Kimberly Tilly	Council Member	Present	
Betsy Driver	Mayor	Present	

I. Mayor's Report

The Mayor summarized what was discussed in executive session, noting that action would be taken later in the meeting regarding a well easement and the amended redevelopment plan for the hotel area. Also, the Planning Board approved designating Liberty Village as an area in need of redevelopment, but a resolution regarding that designation will be on a future agenda. She discussed the new garbage procedures and said everyone must use totes starting this week. The totes have to be accessible to the garbage truck and not blocked by vehicles. The Public Works crews will be out trying to identify difficult spots.

II. Council Members' Reports

Council Member Tilly

She thanked Raritan Township for working with the Borough to handle flood-damaged recycling after Ida, and praised the DPW's efforts with the flooding and with the new garbage situation. This Saturday is the Harvest Festival, which benefits the Fire Dept. Mayor Driver added thanks to Hunterdon County Building & Grounds for the use of their front loader when the Borough's failed.

Council Member Hand

Tonight, the Borough will consider a Memorandum of Understanding between the Borough and the Community Garden nonprofit, spelling out who is responsible for what. She noted a brush cleanup at Tuccamirgan Park is planned for Sunday, Oct. 10, at 1 p.m.

Council Vice President Long

On 9/14 the Planning Board approved the settlement agreement regarding lawsuits over the hotel development. They also reviewed a zoning change request and ruled against any change. The Planning Board also held a public hearing about declaring Liberty Village an area in need of redevelopment, and voted in favor of that. It also reviewed proposed hotel-area redevelopment plan changes. He said a discussion on Zoom is set for 9/29 at 7 p.m., regarding mental health as it relates to police work.

Council Member Runion

He said the new garbage totes look great and the service has been great too.

Council Member Johnston

He thanked the Public Works department for its hard work in changing garbage and recycling procedures.

Council President Giles-McCormick



A Harvest Festival is planned for this Saturday on Stangl Road; it supports the firefighters. The flower pots around town have been well-maintained this year. The Samuel Fleming House will host a pumpkin decorating event on Oct. 23, 1-4 p.m.

III. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)

Robin Lapidus, executive director of the FCP, said the Harvest Fest hours are noon to 8 p.m. on Saturday.

IV. Approval of Minutes

Motion To: **Approve Minutes: Sept. 13, 2021 Regular Council Meeting**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeremy Long, Council Vice President
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Motion To: **Approve Minutes: Sept. 13, 2021 Executive Session**

RESULT:	APPROVED [5 TO 0]
MOVER:	Jessica Hand, Council Member
SECONDER:	Kimberly Tilly, Council Member
AYES:	Giles-McCormick, Hand, Long, Runion, Tilly
ABSTAIN:	Malik Johnston

Motion To: **Amend the Agenda to Move up Consideration of Ordinance 2021-23**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

Consideration of Ord. 2021-23 was moved up to precede discussion of the marijuana policy.

3. ORDINANCE 2021-23: FIRST READING, AN ORDINANCE TO REPLACE AND SUPERSEDE THE "2017 UNION HOTEL REDEVELOPMENT PLAN" AS ADOPTED BY ORDINANCE 2017-17 AND AMENDED BY ORDINANCE 2020-16 OF THE BOROUGH OF FLEMINGTON

Attorney Maraziti said adoption of this plan would settle the longstanding litigation over the planned hotel-area development. It's the version most recently approved by the Planning Board.
Planner McManus said the original 2017 approval would no longer be valid. In addition to the smaller height and density approved by the Planning Board in 2020, this also adds a porch on the side of the 78 Main building. She anticipates that porch will need a site plan amendment.

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/12/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

V. Discussion of draft policy regarding recreational marijuana licensing requests

Attorney St. Angelo said she would give Council members an overview tonight, and asked members to send questions her way so she can draft a policy for introduction at an upcoming meeting.
She summarized what license applicants need from the Borough, and suggested a timeline for receiving requests.

She discussed what documents Council might require from applicants, and also discussed the possibility of establishing a flat fee or escrow fee from applicants seeking the Borough's support. She said Council may want to set up a subcommittee to look at initial applications.

There was discussion about how recreational cannabis licensing might compare with medical cannabis licensing.

Mayor Driver asked Council members to send questions regarding marijuana licensing to Council President Giles-McCormick for compilation.

Consent Agenda

Moved by Hand; Seconded by Long; All voted in favor.

- 1. RESOLUTION 2021-200: RECOGNIZING NATIONAL HISPANIC HERITAGE MONTH, 2021
- 2. RESOLUTION 2021-201: APPROVING A MEMORANDUM OF UNDERSTANDING WITH FLEMINGTON BOROUGH COMMUNITY GARDEN REGARDING A COMMUNITY GARDEN AT TUCCAMIRGAN PARK

Regular Agenda

- 1. ORDINANCE 2021-21: ORDINANCE CHANGING THE NAME OF CENTRAL AVENUE TO CENTRAL STATION

Motion to open public hearing: Tilly, seconded by Hand. All voted to open hearing. Hearing opened at 8:33 p.m.

Robin Lapidus, exec. dir. of the FCP, said the FCP's board is in favor of this change, and so are businesses in the area.

Mayor Driver noted that the idea for this came from a petition signed by all the businesses on the street.

Motion to close public hearing: Tilly, seconded by Hand. All voted to close hearing. Hearing closed at 8:36 p.m.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

- 2. ORDINANCE 2021-22: SECOND READING, AMENDING SECTION 3-3 OF THE BOROUGH CODE TO SET FORTH THE PROCESS FOR SELLING OR DISPOSING OF JUNK OR ABANDONED VEHICLES SEIZED BY THE POLICE DEPARTMENT

Motion to open public hearing: Tilly, seconded by Hand. All voted in favor of opening hearing. Hearing opened at 8:39 p.m.

No one commented.

Motion to close hearing: Tilly, seconded by Hand. All voted in favor of closing the hearing. Hearing closed at 8:40 p.m.

RESULT:	ADOPTED [5 TO 0]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Long, Runion, Tilly
ABSTAIN:	Malik Johnston

- 3. ORDINANCE 2021-24: FIRST READING, AMENDING CHAPTER 14, SECTION 1404 OF THE BOROUGH CODE REGARDING THE HISTORIC PRESERVATION COMMISSION

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RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/25/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

4. ORDINANCE 2021-25: FIRST READING: ORDINANCE CREATING THE POSITION OF OFFICE ASSISTANT AND SETTING A SALARY RANGE

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/12/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

5. ORDINANCE 2021-26: FIRST READING: ORDINANCE ACCEPTING A WELL SITE, WATERLINE AND ACCESS EASEMENT OVER A PORTION OF BLOCK 45, LOT 1

This would be on the Dvoor property near the driving range. The Borough has to have control of a property before it can submit an application to the state.

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/12/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

6. RESOLUTION 2021-202: APPOINTING STACEY MCGLOTHLIN AS THE MUNICIPAL COURT VIOLATIONS CLERK AT AN ANNUAL SALARY OF \$38,000.00 EFFECTIVE OCTOBER 13, 2021

RESULT:	ADOPTED [UNANIMOUS]	
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

7. RESOLUTION 2021-203: HIRING KAREN SHAEFER AS A BACKUP CROSSING GUARD IN THE EVENT A SHORTAGE OCCURS

Mr. Long said the department needs a substitute that can work if any of the other guards is out. Currently an officer is filling in if a guard is out.

RESULT:	ADOPTED [UNANIMOUS]	
MOVER:	Jeremy Long, Council Vice President	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

8. RESOLUTION 2021-204: APPROVING AN AGENT FOR THE DISPOSITION OF JUNK AND/ OR SALABLE TITLES FOR ABANDONED, JUNK, OR UNCLAIMED MOTOR VEHICLES

RESULT:	ADOPTED [UNANIMOUS]	
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

VI. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)
No comments.

VII. Attorney's Report

Attorney St. Angelo said she has a conflict in her schedule for the Oct. 12 council meeting, and an associate will have to take her place for that meeting. She said she'd like to schedule the next cannabis policy discussion for the Oct. 25 meeting. Mayor Driver suggested Council comments be submitted by Oct. 12.



VIII. Payment of the Bills

Motion To: Pay the Bills in the Amount of \$141,257.67

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

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

None needed.

X. Adjournment

Motion To: Adjourn

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

The meeting adjourned at 8:56 p.m.

Attest: Sallie Graziano
Sallie Graziano, Borough Clerk

Approved by Council 10/12/2021

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Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

ADOPTED

RESOLUTION 2021-199

DOC ID: 3598

**Retiring into Executive Session for the Purpose of Obtaining
Legal Advice Regarding an Easement for a New Well;
Flemington Center Urban Renewal, LLC; and the Study of
Liberty Village as an Area in Need of Redevelopment**

WHEREAS, the Common Council of the Borough of Flemington desires to obtain legal advice on matters related to an easement for a new well; Flemington Center Urban Renewal, LLC's amended redevelopment plan; and the study of Liberty Village as an Area in Need of Redevelopment; and

WHEREAS, an executive session for this discussion is justified under N.J.S.A. 10:4-12 (7), which cites:

pending or anticipated litigation or contract negotiation other than in section (4) herein in which the public body is, or may become, a party, or matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; and

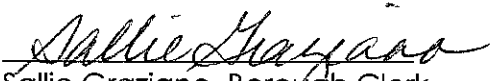
WHEREAS, a date cannot yet be given for when the minutes from the executive session may be made public; and

WHEREAS, action may be taken following the closed session;

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

Adopted: September 27, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Giles-McCormick, Council President
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

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Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

ADOPTED

RESOLUTION 2021-200

DOC ID: 3593

Recognizing National Hispanic Heritage Month, 2021

WHEREAS, each year Americans observe National Hispanic Heritage Month by celebrating the histories, cultures, and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean, and Central and South America; and

WHEREAS, observance of Hispanic Heritage began in 1968, was later expanded, and begins many significant anniversaries of independence for Latin American countries; and

WHEREAS, The United States has the 2nd largest population of Hispanic and Latinx people in the world; and

WHEREAS, Flemington Borough's residents of Hispanic heritage comprise just under 33% of the Borough's total population, according to 2019 Census estimates; and


WHEREAS, the Mayor and the Borough Council of the Borough of Flemington ask all individuals to celebrate the great diversity of the American people by recognizing residents and friends of Flemington with Hispanic and Latinx heritage who have helped make our Borough prosperous; and

WHEREAS, we encourage the work of those who dedicate their time and efforts to the furthering of a connected and strong local community by recognizing September 15th, 2021 through October 15th, 2021 as National Hispanic Heritage Month;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Borough Council hereby recognize September 15th, 2021 through October 15th, 2021 as National Hispanic Heritage Month in the Borough of Flemington.

Adopted: September 27, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Jessica Hand, Council Member
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly



Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:
DOC ID: 3594

ADOPTED

RESOLUTION 2021-201

**Approving a Memorandum of Understanding with Flemington
Borough Community Garden Regarding a Community
Garden at Tuccamirgan Park**

WHEREAS, a Memorandum of Understanding between the Flemington Borough Community Garden (FBCG), a nonprofit 501(c)(3) corporation of the State of New Jersey, and the Borough of Flemington has been proposed; and

WHEREAS, the sole purpose of this Memorandum of Understanding is to permit the FBCG to construct and maintain a community garden within Tuccamirgan Park; and

WHEREAS, Tuccamirgan Park was preserved using funding from the New Jersey Department of Environmental Protection's ("NJDEP") Green Acres Program and is, therefore, subject to the requirements of N.J.A.C. 7:36-25.1 et seq.; and

WHEREAS, the Borough conducted a public hearing regarding the change in use of Tuccamirgan Park to accommodate the community garden pursuant to N.J.A.C. 7:36-25.6 on March 22, 2021; and

WHEREAS, the Borough was obligated to accept comments regarding the change in use for a period of two (2) weeks after the public hearing and did not receive any such comments; and

WHEREAS, the Borough provided NJDEP with the proof of notice publication and of the hearing (including a recording in lieu of a transcript with consent of NJDEP) in compliance with N.J.A.C. 7:36-25.6; and

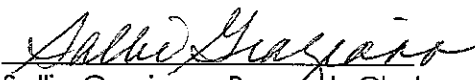
WHEREAS, the Borough must provide NJDEP notice that construction will commence on the community garden within ninety (90) days of commencing construction;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the Borough of Flemington agrees it is in the best interest of all concerned to enter into this Memorandum of Understanding.

