

**BOROUGH OF SPRING LAKE
MAYOR AND BOROUGH COUNCIL
REGULAR MEETING
SEPTEMBER 11, 2012**

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Council President Venables called the Regular Meeting of the Mayor and Council of the Borough of Spring Lake to order at 7:01 P.M. with a moment of silent prayer. She then proceeded with the Pledge of Allegiance to the Flag. The Mayor announced that the meeting is being held in accordance with the Open Public Meetings.

PRESENT: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

ABSENT: Mr. Jordan, Mayor Naughton

ALSO PRESENT: Jane Gillespie, Borough Clerk
W. Bryan Dempsey, Borough Administrator
Joseph Colao, Esq, Borough Attorney
Peter Avakian, Borough Engineer

Public Comments

Eleanor Twomey, 108 Vroom Avenue, asked why the proposed ordinance in connection with bicycles being walked through the business district was not on the Agenda. Council President Venables stated that there is no specific reason other than there have been other more pressing matters requiring the attention of the Mayor and Council. Mrs. Venables assured Ms. Twomey that Borough Attorney Colao would be addressing the item as soon as possible. Borough Attorney stated that he was unaware that a proposed ordinance regarding bicycles was pending with him. Mrs. Reilly interjected that the ordinance is being worked on and would be given to Attorney Colao soon. Ms. Twomey asked if anyone had seen the recent article in the newspaper regarding a New Jersey town preparing an ordinance to ban bamboo trees. Council President Venables agreed that the council could consider the topic further.

Helen Motzenbecker, 4 Glenwood Avenue, asked when the hearing in connection with the North End Pavilion was taking place. Council President Venables stated that the County Planning Board heard the application yesterday yet one of the members of the Board requested, and was granted, an additional week to review the application. Mrs. Venables noted further that a decision would be forthcoming on September 17, 2012. Ms. Motzenbecker asked what the next step would be. Mrs. Venables stated that if approved by the Planning Board the item will go before the County Board of Chosen Freeholders. Mr. Judge interjected that the application is actually going before the Development Review Committee and not the Planning Board, and then once it's passed by this committee it will go to the Freeholders. Mrs. Venables stated that it will be heard at the Hall of Records on September 28, 2012.

Council Comments & Staff Reports

Mr. Fay asked if there was a traffic person, voted on and hired by the Borough, in attendance at the Planning Board meeting yesterday. Mr. Dempsey stated that there was a traffic person in attendance who is retained by Borough Engineer Avakian's office. Mr. Fay asked if this hire would cost the Borough more money. Mr. Dempsey stated that it is a consulting expertise needed at the County level that Mr. Avakian does not have within his firm; it would eventually be billed through Mr. Avakian's office.

Mr. Fay asked why there was a Hold Harmless agreement. Attorney Colao stated that it was requested by the County. Mr. Fay further asked why the County needed a Hold Harmless agreement. Mr. Colao stated that he believed it had to do with future legal fees. Mr. Fay asked if the insurance people were aware that the Hold Harmless agreement was in place with the County and asked for further clarification. Mr. Colao stated that it's his understanding that a Hold Harmless is fairly common when the County is considering giving up a right-of-way. Mr. Dempsey offered that it's his belief that there is a similar Hold Harmless with the County in connection with the Arches. Mr. Fay expressed concern that this issue was coming up at this point. Mr. Colao asked if Mr. Fay felt that the Borough should stop the efforts to move forward with the North End Pavilion project. Mr. Dempsey interjected that the intention was to have obtained the County Planning Board's approval yesterday, move forward with this Resolution tonight with the next Resolution at the County Board of Chosen Freeholders. The agreement was prepared by the County and sent to the Borough, continued Mr. Dempsey. Mr. Fay suggested that the Borough's insurance company be advised of the Hold Harmless. Mr. Dempsey stated that the Borough is self-insured through the Joint Insurance Fund and noted that both pavilions are currently in the County right-of-way. Mrs. Reilly stated that both pavilions have always been in the right-of-way and therefore there is no further

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encroachment into the right-of-way. Mr. Colao stated that it is the opinion of the traffic safety experts that there is no greater safety issue. Mr. Dempsey stated that it was the County that suggested the Borough have a traffic expert present at the meeting. Mrs. Venables asked for confirmation that the plans were reviewed by the County traffic engineer. Mr. Judge confirmed that they were indeed reviewed many months ago.

Mr. Judge reported that he spoke to the Chair of the School Board who will review with the Board his offer to sit with the neighbors to discuss the playground/basketball court issue. Mr. Judge also proposed the creation of beach policy committee that would start in September and review all things related to the beach including finance, procedures, personnel, structures, sign-ups, etc. as a way to avoid playing catch-up. Mr. Judge stated that Mayor Naughton was in favor and that Council Members Jordan and Reilly have agreed to be members of the committee.