BE IT FURTHER RESOLVED that the Common Council of the Borough of Flemington authorizes the Mayor to sign the attached Memorandum of Understanding.

Adopted: September 27, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Jessica Hand, Council Member
SECONDER:	Jeremy Long, Council Vice President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly



MEMORANDUM OF UNDERSTANDING

BETWEEN

FLEMINGTON BOROUGH COMMUNITY GARDEN (THE "FBCG")

AND

FLEMINGTON BROUGH (THE "BOROUGH")

THIS AGREEMENT regarding the use of Tuccamirgan Park as a community garden is entered into between the Flemington Borough Community Garden ("FBCG"), a non-profit 501(c)(3) corporation of the State of New Jersey, and the Borough of Flemington (the "Borough"), a municipal corporation of the State of New Jersey.

WHEREAS, the sole purpose of this Memorandum of Understanding is to permit the FBCG to construct and maintain a community garden within Tuccamirgan Park; and

WHEREAS, Tuccamirgan Park was preserved using funding from the New Jersey Department of Environmental Protection's ("NJDEP") Green Acres Program and is, therefore, subject to the requirements of N.J.A.C. 7:36-25.1 et seq.; and

WHEREAS, the Borough conducted a public hearing regarding the change in use of Tuccamirgan Park to accommodate the community garden pursuant to N.J.A.C. 7:36-25.6 on March 22, 2021; and

WHEREAS, the Borough was obligated to accept comments regarding the change in use for a period of two (2) weeks after the public hearing and did not receive any such comments; and

WHEREAS, the Borough provided NJDEP with the proof of notice publication and of the hearing (including a recording in lieu of a transcript with consent of NJDEP) in compliance with N.J.A.C. 7:36-25.6; and

WHEREAS, the Borough must provide NJDEP notice that construction will commence on the community garden within ninety (90) days of commencing construction;

THEREFORE, FBCG and the Borough agree it is in the best interest of all concerned to enter in this Memorandum of Understanding.

1. **Effective Date.** This Memorandum of Understanding is to take effect after all requirements of N.J.A.C. 7:36-25.6 have been met.

2. **Use of Property and Construction.** FBCG will design and maintain an organic garden on the ½ acre area of the park where the existing sandbox is located.

a. **Responsibilities of FBCG.**

i. The FBCG will be responsible for erecting and maintaining a fence to exclude the garden from animal pests. Said fence shall be 8 feet tall and include a locking gate.

ii. FBCG shall also be responsible for maintaining the interior of the garden (i.e. the area within the fence) to a desirable aesthetic and sanitation standard consistent with organic community gardens. The garden shall be maintained to be free of trash, standing water, and noxious weeds (i.e. ragweed, poison ivy, poison oak, and poison sumac).

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- iii. FBCG shall not access the garden with vehicles.
- iv. The FBCG commits to maintaining the garden in a way that benefits the community and is open to all residents in compliance with all ordinances, rules, and regulations applicable to Borough property and property preserved with Green Acres funding.
- v. The FBCG commits to strictly following organic standards (as defined by the United States Division of Agriculture ("USDA")) in all of its practices.
- vi. Garden hours shall be restricted to dawn to dusk and the gate to the garden must be kept locked when members are not present in the garden.
- vii. All trash, waste, weeds, etc. shall be disposed of off-site, except for compostable matter. FBCG shall be permitted to maintain a compost pile within an enclosed container that does not emit foul odors.
- viii. FBCG shall be permitted to use a nearby fire hydrant to water the garden. FBCG shall only provide the key to the fire hydrant lock to FBCG trustees. FBCG shall provide 24 hours' notice by telephone or email to the Borough when it intends to utilize the nearby fire hydrant to water the garden. In lieu of providing such notice, FBCG may supply the Borough with a watering schedule. The Borough may restrict FBCG's use of the hydrant at any time to protect public health and safety. Water from the hydrant shall only be used to water the garden. When the hydrant is in use by FBCG, FBCG shall ensure that the water meter is attached and working properly. Water must be securely turned off after each use. FBCG shall report any leaks to the Borough immediately.
- ix. During the growing season, the Borough shall bill FBCG monthly for water use. FBCG shall remit payment within 30 days of receipt of each bill.
- x. All members shall execute an agreement indemnifying and holding harmless the Borough from all injuries and damages arising from use of the garden. This agreement must be in a form approved by the Borough Attorney.
- xi. In the event the garden and the fence are not maintained in compliance with this MOU, the Borough shall notify the FBCG. Any conditions noted in said communication shall be rectified within seven (7) days of receipt thereof.

b. Responsibilities of the Borough.

- i. The Borough shall perform the initial site preparation and consideration, including marking out space for a fence (with assistance of FBCG staff), relocation of the walking path to go around the garden, and grading the area in a way to prevent runoff from the garden into surrounding waterways.
- ii. The Borough shall install a hydrant lock on the fire hydrant closest to the garden and provide a key to FBCG. The Borough shall also install a water meter on such hydrant during the growing season.
- iii. The Borough shall maintain the area outside of the fence, as well as the exterior perimeter.
- iv. The Borough does not routinely apply fertilizer, insecticide, or weed-killing agents within Tuccamirgan Park. However, in the event it is necessary to treat for pests

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within 100 feet of the garden, the Borough shall provide notice to FBCG and make best efforts to only use USDA-certified organic materials.

v. The Borough shall cooperate with the FBCG to pursue and maintain Sustainable Jersey Organic Community Garden grants / funding. However, nothing herein shall commit the Borough to expending any monies.

3. **Term.** This MOU will be in effect from the date of execution until such time as the garden may be demolished. Otherwise, this MOU may be terminated in accordance with Section 5: Termination.

4. **Notices.** Any notices required under this MOU shall be provided to the following and may be made by email:

To the Borough:

Sallie Graziano, Borough Clerk
Borough of Flemington
38 Park Avenue
Flemington, New Jersey, 08822
clerk@historicflemington.com

With Copies to:

Mike Campion
Borough of Flemington
38 Park Avenue
Flemington, New Jersey, 08822
mcampion@historicflemington.com

To FBCG:

Flemington Borough Community Garden
20 Village Ct.
Flemington, NJ 08822

5. **Termination.** The Borough and FBCG may terminate their participation in this MOU for any reason upon thirty (30) days written notice. Within thirty (30) days after the effective date of termination (i.e. sixty (60) days from the date of the notice), FBCG shall demolish the garden and restore the area to its condition prior to the establishment of the garden.

6. **Amendments.** This MOU may be amended only with the mutual written consent of the Borough and FBCG.

7. **Indemnification and Hold Harmless.** In consideration for the use of the above-referenced properties, the FBCG agrees to indemnify and hold harmless the Borough, its officers, agents, and/or employees from any liability, claims, costs, including reasonable attorneys' fees, arising out of the FBCG's use of said property. The undersigned understands and acknowledges that this hold harmless and indemnification agreement requires that FBCG be indemnified from any losses or damages resulting from the acts or omissions from any guest, participant, member, or other person using the property as set forth in this Agreement.

8. **Notice of Injuries or Damages.**

The FBCG shall notify the Borough immediately upon any injuries or damages to persons, personal property, or real property arising out of FBCG's operations.

(Signature page follows)

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Appointments
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:
DOC ID: 3595

ADOPTED

RESOLUTION 2021-202

**Appointing Stacey McGlothlin as the Municipal Court
Violations Clerk at an Annual Salary of \$38,000.00 Effective
October 13, 2021**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

WHEREAS, Jayne Parsons, Deputy Court Administrator, is retiring effective September 30, 2021; and

WHEREAS, the Municipal Court Judge and Municipal Court Clerk have recommended to the Council that a full-time violations Clerk be appointed in lieu of appointing a new deputy clerk; and

WHEREAS, Ordinance 2021-20, adopted on September 13, 2021, creates the position of Municipal Court Violations Clerk and sets a salary range for the position; and


WHEREAS, the Borough accepted applications and interviewed several candidates; and

WHEREAS, Stacey McGlothlin was the strongest candidate for the position.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that Stacey McGlothlin be appointed as the Municipal Court Violations Clerk effective October 13, 2021 at an annual salary of \$38,000.00.

Adopted: September 27, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly



Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Appointments
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

DOC ID: 3597

ADOPTED

RESOLUTION 2021-203

**Hiring Karen Shaefer as a Backup Crossing Guard in the
Event a Shortage Occurs**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

WHEREAS, at times there is a shortage of crossing guards in the Borough of
Flemington, and

WHEREAS, Karen Shaefer possesses the necessary qualifications, and

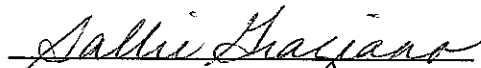
WHEREAS, she has been recommended by the Flemington Police Department
as a backup crossing guard to be used in the event there is a shortage; and

WHEREAS, her rate will be the same as the other crossing guards, in the range of
\$16 to \$27 per hour.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the
Borough of Flemington, County of Hunterdon, State of New Jersey, that Karen
Shaefer be hired as a backup crossing guard in the event there is a shortage at
an hourly rate in the range of \$16 to \$27 per hour.

Adopted: September 27, 2021

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeremy Long, Council Vice President
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly



Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:
DOC ID: 3565

ADOPTED

RESOLUTION 2021-204

Approving an Agent for the Disposition of Junk And/ or Salable Titles for Abandoned, Junk, or Unclaimed Motor Vehicles

WHEREAS, the Flemington Police Department causes the seizure of improperly operated or parked motor vehicles; and

WHEREAS, some of the motor vehicles being seized become abandoned or go unclaimed by the owners; and

WHEREAS, the Police Department desires that these abandoned and/or unclaimed motor vehicles are disposed of properly in accordance with New Jersey State Statutes; and

WHEREAS, the Police Department has recommended to the Governing Body, EZ Car Titles located at 1358 Hooper Avenue, PMB 180, Toms River, New Jersey, 08753 to act as the Borough's agent to apply for salable or junk titles for abandoned and /or unclaimed vehicles.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, as follows:

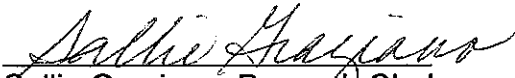
1. The Borough Council hereby authorizes EZ Car Titles to act as the Borough's agent in reference to applying for junk and / or salable titles for abandoned or unclaimed motor vehicles.
2. This authorization is conditioned upon EZ Car Titles adhering to N.J.S.A. 39:10-1 et seq. and all applicable state statutes and Borough ordinances.
3. This authorization is also conditioned upon EZ Car Titles complying with the Local Government Ethics Law. EZ Car Titles shall disclose to the Borough any potential conflicts of interest (i.e. familial, personal, or financial relationships between EZ Car Titles and any Borough employees).
4. EZ Car Titles shall be hired by the Borough of Flemington's contracted tow truck companies responsible for towing motor vehicles consistent with the proposal attached hereto. There shall be no privity of contract between the Borough and EZ Car Titles.
5. The Borough of Flemington's contracted tow companies will be responsible for all costs to EZ Car Titles for their services. Neither the Borough of Flemington nor the Police Department shall be responsible for any costs incurred by EZ Car Titles for their services.
6. This arrangement shall not be exclusive. Nothing herein shall prevent the Borough from authorizing other companies to provide services associated with applying for junk and / or salable titles for abandoned or unclaimed motor vehicles.
7. The Clerk shall forward a copy of this resolution to the Chief of Police, EZ Car Titles, and the towing companies authorized to tow vehicles for the Police Department.
8. This Resolution shall take effect immediately.

Adopted: September 27, 2021

Attest:


Betsy Driver, Mayor




Sallie Graziano, Borough Clerk

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly



Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

ADOPTED

ORDINANCE 2021-21

DOC ID: 3575

Ordinance Changing the Name of Central Avenue to Central Station

Flemington Borough, Hunterdon County

WHEREAS, pursuant to the provisions of N.J.S.A. 40:67-1(k), *et seq.*, the governing body of a municipality may make ordinances to provide for the changing of names of streets within the municipality; and

WHEREAS, the property owners fronting on Central Avenue have requested the street name be changed to "Central Station" in order to recognize the history of the railway in the area and the current operation of the Black River & Western Railroad; and

WHEREAS, it appears that all property owners on Central Avenue on the Borough of Flemington Tax Map Sheet 5 have agreed to the street name change to Central Station; and

WHEREAS, the Borough Zoning Officer has confirmed the availability of the street name "Central Station;" and

WHEREAS, the Borough Council wishes to change the name of the entire length of Central Avenue to Central Station;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

Section 1. The street name of "Central Avenue," in the Borough of Flemington, County of Hunterdon shall be renamed "Central Station."

Section 2. The Public Works Department of the Borough of Flemington is hereby authorized and directed to install any and all street signs and traffic markings reflecting the change of the street name from Central Avenue to Central Station and the Borough Clerk is hereby authorized to instruct the Borough Engineer to revise the Borough's Official Tax Maps to reflect the change in the street name.

Section 3. The Borough Clerk is hereby further authorized and directed to notify the Borough Residents along said street of the effective date of the name change and to further advise all appropriate agencies, including but not limited to, the United States Post Office, the Police and Fire Departments, the First Aid Squad and the Hunterdon County Department of Planning and Development of the change in said street name.

Section 4. To the extent applicable, a copy of this Ordinance shall be filed in the Office of the Hunterdon County Clerk in accordance with N.J.S.A. 40:67-2.

Section 5. All ordinances of the Borough of Flemington, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

Section 6. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

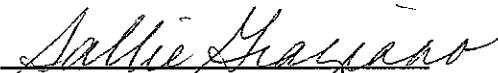
Section 7. This Ordinance shall take effect upon final passage and publication as required by law.

Introduced: September 13, 2021

Adopted: September 27, 2021

Attest:




Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Caitlin Giles-McCormick, Council President
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly

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Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

ADOPTED

ORDINANCE 2021-22

DOC ID: 3564

**Amending Section 3-3 of the Borough Code to Set Forth the
Process for Selling or Disposing of Junk or Abandoned
Vehicles Seized by the Police Department**

WHEREAS, the Flemington Police Department lawfully causes the seizure of improperly operated or parked motor vehicles; and

WHEREAS, some of the motor vehicles being seized become abandoned or go unclaimed by the owners; and

WHEREAS, The Borough Council desires to amend the Borough Code to set forth the process for proper disposal of unclaimed or abandoned vehicles in accordance with N.J.S.A. 39:10a-1.1 et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION 1. Section 3-3 of the Borough Code shall be renamed "Abandoned or Unclaimed Motor Vehicles" and amended as follows (Additions noted in bold italics *thus*):

§ 3-3.1. Definition.

ABANDONED MOTOR VEHICLE

Shall mean any vehicle propelled otherwise than by muscular power, including vehicles which run upon rails or tracks, which are found in any public street, highway or lands and either not bearing current registration plates or, if bearing current registration plates, remaining stationary and unused on the public street, highway or lands for more than 14 days consecutively. ***Said definition shall include junk vehicles remaining stationary and unused on a public street, highway, or lands for more than 14 consecutive days.***

JUNK VEHICLES.

Shall mean a motor vehicle incapable of being operated safely or of being put in a safe operational condition except at a cost in excess of the value thereof.

§ 3-3.2

Prohibition. No person shall abandon a motor vehicle upon the public streets, highways and lands.

§ 3-3.3

Police Department Possession.

A. All abandoned motor vehicles shall be taken in possession by the police department and removed to a storage place. The police department shall then follow the procedures established by R.S. 39:10A to sell the abandoned motor vehicle at public auction.

B. Abandoned Vehicles. ***If an abandoned vehicle is unclaimed by the owner or other person having legal right thereto for a period of 20 business days, the towing contractor shall notify the Chief of Police or his designee that the vehicle has been held for the statutory time and that the vehicle is ready for sale pursuant to N.J.S.A. 39:10A-1 and 4.***

C. Junk Vehicles. ***If a junk vehicle is unclaimed by the owner or other person having legal right thereto for a period of 15 business days, the towing contractor shall notify the Chief of Police or his designee that the vehicle has been held for***



the statutory time and that the vehicle is ready for sale. The Borough shall supply titles for abandoned junk vehicles in accordance with N.J.S.A. 39:10-1 and 3.

D. Conduct of Sale. *Sales of all junk and abandoned vehicles shall be conducted in accordance with the provisions of N.J.S.A. 39:10A-1 et seq.*

E. Proceeds from Sale. *Proceeds from the sale of junk or abandoned vehicles shall be used to satisfy any towing or storage charges which may have accumulated on the subject vehicle. Excess proceeds shall be paid to the Borough. If the proceeds are insufficient to cover the accumulated costs, such excess cost shall be waived by the towing contractor or title agent and no further funds will be due from the Borough or the purchaser of the vehicle. This section will be administered in accordance with N.J.S.A. 39A:10-1 et seq.*

F. Failure to Follow Statutory Procedures. *Any towing contractor found to be disposing of vehicles in violation of this procedure will be charged with misapplication of entrusted property (N.J.S.A. 2C:21-15) and will be prohibited from providing service for the Borough.*

G. Rights of Owners

1. *The owner of any vehicle towed shall have the right to remove property belonging to him or her from the stored vehicle unless a "police hold" is marked on the towing form.*

2. *The vehicle owner or his or her authorized representative shall have the right to take photographs of stored vehicles.*

3. *If the Police Department receives any complaints arising from the towing and storage of motor vehicles required by the Borough without the consent of the owner, such complaints shall be heard and decided by the Chief of Police or his designee.*

H. Public Inspection. *This chapter, all regulations adopted by the Police Chief and the fee schedules of individual towers and title agents shall be available to the public during normal business hours.*

I. Liability of Borough. *There shall be no privity of contract between the Borough and any towing operator on the rotation list or agent authorized to apply for junk or saleable vehicle titles and utilized by the Police Department pursuant to this section. Except to the extent that the Borough will use the proceeds from the sale of abandoned and junk vehicles to satisfy towing and storage charges pursuant to this section, the Borough will not be liable for any towing or storage or related charges for services rendered pursuant to this chapter.*

SECTION 2. *All ordinances of the Borough of Flemington, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.*

Section 3. *If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.*


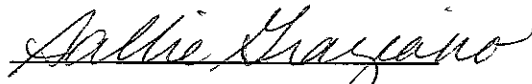
Section 4. *This Ordinance shall take effect upon final passage and publication as required by law.*



Introduced: September 13, 2021

Adopted: September 27, 2021

Attest:


Betsy Driver, Mayor
Sallie Graziano, Borough Clerk

RESULT:	ADOPTED [5 TO 0]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jessica Hand, Council Member
AYES:	Giles-McCormick, Hand, Long, Runion, Tilly
ABSTAIN:	Malik Johnston



Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

INTRODUCED

ORDINANCE 2021-23

DOC ID: 3600

**First Reading, an Ordinance to Replace and Supersede the
“2017 Union Hotel Redevelopment Plan” as Adopted by
Ordinance 2017-17 and Amended by Ordinance 2020-16 of
the Borough of Flemington**

Flemington Borough, Hunterdon County

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (the “Act”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, pursuant to Borough Council Resolution 2010-94, adopted June 14, 2010, the Borough Council designated the Union Hotel property, located at 70-76 Main Street, Flemington, and identified as Block 22, Lot 4 on the Borough of Flemington Tax Map (the “**Initial Redevelopment Area**”), as an area in need of redevelopment pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the “**Redevelopment Law**”); and

WHEREAS, pursuant to Ordinance 2010-14, adopted on October 25, 2010, the Borough Council adopted the Union Hotel Redevelopment Plan; and

WHEREAS, pursuant to Borough Council Resolution 2014-44, adopted February 10, 2014, the Borough Council designated the area south of the Union Hotel property, inclusive of properties located at 78 Main Street, 80 Main Street, 82 Main Street, 90-100 Main Street, 104 Main Street, 110 Main Street, 7 Spring Street, 19 Spring Street, 3 Chorister Place and 6 Chorister Place, identified on the Borough Tax Map as Block 22 Lots 5, 6, 7, 8, 9, 10 and 12 and Block 23, Lots 1 and 7 as an area in need of redevelopment pursuant to the Redevelopment Law (such properties, together with the Initial Redevelopment Area, is the “**2014 Redevelopment Area**”) and, subsequently, on March 7, 2014, the Borough enacted an ordinance adopting a redevelopment plan for the Redevelopment Area (the “**2014 Redevelopment Plan**”); and

WHEREAS, on July 10, 2017, the Borough Council via Resolution 2017-130, designated Block 22, Lots 13 and 14 (23 Bloomfield Avenue and 21 Bloomfield Avenue) and Block 24, Lots 1, 2, 3 and 5 (2 Spring Street, 8 Spring Street, 12 Spring Street) (the “**Study Area**”) to be included in the “Union Hotel Redevelopment Area” (2014 Redevelopment Area and Study Area collectively referred to herein as the “**Redevelopment Area**”); and

WHEREAS, on December 11, 2017 the Borough Council adopted Ordinance 2017-17 approving the 2017 Union Hotel Redevelopment Plan dated October 19, 2017; and

WHEREAS, on October 13, 2020, the Borough Council adopted by Ordinance 2020-16 the “Union Hotel Redevelopment Plan Amendment #1” (“Amendment #1”); and

WHEREAS, the Borough Council has determined that the effective Redevelopment of the Redevelopment Area would be stimulated by replacing and superseding the 2017 Union Hotel Redevelopment Plan and Amendment #1 as set forth in the attachment to this Ordinance entitled “Union Hotel Redevelopment Plan Amendment #2”; and

WHEREAS, the Borough Council desires to replace and supersede the 2017 Union Hotel Redevelopment Plan and Amendment # 1 and to provide notice thereof in accordance with law.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Flemington, in the County of Hunterdon and the State of New Jersey, as follows:

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Section 1. The 2017 Union Hotel Redevelopment Plan and Amendment #1 be and hereby is replaced and superseded with the Attachment to this Ordinance entitled "Union Hotel Redevelopment Plan Amendment #2".

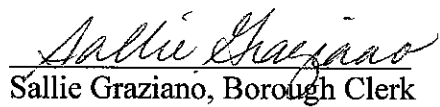
Section 2. In the event that any section, part or provision of the Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

Section 3. This ordinance shall take effect upon final passage, publication, and filing with the Office of the Clerk of Hunterdon County, all as required by law.

Introduced: September 27, 2021

Adopted:

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/12/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

CLERK'S CERTIFICATION

I hereby certify that the above Resolution is a true copy of the Resolution adopted by the Council of the Borough of Flemington on _____.

Sallie Graziano, RMC, Borough Clerk



Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

INTRODUCED

ORDINANCE 2021-24

DOC ID: 3574


**First Reading, Amending Chapter 14, Section 1404 of the
Borough Code Regarding the Historic Preservation
Commission**

See attached document.

Introduced: September 27, 2021

Adopted:

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/25/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	

CLERK'S CERTIFICATION

I hereby certify that the above Resolution is a true copy of the Resolution adopted by the Council of the Borough of Flemington on _____.

Sallie Graziano, RMC, Borough Clerk



**ORDINANCE 2021-24 AMENDING SECTIONS 1404 OF THE BOROUGH CODE
REGARDING THE HISTOIC PRESERVATION COMMISSION**

WHEREAS, the Borough of Flemington Historic Preservation Commission has suggested the following amendments to the ordinances regarding the Commission's establishment, powers, and review procedures.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION 1. Section 1404 of the Borough Code, entitled "Establishment of the Historic Preservation Commission" is hereby amended as follows (Additions noted in bold italics **thus** and deletions noted with a strikethrough ~~thus~~):

- A. A Historic Preservation Commission (HPC) is hereby established consisting of 5 regular members and 2 alternate members, each of whom shall be appointed by the Mayor, of the following 3 classes:
 - 1. Class A - Persons who are knowledgeable in building design and construction or in architectural history;
 - 2. Class B - Persons who are knowledgeable or have a demonstrated interest in local history.
 - 3. Class C - Persons who are residents of the municipality and who hold no other municipal office, position or employment except for membership on the Planning Board.
 - 4. There shall be at least one regular member from each class. ***A majority of members shall be Class C. Class A and Class B members need not be residents of the municipality.***
 - 5. Alternate members shall meet the qualifications of Class C members and shall be designated "Alternate No. 1" and "Alternate No. 2" at the time of appointment.
- B. Terms of Membership.
 - 1. The term of each regular member shall be 4 years and the term of each alternate member shall be 2 years.
 - 2. Alternate Members. Alternate members shall be designated at the time of their appointment as "Alternate No. 1" and "Alternate No. 2."
 - 3. The term of any member in common with the Planning Board shall be for the term of membership on such Board.
- C. Role of Alternate Members. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any Class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.
- D. Vacancies. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term, only. ***All vacancies shall be filled within 60 days.*** § 1404
- E. Compensation. Members of the HPC shall serve without compensation except that reimbursement of reasonable expenses in the execution of official duties may be made by the municipality.
- F. Removal. Any member may be removed by the governing body for

cause but only after public hearing and other due process proceedings.

- G. Conflict. No member or alternate member of the HPC shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. No member who is so disqualified may act on that particular matter, shall not continue to sit with the Commission on the hearing of such matter, nor shall participate in any discussion or decision.
- H. Organization. The HPC shall elect from its members a chairman and vice-chairman and select a secretary who may or may not be a member of the HPC or a municipal employee.
- I. Funding. The governing body shall make provisions in its budget and appropriate funds for the expenses of the Historic Preservation Commission.
- J. Rules and Procedures. The HPC shall adopt and may amend internal rules and procedures for the transaction of its business subject to the following:
1. A quorum for any action by the HPC shall be 3 members.
 2. All HPC minutes and records shall be public records.
 3. All HPC meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).
 4. HPC meetings shall be scheduled at least once every month or as often as required to fulfill its obligations to advise the Planning Board, governing body, or construction official.
- K. Role of the HPC.
1. For applications that would otherwise not require Planning Board review, the Zoning Officer shall refer the application to the HPC for a written report on the application *in accordance with ordinance §1631* and its compliance with the Borough's Historic District regulations. This report shall be submitted to the Zoning Officer, who shall issue a written approval or denial based on the HPC report, pursuant to N.J.S.A. 40:55D-111. The report of the HPC shall also be provided to the applicant and the Planning Board. The report shall be sent to the Zoning Officer within 45 days of the referral to the HPC. Failure of HPC to report within the forty-five-day period shall constitute a determination that the application is consistent with the Historic District regulations and that no condition on the issuance of the permit shall be imposed.
 2. For applications that require Planning Board review based on provisions of the Borough Land Development Ordinance, *Planning Board shall refer* the application ~~shall be referred to~~ the HPC for a written report on the application *in accordance with ordinance §1631* and its compliance with the Borough's Historic District regulations. This report shall be submitted to the Planning Board which *shall issue a written approval or denial based on the HPC report, pursuant to N.J.S.A. 40:55D* ~~shall make a final decision on the matter.~~ The report of the HPC shall be sent to Planning Board, *Zoning Officer* and applicant within 45 days of the referral to the HPC- ~~or prior to the scheduled public hearing before the Board on the matter, whichever is sooner.~~ Failure of the HPC to report shall constitute a determination that the application is consistent with the Historic District regulations and that no condition shall be imposed on the issuance of any approval.

3. An applicant may appeal any determination of the Zoning Officer to the Borough Planning Board. Said appeal shall occur within 45 days of the final determination by the Zoning Officer.
- L. The HPC shall advise the Planning Board from time to time through the process of amending the Historic Preservation Element of the Master Plan.
- M. The HPC shall ~~recommend to the Planning Board guidelines for review to be utilized in~~ provide determinations of historic landmark status and ~~for review of~~ development applications or permits affecting historic landmarks or improvements within historic districts ***in accordance with ordinance §1631***. The Planning Board may ~~recommend modifications of the guidelines.~~

SECTION 2. Section 1405 of the Borough Code, entitled "Powers and Responsibilities of the Historic Preservation Commission" is hereby amended as follows (Additions noted in bold italics ***thus*** and deletions noted with a strikethrough ~~thus~~):

The Historic Preservation Commission shall have the following duties and responsibilities:

- A. To prepare a survey or surveys of historic sites and districts pursuant to criteria established in such survey;
- B. To make recommendations to the Planning Board on the Historic Preservation Element of the Master Plan and on the implications of any other Element on the preservation of historic sites and districts;
- C. To advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;
- D. To advise the Planning Board on applications for development;
- E. Provide written reports on the application of the zoning provisions of this Ordinance or other land development regulations on historic sites and districts;
- F. Provide technical assistance upon request to property owners on the preservation, restoration, and rehabilitation of historic structures;
- G. To carry out such other advisory, educational, and informational functions as will promote historic preservation in the municipality.
- H. To review applications in accordance with and for compliance with the Historic District Review Ordinance (Ordinance §1631) and Ordinance §1404.***
- I. To review and recommend to the Governing Body the designation of landmark and historic districts in accordance with Ordinance §1404.***

SECTION 3. Section 1631 of the Borough Code, entitled "Historic District Review Ordinance" is hereby amended as follows (Additions noted in bold italics ***thus*** and deletions noted with a strikethrough ~~thus~~):

- A. Introduction. The requirements of this Historic District Review Ordinance shall apply to all development, including new construction, repair, renovation, alteration, reconstruction, demolition, relocation, and additions to existing buildings, structures, real property, natural objects or configurations or any portion or group of the foregoing which are located in the Flemington Borough Historic District, or specifically identified as historic sites within the Historic Preservation Plan of the Master Plan pursuant to N.J.S.A. 40:55D-28b(10). These requirements do not apply to normal maintenance (including in-kind repair of existing building features, repainting of existing color schemes, in-kind repair of an existing roof, etc.). Prior to construction or alteration of buildings or structures in the Historic

District, an Application for Review by the Flemington Historic Preservation Commission must be submitted to the Flemington **Historic Preservation Commission** Borough Clerk, and the project must be reviewed at one of the Commission's regularly scheduled meetings. See Chapter 14 of the Flemington Borough Land Development Ordinance for additional information regarding project review.

1. **Definitions.** In addition to the definitions set forth in Ordinance 1201, the following definitions apply in Ordinances 1404, 1405 and 1631:

Addition shall mean an extension or increase in the size, floor area or height of any building, structure, site, object, or improvement added at some time after the completion of the original.

Alteration shall mean any change in the exterior features of any building, structure, site, object or improvement.

Application shall mean a request to the Commission made pursuant to this ordinance for the purposes of obtaining approval or other action by the Commission hereunder specified.

Building shall mean any man-made structure created principally to shelter any form of human activity as well as its functionally related appurtenances such as a house and a barn.

Commission shall mean the Historic Preservation Commission established pursuant to the provisions of Ordinance Sections 1404 and 1405.

Construction Official shall mean the officer in charge of granting building or construction permits in the Borough.

Contemporary shall mean any buildings, structures, sites, objects, or improvements in a historic district which date from a later period but possess some architectural importance and/or visually contribute to the cohesiveness of the district's streetscapes.

Contributing shall mean any buildings, structures, sites, objects or improvements which are integral components of a historic district either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant.

Demolition shall mean the partial or total razing, dismantling or destruction, whether entirely or in significant part, of any building, structure, site, object or improvement. Demolition includes the removal of a building, structure, site, object or improvement from its location or the removal or destruction of its facade or surface.

Designated historic landmark or historic district shall mean an individual building, structure, site, object, landscape, park, viewshed, improvement or district which has been determined to have historical significance pursuant to the provisions of this ordinance.

Emergency repairs shall mean immediate repairs to preserve the continued habitability and/or the health and safety of occupants or others, performed in accordance with Borough codes without first submitting an application. A consultation with the Commission or its staff is still required.

Encroaching shall mean any buildings, structures, sites, objects or improvements in a historic district which date from a later period and do not visually contribute to the cohesiveness of the district's

streetscapes.

Facade shall mean the face or front of a structure or any vertical surface thereof adjacent to a public way.

Historic shall mean having historical, cultural, architectural, archaeological, economic, social, or other significance as defined by the provisions of this ordinance.

Historical shall mean of, relating to, or having the character of history. Historic district shall mean a significant concentration, linkage or continuity of buildings, structures, sites, objects, or improvements united historically by plan or physical development which qualifies for designation under this ordinance including those which were formerly designated.

Historic district resources shall mean those resources classified as either significant, contributing, or noncontributing, which are defined as follows:

- a. Significant shall mean any buildings, structures, sites, objects or improvements which, due to their significance, would individually qualify for historic landmark status;**
- b. Contributing shall mean any buildings, structures, sites, objects or improvements on the site which are integral components either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant:**
- c. Noncontributing shall mean any building, structure, site, object or improvement on the site which do not have significant historical value because they neither date from a time period nor represent an architectural type, period or method which is historically significant**

Historic landmark shall mean any building, structure, site, object or improvement which qualifies for designation under this ordinance.

Historic site shall mean any building, structure, site, landscape, object or improvement determined to be of historical, archeological, cultural, scenic or architectural significance in accordance with the provisions of this ordinance.

Improvement shall mean a building or other structure, or any work constituting a manmade alteration of, or addition to, any building, structure, site or object.

In-kind shall mean construction or construction materials that match construction or construction materials being replaced on a designated structure or object, thereby maintaining historic composition, design, color, texture and other visual qualities.

Integrity shall mean the authenticity of a building, structure, site, object, improvement or district evidenced by the survival of the physical characteristics that existed during its historic or prehistoric period.

Inventory shall mean a list of historic properties determined to meet criteria of significance specified herein.

Landscape shall mean the visual character of the land, including but not limited to architecture, building setbacks and height, fences, hedgerows, plantings, lawns trees as well as man-made features including, but not limited to, sculptures, patterned walks, fountains, reflecting pools and vistas.

Lot shall mean any designated parcel, tract, or area of land established by a plat or otherwise, as permitted by law and to be used, developed, or built upon as a unit.

Master plan shall mean the master plan of the Borough of Flemington, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

Municipal Land Use Law shall mean the Municipal Land Use Law of the State of New Jersey, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1, et seq.), as amended from time to time.

National Register Criteria shall mean the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places, as set forth in 36 C.F.R. 60.4, et seq.

Non-contributing shall mean any buildings, structures, sites, objects or improvements in a historic district which do not have significant historical value because they neither date from a period of significance nor represent an architectural type, period or method which is historically significant, or due to alterations, disturbances, additions, or other changes, no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period.

Object shall be used as a term to distinguish from buildings and structures those constructions or features that are primarily artistic in nature or are relatively small in scale and simply constructed. Examples include, but are not limited to, fountains, sculptures, statuary and similar items. Although it may be, by nature or design, movable, an object is associated with a specific setting or

environment.

Ordinary maintenance and repair shall mean the repair of any deterioration, wear or damage to a structure or any part thereof in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear, or damage with in-kind material and quality workmanship.

Owner shall mean the owner of record as shown on the current tax list of the borough tax collector; the mortgage holder of record, if any, as shown in the mortgage records of the borough; and any purchaser under a land contract.

Partial Demolition shall mean the pulling down, destruction or removal of a substantial portion of the exterior of a building or structure or the removal of architectural elements which define or contribute to the historic character of the structure.

Permit shall mean any required approval issued by the construction official pursuant to applicable building or construction codes for exterior work to be performed on any historic landmark or on any building, structure, object or site located within a historic district, which exterior work will be subject to public view. Said permit shall include but not be limited to a building permit, a demolition permit or a permit to move, convert, relocate or remodel or to change the use or occupancy of any landmark or any building, structure, object or site located within an historic district. "Permit" shall also include all exterior work to be performed on windows, doors, roofing, fences, signs, awnings, porches, railings, steps, lighting and sidewalks and any other work subject to public view which would alter the exterior appearance of historic landmarks or properties located within a historic district or their sites.

Person shall mean any individual, natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, firms, companies, corporations, entities or unincorporated groups; or any officers, agents, employees, servants, factors or any kind of personal representatives of any thereof in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

Preservation shall mean the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic landmark. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

Protection shall mean the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.

Reconstruction shall mean the act or process of reproducing, by means of new construction, the form, features and detailing of a non-surviving building, structure, site, object, improvement or landscape for the purpose of replicating its appearance at a specific period of time and in its historic location when documentary and physical evidence is available.

Rehabilitation shall mean the act or process of returning a property to a state of utility through repair or alteration which makes

possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic values.

Replacement shall mean the act or process of replicating any exterior architectural feature that is used to substitute for an existing deteriorated or extensively damaged architectural feature. Restoration shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time. It may sometimes mean the removal of later work or the replacement of missing earlier work.

Secretary of the Interior's Standards shall mean the publication issued by the U.S. Department of the Interior, National Park Service, entitled: "The Secretary of the Interior's Standards for the Treatment of Historic Properties," 36 C.F.R. 68, revised and supplemented from time to time.

Site shall mean the location of a significant event, a prehistoric or historic occupation or activity, a building or structure, or a burial ground or cemetery, whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure.

Significant shall mean any buildings, structures, sites, objects or improvements in a historic district which, due to their extraordinary significance, would individually qualify for historic landmark status.

Staff means the Historic Preservation Consultant, the Zoning Officer and such other consultants or officials as may from time to time be retained and/or employed to provide application review services to the Commission.

Streetscape shall mean the visual character of the street including, but not limited to, the architecture, building setbacks and height, fences, storefronts, signs, lighting, parking areas, materials, sidewalks, curbing and landscaping.

Structure shall be used as a term to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter, such as a bridge, a walkway, driveway and sometimes referred to as a type of improvement, meaning a combination of materials that becomes a part of, is placed upon, or is affixed to real estate.

Survey shall mean the inventory of buildings, structures, sites, objects, improvements and districts located within the Borough of Flemington which is conducted by the Commission for the ascertainment of their historical significance pursuant to the provisions of this ordinance.

Survey data shall mean the raw data produced by the survey; that is, all the information gathered on each property and area investigated.

View, vista or viewshed shall mean the view by the public of a building, structure, site, object, improvement or landscape from any point on a street, road or walkway which is used as a public thoroughfare, either vehicular and/or pedestrian.

B. The purposes of the Historic District Review Ordinance include:

1. Safeguarding the heritage of Flemington Borough by preserving its historical, cultural, social, economic and architectural resources;
2. Encouraging the continued use of historic buildings, structures and sites and to facilitate their appropriate re-use;
3. Maintaining and developing a harmonious setting for the historically significant buildings, structures, sites, objects and District;
4. Preventing the unnecessary demolition or relocation of historic resources;
5. Preventing new construction or development which is not in keeping with or that negatively impacts the ambience and character of the Historic District;
6. Encouraging the proper maintenance, per the Borough's existing Property Maintenance Code Chapter 9B, and preservation of buildings, structures and sites within the Historic District so as to promote Flemington Borough as an attractive area to live, work and visit;
7. Protecting and enhancing property values;
8. Promoting civic pride in and appreciation of Flemington Borough's historic resources for the education, pleasure and welfare of its citizens and visitors; and
9. Fostering beautification and private reinvestment.

C. General Guidelines.

1. **Building Design.** All development that is situated within the Flemington Borough Historic District and all development that affects individual historic sites shall be designed to reflect the design vocabulary, massing, proportion, directional expression, height, width, scale, orientation, windows, roof, details and materials of vernacular 18th and 19th and early 20th-century styles found in the Borough of Flemington. These styles include Georgian, Federal, Greek Revival, Gothic Revival, Italianate, Second Empire, Queen Anne, Shingle, Romanesque Revival, Colonial Revival, Neoclassical and Tudor Revival styles. Acceptable styles and examples from the relevant periods can be found within the following references, which are maintained for review in the Borough Hall and the Public Library:
 - a. Historic District Guidelines; Flemington Historic Preservation Commission (~~McCormick-Taylor, 2006~~); See for definitions of general architectural, style and building terminology, as well as more detailed design recommendations.
 - b. What Style Is It? A Guide to American Architecture (Poppeliers, John C., John Wiley & Sons, Inc., ~~1983~~)
 - c. A Field Guide to American Houses (McAlester, Knopf ~~1984~~)
 - d. Identifying American Architecture (Blumenson, Norton)
 - e. The Secretary of the Interior's Standards for the Treatment of Historic Properties (www.nps.gov/history/)

https://standards_guidelines.htm): See for definitions regarding historic preservation terminology including

"preservation," "restoration," "rehabilitation," "reconstruction," "renovation," etc.

2. Procedures for review by the Flemington Historic Preservation Commission are contained within Chapter 14 of the Flemington Borough Land Development Ordinance.
3. New buildings are not required to copy historic examples. Individual architectural expressions that incorporate the stylistic tenets of historical buildings are acceptable, provided that the design principles in the above references are adhered to. New buildings shall show a harmony of design with their surroundings, and any shapes, massing, materials, signs, lighting, colors and other characteristics which might cause a new building to call excessive attention to itself and create disharmony within the historic district, shall be avoided.
4. All buildings shall be related harmoniously to the context of the site, the neighborhood as a whole and to existing buildings and other structures in the vicinity that have a visual relationship to the proposed building or buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing/proposed buildings or the creation of focal points. With respect to public spaces, building design/orientation may have to be adjusted in order to maintain a positive spatial relationship or to preserve visual access to community focal points, either natural or man-made.
5. The selection of building design elements, for example in the use of materials, windows, color, texture, and other design considerations, should ensure that such treatment is generally consistent with traditional and vernacular 18th and 19th and early 20th- century architectural styles. If the applicant is an existing building, the design elements shall be consistent with the existing building's style and configuration.
6. Building additions and renovations should be designed to reflect the existing building in terms of scale, materials, massing, window and door configuration and color.
7. Appearance of the side and rear elevations of buildings shall receive architectural treatments comparable to that of any proposed front façade only if said elevations are generally within the public view.
8. Buildings should, where appropriate, strengthen the particular design features of their neighborhood by, for example, reinforcing the "street wall", or continuing a particular design feature or statement. Such construction should complement the existing historic building designs in the Borough.
9. Buildings deemed to be "Significant" and indicated as such on the Flemington Historic District Map, shall be reviewed with particular care and have special requirements that are described later in this section (see Subsection C17). These are buildings that have been determined to be particularly important to the character of the Historic District.
10. Buildings located on Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, are also considered to be particularly important to the

character of Flemington and the Historic District, partly through their location along the busiest thoroughfare and partly from the quality of buildings along this route. Many of these structures are indicated to be "Significant" on the Flemington Historic District Map. Because of the importance of this area to the character of the Borough, all of these buildings will be reviewed **for strict compliance with the Historic Guidelines** with particular care. ~~Some Buildings~~ that are deemed particularly prominent or visible **by the Historic Preservation Commission shall** be reviewed using the same criteria as "Significant" structures, even if they are not listed as such on the Historic District Map.

11. Contemporary designs for new buildings and for additions to existing buildings or landscaping in the Historic District are not discouraged if such designs are compatible with the character, scale and materials of the neighborhood and its environment.
12. New additions or alterations to buildings should be done in such a manner that they reflect the materials, massing and scale of the existing building. In addition, alterations and additions should be designed such that they are reversible, i.e. that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
13. Exterior alterations should not destroy the distinguishing qualities or character of the property and its environment, and the removal or alteration of any historical material or architectural features is not permitted.
14. Deteriorated architectural features should be repaired rather than replaced wherever possible, and in the event, replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities.
15. Repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings.
16. Wherever possible, there should be compliance with the standards set forth in the "Secretary of the Interior's Standards for the Treatment of Historic Properties", as periodically amended and available through the National Park Service.
17. Alternative Materials. The use of nonhistoric, alternative materials may be considered under certain circumstances. These materials include, but are not limited to: vinyl or composite siding (smooth finish only); vinyl, fiberglass or composite railings and porch columns; particularly when these materials are paintable; fiberglass or composite trim, brackets or moldings; composite porch floor decks; vinyl, clad, or aluminum windows and doors; fiberglass/asphalt shingle roofing; etc. The use of these materials will be limited on all buildings or structures deemed to be "Significant" on the Flemington Historic District Map, or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, as indicated in Subsection C10 above. Specifically, the use of vinyl siding or windows and doors of alternative materials will

be prohibited on the public sides of "Significant" structures. Where visible roofs need to be replaced on "Significant" structures, using replacement materials and methods that match the historic materials is preferable. If the use of historic materials is not feasible, particular care will be taken in selecting alternative materials that match the historic appearance as closely as possible. Composite materials that are painted and that match the configuration of the historic materials are considered to be more acceptable than other replacement materials. Buildings in other parts of the Historic District that are considered to be "Contributing", "Non-Contributing" or "Encroaching" will be permitted to use alternative materials, provided that the following conditions are met:

- a. Vinyl or composite siding shall be smooth (i.e. not textured) and shall be of a scale and color compatible with the buildings in the immediate vicinity of the applicant property. Existing decorative trim shall not be removed or covered by new vinyl siding or trim casing. This trim shall be retained and repaired so that the building's distinguishing historic features shall remain.
 - b. Replacement windows and doors shall fit the existing openings exactly and shall be configured to match the historic appearance and detail. Existing window and door openings shall not be "infilled" or made smaller to accommodate standard window or door sizes.
 - c. Alternative materials may only be used to replace existing porches if the historic porch is not repairable, if the new porch configuration and appearance closely matches the original, and if the new materials that are clearly visible from a public way are painted. The Commission will consider additional new materials as they become available.
 - d. Alternative materials may be considered for visible roofs when existing slate, copper, wood shakes, etc., are shown to be beyond repair. The alternative materials on the visible facades shall match the existing appearance as closely as possible. Alternative materials are acceptable to be used on roofs that are not visible from public streets.
18. Sustainable Energy Sources and Energy Efficiency. This Ordinance is not intended to discourage the installation and use of sustainable energy sources, including solar panels, geothermal wells and wind turbines, provided that the installations meet all required building, zoning and safety codes, etc., and that they are installed to have as minimal an impact on the visible portions of the historic property as possible. Particular care shall be taken to reduce the impact on buildings listed as "Significant" on the Flemington Historic District Map or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue.
19. This Ordinance is not intended to discourage the improvement of the energy efficiency characteristics of the

historic structures in Flemington. However, where energy efficiency improvements are being considered, care should be taken to reduce negative impacts on the historic character of the building. In particular on all buildings or structures deemed to be "Significant" on the Flemington Historic District Map, or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, it is important to keep, repair or restore existing character-defining features that affect energy efficiency, including original doors and windows. Energy efficiency improvements for these features can be achieved through weather-stripping, interior storm windows, appropriate exterior storm windows or doors and other appropriate measures. See the Borough's "Historic District Guidelines" for suggestions.

20. Additional Matters Considered. In regard to all applications, additional pertinent matters may be considered, but in no instance shall interior arrangements be considered except as it may result in exterior changes important to the integrity of the historic structure, such as additions, chimneys, roof design, blocking of windows or similar changes.

21. Emergency reviews of applications to the Historic Preservation Commission may be requested for construction or repair work that is required to be undertaken before the next scheduled meeting of the Historic Preservation Commission. The applicant shall notify the Historic Preservation Commission and request an emergency review and the Historic Preservation Commission shall determine if an emergency review is required and the format of the review. Any work done by the applicant prior to formal approval by the Historic Preservation Commission shall be at the sole risk of the applicant.

a. In the event an applicant requires an emergency review, the applicant shall pay all fees incurred by the Commission to properly advertise an emergency meeting of the Commission.

D. Building Massing and Scale of New Buildings and Additions.

1. Scale of Building. The size of a proposed building or addition and the mass of a proposed building or addition in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the other buildings and built features to which it is visually related.
2. On proposed buildings and additions, long, horizontal facades should be broken down into segments having vertical orientation and tall vertically oriented facades shall be broken down into horizontal components through use of appropriate design features in proportions complementary to the overall architecture and design.
3. New buildings or additions with expansive blank walls are prohibited, particularly on sides of the building facing public ways.
4. New buildings and additions should be designed so that facades are the prominent architectural feature and the

roofs are visually less dominant in the total design. Architecturally accurate roof styles shall be consistent with the surrounding historic context.

5. A pedestrian scale should be achieved at ground level and along street frontages and entryways through the use of such scale elements as windows, doors, columns, plazas, awnings, canopies, and site furnishings.
6. In new infill construction, the alignments of proposed facades shall be consistent with the existing setback of nearby buildings to the extent permitted by this Ordinance.
7. Height. The height of any proposed structure and landscaping shall be visually compatible with adjacent structures.
8. Proportion of Building's Front Façade. The relationship of the width of any new building or addition to the height of the front elevation shall be visually compatible with the nearby buildings and structures.
9. Proportion of Openings. The relationship of the width of windows to the height of windows in a new building or addition shall be visually compatible with the nearby buildings and structures.
10. Rhythm of Solids to Voids on Facades Fronting on Public Places. The relationship of solids to voids in facades of new or altered buildings shall be visually compatible with the nearby buildings and structures.
11. Rhythm of Spacing of Structures on Streets. The relationship of any new structure to the open space between it and adjoining structures shall be visually compatible with the nearby buildings and structures.
12. Rhythm of Entrance and/or Porch Projection. The relationship of new or renovated entrances and porch projections to the street shall be visually compatible with the nearby buildings and structures.
13. Roof Shapes. The roof shape of a new building or addition shall be visually compatible with nearby buildings and structures.
14. Walls of Continuity. Features of a proposed building or addition, such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of any structure with the nearby buildings and structures.
15. Directional Expression of Front Elevation. A new or altered building shall be visually compatible with nearby buildings and structures, whether this is a vertical, horizontal or nondirectional character.

E. Facade Treatment.

1. The Flemington Historic Preservation Commission is particularly concerned with elevations of buildings that are visible from public ways. Rear and side elevations that are not visible will have greater flexibility in terms of design and materials.

2. Multi-tenant buildings shall provide uniform store fronts, doorways, windows, awnings and other design features for all ground floor tenants. Upper floors of said buildings shall at a minimum be coordinated with the ground floor through common materials and colors.
3. New buildings should use windows of similar sizes and shapes or incorporate other façade elements that establish the same pattern as other buildings in the immediate area.
4. Design elements that carry through a block such as store front patterns, window spacing, entrances, canopies or awnings, etc., should be incorporated into new or renovated facades.
5. Exterior mounted mechanical and electrical equipment (e.g. air conditioning units, satellite dishes, etc.) shall be located so that they are not visible from public ways, or shall be completely screened from public view with opaque architectural elements that are unobtrusive and visually compatible with the character of the Historic District and the nearby structures.
6. Facade renovations should be consistent with the original architectural style of the building. Original details should be retained; when it becomes necessary to introduce new features, they should harmonize with existing features. If windows and doors must be replaced, new windows and doors that match the original design should be used. Window and door sizes and shapes should not be altered by any building renovation. Changes to window and door sizes and configurations may be considered if a building is being restored to an earlier, documented, historic appearance. In buildings that are listed as Significant or which are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, replacement doors, windows and trim on the visible facades should match the original materials. On other buildings, alternative materials may be used. See Subsection C10 for more information.
7. The use of overly dramatic and/or intrusive lighting designs and fixtures is not permitted.

F. Building Materials, Colors and Texture.

1. On existing buildings, original materials shall be retained wherever possible. No existing brick or stone shall be covered for cosmetic reasons, and the repair and restoration of existing materials deemed of architectural value is strongly encouraged. Great care shall be taken in the cleaning and repair of existing materials. The gentlest, effective means shall be used in all cases. "Sandblasting" and other abrasive cleaning techniques, as well as harsh chemical cleaning methods are not to be used under any circumstances.
2. Where appropriate, building renovations shall incorporate elements of the original structure into the renovation design.
3. The use of brick, stone, clapboard, shakes and other façade materials of a traditional and vernacular nature is strongly encouraged. In general, a maximum of 2 principal

facade materials shall be permitted for new structures.

4. Flat, metal panels and mirrored glass surfaces are prohibited on all existing, historic buildings, as are flush metal, composite or wood doors on visible facades. On buildings indicated as "Significant" on the map of the Flemington Historic District or buildings located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, the use of vinyl or aluminum siding on facades visible from public ways shall also be prohibited.
5. The painting of buildings in patterns, checks, stripes or overly bold colors is not permitted.
6. The use of colors generally associated with traditional building design is required on all buildings. Accent or complementary colors which harmonize with the main façade colors shall be permitted for trim, awning and other building details. Acceptable paint colors from the relevant periods can be found within the following reference, which is maintained for review in the Planning Office: Paint in America, the Colors of Historic Buildings (Moss, Roger, John Wiley & Sons, Inc., 1994)
7. Relationship of Materials, Texture and Color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related, especially those immediately adjacent.

G. Demolition.

1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. The demolition or partial demolition of any structure deemed Contributing or Significant in the Historic District is not permitted, except when public health or safety is at risk, as certified by a licensed structural engineer **or, following a minimum 12 month period from the date of application for demolition to the Historic Preservation Commission and demonstration to the satisfaction of the Historic Preservation Commission that all alternatives to avoid demolition have been fully explored.**
2. Applications to demolish any structure within the Historic District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current use;
 - c. Its condition;
 - d. Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;
 - e. The extent to which it is of such old, unusual or

uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;

- f. The extent to which its retention would promote the general welfare;
- g. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live; and
- h. The probable impact of its removal upon the character and ambience of the Historic District.

H. Relocation of Structures Out of the Flemington Historic District.

1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. Therefore, the review of applications for the relocation of any structure currently located within the Flemington Historic District to a location outside of the District will be undertaken with the greatest care. The relocation of any structure deemed Contributing or Significant in the Historic District is generally not permitted, except when public health and safety is at risk.
2. Applications to relocate any structure currently located within the Flemington Historic District to a location outside of the District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current use;
 - c. Its condition;
 - d. The extent of the historic and architectural loss to the site and District that results from moving the structure from its original location;
 - e. The reasons for not retaining the structure at its present site;
 - f. The proximity of the proposed new location to Flemington Borough, including the accessibility by the residents of Flemington Borough and other citizens;
 - g. The probability of significant damage to the structure during the relocation.
 - h. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live; and
 - i. The probable impact of its relocation upon the character and ambience of the Historic District.

I. Relocation within Flemington Borough.

1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. Therefore, the review of applications for the relocation of any structure currently within the Flemington Historic District to another location within the District will be undertaken with the greatest care. The relocation of any structure deemed Contributing or Significant in the Historic District is not permitted.
2. Applications to relocate any structure currently located within the Flemington Historic District to another location within the District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current use;
 - c. Its condition;
 - d. The extent of the historic and architectural loss to the site and District that results from moving the structure from its original location;
 - e. The reasons for not retaining the structure at its present site;
 - f. The probability of significant damage to the structure during the relocation;
 - g. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live;
 - h. The probable impact of its relocation upon the character and ambience of the Historic District; and
 - i. The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this Ordinance.

J. Other Requirements.

1. Signage. Appropriately designed signage can be an important design feature in the Historic District. A member of the Historic Preservation Commission is appointed by the HPC Chair to the SRC (Sign Review Committee) and participates in the review of proposed signage on properties within the Historic District, whether or not they will be attached to a structure. Relatively small, painted signage either mounted to the face of the building as part of the storefront design, or perpendicular to the face of the building, is encouraged. Large, contemporary, neon or neon-like, or plastic internally illuminated signs are not permitted, as are signs that conceal important architectural features. All signs must also meet the requirements of the Flemington Land Development Ordinance, Chapter 26, Zoning. **[Amended 6-10-2019 by Ord. No. 2019-12]**

2. Awnings. Appropriately designed awnings may be acceptable on residential and nonresidential buildings. All awnings shall be constructed and installed so that the frame and fabric of the awning is integrated into the overall building design. Awnings shall not extend beyond a dimension appropriate with the size and scale of the subject building. Awnings shall not be placed so as to conceal or disfigure any architectural feature or detail. Awning materials shall be limited to cloth, canvas and similar materials; metal and aluminum awnings are prohibited. Plastic and/or internally illuminated awnings are also prohibited. Awnings may be solid or striped, but colors shall complement the façade colors. If the building has several tenants, the overall awning design should be consistent and compatible across the entire façade.
3. Public Art. All art visible from public ways, including murals, outdoor sculpture, etc., that is being permanently attached or applied to structures in the Historic District shall be reviewed by the Flemington Historic Preservation Commission for compatibility with the design of the building and neighboring structures.
4. Street Furniture. The installation of all street furniture, including benches, fencing, trash cans, lighting, planters, etc., that is visible from public ways must be reviewed by the Flemington Historic Preservation Commission. The items should be selected to fit the scale, materials and character of the Historic District.
5. Building and Accessibility Codes. The Flemington Historic Preservation Commission does not review applications for compliance with relevant building or accessibility codes. Compliance with these codes is the responsibility of the applicant. The Flemington HPC review in no way supersedes or alters building code or accessibility requirements, although these codes, including the Rehabilitation Subcode and Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey, take into account existing conditions and the special characteristics of historic buildings. Any changes to the exterior of a building in the Flemington Historic District that are necessitated by requirements of building and handicapped accessibility codes should be designed to complement the character and style of the existing building to the greatest degree possible.

K. Violations and Penalties.

1. Any person who undertakes an activity which would cause a change in the exterior architectural appearance of any improvement within the Flemington Historic District or on any individually listed structure by addition, alteration, relocation, demolition or replacement without obtaining the approval of the Flemington Historic Preservation Commission shall be deemed to be in violation of this Ordinance.
2. Upon learning of the violation, the Construction Official for Flemington Borough shall personally serve upon the owner of the lot or property whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by restoring the property, structure or improvement to the condition it was in prior to the violation

occurring. If the owner cannot be personally served within the municipality with this notice, a copy shall be posted on the site and a copy sent to the owner at his or her last known address as it appears on the municipal tax rolls.

3. In the event that the violation is not abated within 10 days of service or posting on site, whichever is earlier, the Construction Official shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this Ordinance and specifying the wrongful conduct of the violator. Each separate day the violation exists past the initial 10-day abatement period shall be deemed to be a new and separate violation of this Ordinance.
4. The penalty for violation past the initial 10-day abatement period shall be as follows:
 - a. For each day up to 15 days, not more than \$50.00 per day.
 - b. For each day 16 to 30, not more than \$75.00 per day.
 - c. For each day beyond 30 days, not more than \$100.00 per day.
5. If any person undertakes activity which would cause a change to the exterior architectural appearance of any structure within the historic district or of any structure individually listed as historically significant within the Borough of Flemington by addition, alteration or replacement without first having obtained the approval of the Historic Preservation Commission, he or she shall be required to immediately stop the activity, apply for approval and take any necessary measures to preserve the historic structure affected, pending a decision. If the proposed project is denied, the historic structure shall be immediately restored to its pre-activity condition. The Construction Official is authorized to seek injunctive relief regarding a "stop action" on the activity in the Superior Court, Chancery Division, not less than 10 days after the delivery of notice pursuant to Subsection K2 above. Such injunctive relief shall be in addition to the penalties authorized in Subsection K4 above.

L. Designation of Historic Landmarks and Historic Districts

1. ***The Commission shall maintain and expand, when appropriate, a comprehensive survey of the Borough of Flemington to identify historic landmarks and historic districts that are worthy of protection and preservation.***
2. ***Criteria for Designation. The criteria for evaluation and designating historic landmarks and historic districts shall be guided by the National Register Criteria as currently published and amended from time to time. The Commission or any person may recommend designation of historic landmarks or historic districts that are in accordance with the National Register Criteria or that possess one or more of the following attributes:***
 - a. ***Character, interest, or value as part of the development, heritage or cultural characteristics of the borough, State or Nation; or***
 - b. ***Association with events that have made a significant contribution to the broad patterns of our history; or***
 - c. ***Association with the lives of persons significant in***

our past; or

- d. Embodiment of the distinctive characteristics of a type, period or method of construction, architecture, or engineering; or*
 - e. Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the borough, State or Nation; or*
 - f. Embodiment of elements of design, detail, material or craftsmanship that render an improvement architecturally significant or structurally innovative; or*
 - g. Unique location or singular physical characteristics that make a district or landmark an established or familiar visual feature; or*
 - h. Ability or potential ability to yield information important in prehistory or history.*
- 3. Procedures for Designation. Proposals to designate a property as historic pursuant to this ordinance may be made by the governing body, the Commission, or the planning board, in accordance with the following procedures:**
- a. Nomination report for historic landmark. A nomination to propose an historic landmark shall include the following information which addresses the criteria for designation as set forth herein:*
 - i. A photograph of the proposed landmark; and*
 - ii. A copy of the municipal tax map showing the property on which the proposed landmark is located; and*
 - iii. A physical description of the proposed landmark; and*
 - iv. A statement of significance.*
 - b. Nomination report for historic district. A nomination to propose an historic district shall include the following information which addresses the criteria for designation as set forth herein:*
 - i. A building-by-building inventory of all properties within the district identifying significant, contributing, non-contributing, or encroaching; and*
 - ii. A photograph of each property and building within the district; and*
 - iii. A copy of the municipal tax map of the district showing boundaries; and*
 - iv. A physical description of the proposed district; and*
 - v. A statement of significance.*

- c. **Schedule a hearing.** Following receipt of a nomination to propose an historic landmark or historic district, the Commission shall schedule a public hearing on the proposed designation.
- d. **Notification requirements.** At least 20 days prior to the public hearing, the Commission shall, by personal service or certified mail, perform the following:
 - i. **Notify the owner(s) of record of a property that has been proposed for historic landmark designation, or the owner(s) of record all properties located within a district that has been proposed for historic district designation, that the property or district, as applicable, is being considered for such designation and the reasons therefor;**
 - ii. **Advise the owner(s) of record of the significance and consequences of such designation, and of the rights of the owner(s) of record to contest such designation under the provisions of this ordinance;**
 - iii. **Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property or district; and**
 - iv. **Serve any further notices as may be required under the provisions of the Municipal Land Use Law.**
- e. **Public notice of hearing.** At least 20 days prior to the public hearing, the Commission shall also cause public notice of the hearing to be published in the official newspaper of the borough.
- f. **Public report.** At least 20 days prior to the public hearing, a copy of the nomination report shall also be made available for public inspection in the municipal offices of the borough.
- g. **Public hearing.** At the public hearing scheduled in accordance with this ordinance, the Commission shall review the nomination report and accompanying documents. Interested persons shall be given the opportunity to be heard and to comment on the proposed nomination for designation.
- h. **Commission report.** If the proposed nomination is approved by the Commission, then the Commission shall forward a report to the governing body, which shall contain a statement of the Commission's recommendations and the reasons therefor with regard to proposed designations considered at the hearing, including a list and map of properties approved for designation.
- i. **Referral to planning board.** The governing body shall refer the report to the planning board, which in turn shall report to the governing body as soon as possible, but within 60 days. Failure of the planning board to transmit its report within the sixty-day period provided herein shall relieve the governing body of its obligations relating to the referral of

such a report to the planning board. The governing body action on historic landmark or historic district designations shall be otherwise subject to those procedures and statutes which apply to a change of a zoning designation and the adoption, revision or amendment of any development regulation.

- j. Final designation. As soon as possible after its receipt of the report of the planning board or the expiration of the period allowed for planning board comment on designations, the governing body shall act upon the proposed designation list and map and may approve, reject or modify by ordinance the designation recommendations made by the planning board. In the event that the governing body votes to reject or modify any planning board recommendations for a proposed designation, the governing body shall record in its minutes the reasons for not following such recommendation.**
- k. Public notice of designation. Notice of designation shall be made public by publication in the official newspaper of the borough and by distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to the owner(s) of record.**
- l. Incorporation of designated landmarks into Borough records. Upon adoption of a resolution by the governing body designating an historic landmark or an historic district, the said designation shall supplement, rather than supersede, the existing zoning district in which the affected historic landmark or historic district is located. At that time, the designation list and map shall be incorporated into the master plan and zoning ordinance of the borough as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. Designated properties shall also be noted as such on the records for those properties as maintained by the engineering and zoning offices, as well as the offices of the construction official, the borough tax assessor and the borough clerk. In addition to the requirement for notation in the foregoing borough records upon the designation of a landmark or historic district by the governing body, within 90 days of the adoption of this Ordinance, there shall be entered upon the property records in the offices of the Tax Assessor, the Construction Code Official, the Borough Engineer, the Zoning Officer and the Borough Clerk a notation which identifies the designation of each property located within or historic district as constituted on the date of adoption hereof.**

Each tax/assessment search requested for a property located within an historic district shall note thereon the subject property is so located. Similarly, all forms maintained and issued by the Construction Code Official, Borough Engineer, Zoning Officer and Borough Clerk responsive to requests for information, permits, and like

documents, shall contain a notation which identifies, as applicable, the designation of a property within an historic district as constituted on the date of the adoption hereof and as new landmarks as historic district designations occur hereafter.

- m. Amendments. Amendments to historic landmark or historic district designations may be made in the same manner as they were adopted in accordance with the provisions of this ordinance.**

M. Appeals.

Whenever the Commission shall make a final decision regarding the grant or denial of a permit, the decision shall be subject to appeal to the Planning Board as the Zoning Board of Adjustment as provided under N.J.S.A. 40:55D-70. An appeal from the decision of the Planning Board as the Zoning Board of Adjustment shall be made in the same manner as permitted and prescribed by law for appeals from any other decisions made by such Boards in accordance with applicable law.

N. Escrow Review Fees

The Commission may require an applicant for a demolition or relocation permit to post a review escrow fee in an amount not to exceed \$1,000.00 if the review of said application will be complicated and require consultation with a professional engineer or architect. Such escrow account will be managed consistent with the Municipal Land Use Law (N.J.S.A. 40:55D-53.1 et seq.) and Ordinance Section 2800.

SECTION 4. All ordinances of the Borough of Flemington, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 6. This Ordinance shall take effect upon final passage and publication as required by law.

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

DOC ID: 3596

INTRODUCED

ORDINANCE 2021-25

First Reading: Ordinance Creating the Position of Office Assistant and Setting a Salary Range

WHEREAS, the Municipal Clerk has recommended to the Council that a part-time Office Assistant be appointed to aid with day-to-day operations of Borough offices; and

WHEREAS, a review of salaries for similar positions in the area reveals that the salary range set forth below is reasonable.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Flemington, the County of Hunterdon, that the Code of the Borough of Flemington (the "Code") is hereby amended and supplemented as follows:

SECTION 1. Section 2-30 of the Code, entitled "Office Assistant," shall be added as follows:

2-30.1 Established. There may be appointed an Office Assistant.

2-30.2 Term of Office. The term of office may begin on January 1 and expire one year thereafter, on December 31 or may begin on any other date and extended for any period as the Council may decide.

2-30.3 Nomination and Appointment. The Mayor shall nominate and appoint the Office Assistant, with the advice and consent of the Borough Council.

2-30.4 Powers and Duties. The Office Assistant shall have duties as determined by the Council in its discretion.

2-30.5 Office Hours. The hours of the Office Assistant shall be set by the Mayor and Council. The Office Assistant shall be a part-time employee of the Borough.

2-30.6 Compensation. Compensation shall be stipulated in the yearly salary ordinance.

SECTION 2. The Borough's 2021 Salary Ordinance (Ordinance 2021-18) is amended to add the salary of the Office Assistant as follows:

Office Assistant: \$15 to \$17 per hour

SECTION 3. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

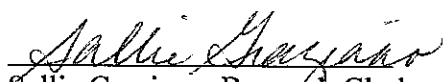
SECTION 5. The Mayor and Clerk are hereby authorized to take all steps necessary to advertise the position.

SECTION 6. This Ordinance shall take effect upon final passage and publication in accordance with the law.

Introduced: September 27, 2021

Adopted:

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

]

]

]

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/12/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	



Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 09/27/21 07:30 PM
Department: Clerk of the Borough
Category: Land Development
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

INTRODUCED

ORDINANCE 2021-26

DOC ID: 3599

First Reading: An Ordinance Accepting a Well Site, Waterline and Access Easement Over a Portion of Block 45, Lot 1

WHEREAS, the Mayor and Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, wish to accept a Grant of Well Site, Waterline, and Access Easement for a portion of Block 45, Lot 1, which are attached hereto as an exhibit; and

WHEREAS, such easement is proposed to be acquired in order to develop a new potable water supply well; and

WHEREAS, N.J.S.A. 40A:12-4 authorizes the municipality to accept such easement; and

WHEREAS, attached hereto is a form of easement that has been reviewed by the Borough Engineer and Borough Attorney; and

WHEREAS, based upon an appraisal commissioned by the Borough setting forth the fair market value of the easement, the Borough has agreed to pay the property owners the amount of \$33,000 in exchange for the easement dedications; and

WHEREAS, it appears to the Mayor and Council that the public interest would be served by accepting the easements described herein.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Flemington, County of Hunterdon, State of New Jersey as follows:

1. The Borough of Flemington hereby accepts the above-referenced easements over a portion of Block 45, Lot 1 as more particularly described in the deed of easement attached hereto.

2. The Borough Clerk, Mayor, her designee, Borough CFO, and such Borough Professionals as are necessary, are hereby authorized and directed to take such actions as are necessary to effectuate the provisions of this Ordinance including but not limited to executing the above-referenced easements in a form substantially similar to that attached hereto and made a part hereof.

3. The Borough Clerk shall, within sixty (60) days of the effective date of this Ordinance, file a copy of this Ordinance certified by her under the seal of the municipality, to be a true copy thereof, together with proof of publication thereof, in the office of the Clerk of the County of Hunterdon in accordance with the provisions of N.J.S.A. 40:67-21.

4. At least one (1) week prior to the time fixed for further consideration of this Ordinance for final passage, a copy thereof together with the notice of the introduction thereof and the time and place when and where the Ordinance will be further considered for final passage shall be mailed to every person whose lands may be affected by this Ordinance so far as may be ascertained. Said notices shall be mailed by the Borough Clerk in accordance with the provisions of N.J.S.A. 40:49-6.

5. The acceptance of this Easement is contingent upon the Borough obtaining all necessary approvals to construct a potable water supply well and appurtenances on the Property.



The Borough may rescind this Ordinance and acceptance of the Easement if the Borough is unable to develop the intended well and appurtenances on the Property.

6. This Ordinance shall take effect immediately after final passage, approval and publication as provided by law.

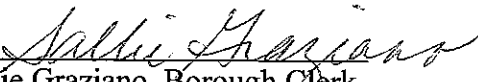
7. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.


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

Introduced: September 27, 2021

Adopted:

Attest:


Sallie Graziano, Borough Clerk


Betsy Driver, Mayor

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/12/2021 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jessica Hand, Council Member	
AYES:	Giles-McCormick, Hand, Johnston, Long, Runion, Tilly	



WELL SITE, WATERLINE, AND ACCESS EASEMENT

This Agreement made this _____ day of _____, 2021, by and between Dvoor Family, LLC., having an address of _____ ("Grantor") and THE BOROUGH OF FLEMINGTON, a municipal corporation of the State of New Jersey, with offices located at 38 Park Avenue, Flemington, New Jersey 08822 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of a certain tract of land located in the Borough of Flemington, County of Hunterdon, and State of New Jersey, more particularly described as Lot 1, Block 45 on the Tax Map of the Borough of Flemington (the "Property"); and

WHEREAS, Grantee desires to obtain from Grantor a permanent easement for the purposes of laying, constructing, maintaining, operating, repairing, altering, improving, inspecting, replacing or removing from time to time a potable water well with water lines, treatment building, emergency generator water services and all other appurtenant facilities (collectively, the "Well 12 Facility"), for the development, treatment and transfer of water through the Facility; and

WHEREAS, Grantee desires to obtain from Grantor a permanent access and utility easement, contiguous with a portion of the aforesaid permanent easement, for the purposes of laying and constructing the Water line and other service lines and permanent access; and

WHEREAS, Grantor desires to convey to Grantee such permanent easements;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for the sum of \$33,000, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The recitals set forth above are hereby incorporated by reference as if set forth in full in the body of this Agreement.

2. It is the intention of the parties that the well site easement granted above shall allow for and permit Grantee to develop, construct and operate a potable water well and well house (having dimensions of approximately 1.4 acres) on and within the well site easement area described above, together with all necessary appurtenances and related equipment to operate and maintain a potable water well house in accordance with law and State of New Jersey Department of Environmental Protection. It is further the intention of the parties that the water line easement granted above shall allow for and permit Grantee to place, construct, operate, repair, maintain, rebuild, replace and remove a subterranean water line pipeline within the water line easement area described above for purposes of the transmission of water from the aforesaid well site. The access easement granted above is intended to permit Grantee to access the well site and waterline easement area. The well site easement area and access easement area are more particularly described on the site plan attached hereto as **Schedule A**.

3. Grantor hereby gives, grants and conveys to Grantee, its successors and assigns with general warrant, (i) a permanent, non-exclusive right, privilege and easement in, under, across, over, and through a portion of the Property, which portion of the Property is more particularly described as the "Access and Utility Easement" in Schedule "A" attached hereto and made a part hereof (the "Permanent Access and Utility Easement"), and (ii) a permanent non-exclusive right, privilege and easement in, under, across, over and through a portion of the Property, which portion of the Property is more particularly described as the "Permanent Well and Treatment Building Easement" in Schedule "A" attached hereto and made a part hereof, (the "Permanent Access and Utility Easement," which collectively with the "Permanent Well and Treatment Building Easement" shall hereafter be referred to as the "Easements"), for the purposes set forth above together with such other rights as may be necessary, or convenient, for the full enjoyment or use of the rights herein granted including, among others, (a) the right to enter upon and pass along the Easements with equipment, persons and materials at such time as Grantee may elect; (b) the right to keep said Easements free from trees, undergrowth or other obstructions that may endanger or interfere with the construction, operation, maintenance or



removal of the Well and Treatment Facility; and (c) the right at any time of free and unobstructed ingress, egress and access to and from the Easements on foot, with vehicles, machinery and materials necessary for the purposes set forth herein. The easements granted herein shall be used only for the limited purposes expressed herein.

4. It is expressly agreed that the easement, rights, and privileges conveyed to Grantee are subject to and limited by the following conditions and obligations:

(a) All expenses, costs, and fees, of any nature or amount associated with and incident to the construction, placement, locating, operation, repair, maintenance, building, rebuilding, replacement and relocation (if required) of the well, well house, water line, and all necessary appurtenances and related equipment, and all excavation, site work, grading, fences and landscaping, shall be the sole responsibility of Grantee.

(b) In connection with the design, construction, maintenance and operation of a commercial potable water well on the well site, Grantee agrees to do the following:

(i) The well house will be landscaped and screened by Grantee in a manner consistent with the landscaping and screening as approved by Grantor whose approval shall not be unreasonably withheld or delayed;

(ii) Grantee will provide Grantor with written notice of its intention to proceed with construction of the well house. Grantee will provide an architectural design of the exterior of the well house which shall be subject to Grantor's prior approval which approval shall not be unreasonably withheld or delayed. Such design will allow Grantee to construct a well house in a commercially reasonable manner without unreasonable expense or delay;

(iii) The well house will be secured by appropriate fencing and/or cover so as to prevent any foreseeable risk of injury to persons and to prevent any foreseeable risk of damage to vehicles/equipment in the area. Said fencing shall be approved by Grantor prior to installation which approval by Grantor shall not be unreasonably withheld or delayed.

(iv) The well house building will be of a design aesthetic consistent with the appearance of the neighboring golf course business.

(v) The Grantee shall maintain a cleared 20 foot wide trail adjacent to the well house to enable Grantor to access the rear of the Property. Said trail shall not be required to be paved or improved with gravel and maintenance will only require the clearing of brush or other debris.

(vi) The Grantee shall not unreasonably interfere with the operation of the adjacent golf course business.

5. Grantor expressly agrees that Grantee may enter upon the lands for the purposes set forth herein with reasonable notice to Grantor.

6. Grantor agrees not to build any structure on the Easements, change the grade thereof, or otherwise interfere with Grantee's immediate access to the Easements without Grantee's prior written approval. Additionally, Grantee shall not apply any fertilizers or other chemicals to landscaping or grass within the Easements without prior approval from the Borough. The Borough acknowledges that the Access and Utility Easement runs through an existing parking area, which shall be permitted to remain within the utility and access easement area. However, such parking area shall not be altered in such a way to interfere with Grantee's access rights under this easement. Nothing herein shall prevent Grantor from paving and / or performing routine maintenance on the parking area.

7. Grantor agrees to have and to hold said Easements unto said Grantee, its successors and assigns, until expressly released by Grantee, its successors and assigns.

8. Grantee, by its acceptance hereof, covenants and agrees (a) to restore all areas disturbed by the Well, Utility Lines and Treatment Building construction to as near their original condition as reasonably possible; and (b) to defend and indemnify Grantor from any claim or



suits which may be asserted against Grantor arising out of any negligent acts of Grantee, its agents and employees, in the exercise of the rights herein granted.

9. The Easements are hereby granted to the Grantee for the purpose of obtaining a "Permit to Construct" from New Jersey Department of Environmental Protection Bureau of Water Systems Engineering in accordance with Plans and Specifications prepared by Robert Martucci, P.E. Payment hereunder from Grantee to Grantor shall not be due and payable until and unless said permit is granted.

10. If said permit is not obtainable the easement agreement shall be null and void.

The agreements and covenants herein made shall be binding upon and the benefits shall inure to the parties hereto, their heirs, administrators, executors, successors and assigns.

It is agreed that this Agreement covers all the agreements between the parties and no verbal representations or statements have been made modifying, adding to or changing the terms of this Agreement.

[SIGNATURES BEGIN ON THE NEXT PAGE]



IN WITNESS WHEREOF, Grantor has set its hand and seal or caused its proper corporate officers to sign and seal these Easements on this _____ day of _____, 2021.

Signed, sealed and delivered in
the presence of, or attested to by:

Dvoor Family, LLC

By: _____
Name: _____
Title: _____

STATE OF NEW JERSEY)

SS:

COUNTY OF _____)

I CERTIFY that on _____, 2021,

_____ personally appeared before me and this person acknowledged under oath, to my satisfaction, that this person:

(a) signed the attached instrument as _____ of Dvoor Family, LLC, a limited liability company of the State of New Jersey;

(b) was authorized to execute the attached instrument on behalf of such limited liability company;

(c) executed the attached instrument as the act of such limited liability company; and

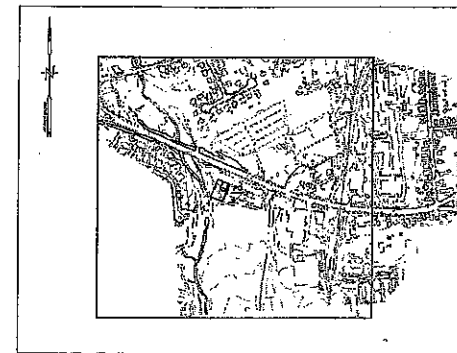
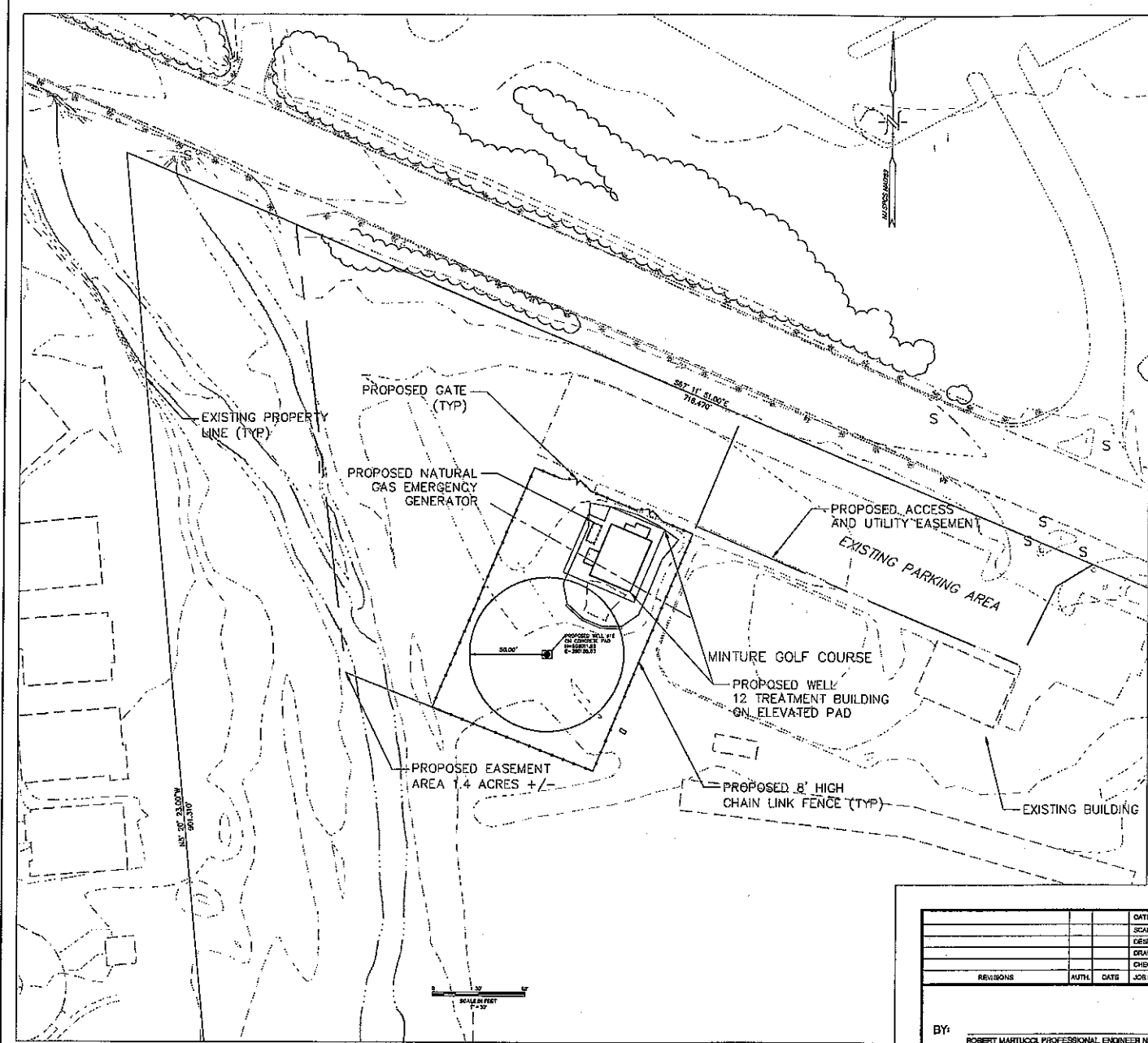
(d) made this instrument for \$_____ as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. §46:15-5.)

Notary Public of New Jersey
My Commission Expires:

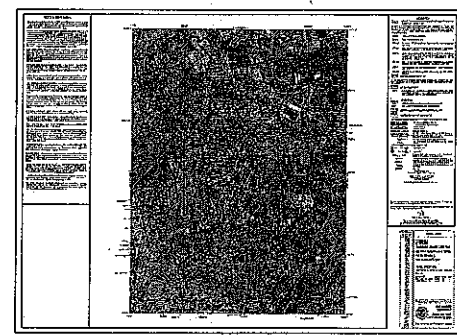
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KEY MAP
(SCALE 1" = 500')



FEMA FIRM MAP
(100)

POINT NAME	NORTH (Feet)	EAST (Feet)	CORNER ELEV.	AZIMUTH	LONGITUDE
STAKE	828.164.12	260.131.01	174.43	N 40° 20' 00" E	W 07° 52' 00" 44"

GENERAL NOTES

1. PROPERTY SHOWN AS BLOCK 45, LOT 1 AS SHOWN ON THE TAX MAP OF THE BOROUGH OF FLEMINGTON, HUNTERDON COUNTY, NEW JERSEY, SHEET 1.
2. THE MAP IS SUBJECT TO THE PROVISIONS OF AN ACCURATE PROPERTY SURVEY. LOCATION OF UNDEVELOPED UTILITIES ARE UNKNOWN.
3. AREA OF BLOCK 45, LOT 1 IS 11.2 ACRES.
4. BOUNDARY INFORMATION SHOWN BASED UPON A MAP ENTITLED "PRELIMINARY MAJOR SITE PLAN" AS PREPARED BY VAN CLEEF ENGINEERING ASSOCIATES DATED OCTOBER 1, 1982.
5. TOPOGRAPHICAL INFORMATION IS BASED ON AERIAL DATA OF THE BOROUGH OF FLEMINGTON.
6. WELL LOCATIONS PROVIDED BY AS ASSOCIATES ON MARCH 8, 2018.
7. PROPOSED WELL TO BE PROTECTED BY ACCORDANCE WITH NJDEP SAFE DRINKING WATER REGULATIONS.
8. PROPERTY TO BE SURVEYED WITH ACCESS AND UTILITY EASEMENTS GRANTED TO THE BOROUGH OF FLEMINGTON FROM TO ANY STATE OF CONSTRUCTION.
9. LOCATION OF PROPOSED IMPROVEMENTS SUBJECT TO A BOUNDARY AND TOPOGRAPHIC SURVEY.

DATE: JUNE 30, 2020			Martucci ENGINEERING, LLC 11 EAST LAMAR STREET, FLEMINGTON, NEW JERSEY 08822 BURLINGTON, NEW JERSEY 08912 PHONE: 908.784.1757
SCALE: 1"=30'			
DESIGNED BY: RM			
DRAWN BY: BGS			
CHECKED BY: RM		JOB NO. #442	
BY: ROBERT MARTUCCI, PROFESSIONAL ENGINEER N.J. LIC. No. CE47775 BOROUGH ENGINEER		PROPOSED SITE PLAN - WELL 12 FOR BLOCK 45 LOT 1 SITUATED IN FLEMINGTON BOROUGH HUNTERDON COUNTY, NEW JERSEY	