Mr. Judge offered a motion to create a beach policy committee made up of Council Members Jordan, Reilly and Judge, seconded by Mrs. Reilly.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: NONE

Mr. Drasheff asked if, once the committee was underway, the committee will interface with the Finance Committee. Mr. Judge noted that they would interface with a whole host of stakeholders. Mrs. Reilly stated that it's a great idea and reiterated Mr. Judge's comments stating that it is a large multi-million dollar business and should be treated as such in order to do what's best for the Borough's residences. Ms. Eleanor Twomey, 108 Vroom Avenue, inquired as to whether this committee would also be responsible for establishing policy in connection with beach weddings, movies, etc. Mr. Judge stated that the committee would not establish policy and would only make recommendations to the Mayor and Council. Mr. Judge further stated that he did not believe beach weddings, movies and the like would fall under the purview of the committee and noted that these topics would go before the Mayor and Council. Mrs. Reilly offered examples of the kind of things that would be considered by the committee in connection with beach operations.

Mrs. Reilly reported that the Rain Gardens are finished and noted that new signs have been posted utilizing Smartphone technology. Mrs. Reilly thanked Hal Hall for donating the signs as well as the Garden Club for their efforts. Ms. Eleanor Twomey, 108 Vroom Avenue, asked why the flower garden at the entrance of Borough Hall has been eliminated. Mr. Dempsey stated they were there, but recently died. Mrs. Reilly reminded everyone of the Movie, The Lorax, in Divine Park.

Workshop Discussion - Wreck Pond Proposal - Federal Consulting Services

Council President Venables summarized the history of the Borough's efforts to identify a bigger solution to Wreck Pond than what the Borough alone can do. Mrs. Venables detailed the many processes considered including efforts to obtain grant money and recent discussions with three (3) different consulting firms. Mrs. Venables offered her thoughts on the three (3) firms considered and why she felt confident recommending Van Scoyoc Associates. Mrs. Venables stated that the fee is \$5,000 per month with an annual retainer of \$60,000 and that Mr. Crum assured the Borough that the Borough would see tangible progress within a year. Mrs. Venables referred to a Resolution on the Agenda to retain the firm. Mr. Judge added that he is in full support of retaining Van Scoyoc and gave an overview of the firm and their charge and expressed confidence that they could help the Borough navigate through the labyrinth of federal procedures and political strategies as well as analyze the landscape of federal programs and grants that may be available to the Borough.

Mr. Judge detailed the background of Mr. Jim Crum who is the lead on the project and expressed confidence in his expertise. Mr. Judge further noted that there is approximately \$30,000 in the budget available for this effort so there would be no budgetary impact. Mrs. Reilly asked for clarification of what "tangible" results might mean. Mrs. Venables responded that none of the professionals were willing to give a guarantee but that she felt that tangible progress would include positive movement on the feasibility study. Mr. Dempsey also noted that Mr.

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Crum is a Professional Engineer which will also prove helpful in moving the effort along. Mr. Drasheff interjected that a key objective is to have a plan aimed at stopping the flooding.

Mrs. Reilly stated that if we're spending a certain sum of money what measurement is being used to determine if this was money well spent. Mrs. Venables agreed that evidence of progress is important.

Lyle Marlowe, 110 Pennsylvania Avenue, asked if the lobbying activity would include the State Government. Mrs. Venables stated that it would.

Eleanor Twomey, 108 Vroom Avenue, asked if Mr. Crum is aware of the work that's been done to date. Mrs. Venables stated that he is.

Borough Engineer's Report

Peter Avakian reported that he has been working with Mr. Dempsey in closing out the Marucci Park improvements project including documents that have been submitted to Monmouth County in connection with the Open Space Grant in order to obtain reimbursement. He noted that the Newark and Adrian Avenue improvement project was a DOT Grant and is also being processed for reimbursement. Mr. Avakian continued, reporting on the Third Avenue project noting that they are close to completing the plans which will go to NJDOT which is required prior to going out to bid. Mr. Avakian stated that he anticipates receiving bids towards the end of September with an award date of October 4, 2012 giving them a six to eight week window to complete the milling and paving. Mr. Judge asked if the BID had been included in discussions regarding timing. Mr. Avakian stated that he and Mr. Dempsey intend to meet with them to go over the timing. Mr. Judge also stated that Halloween should be considered in that, as in the past, they expect large crowds on Third Avenue. Mr. Avakian felt that the work should not interfere with the festivities. Mr. Avakian further reported that a response was received from the Office of Dredging and Sediment Technology who accepted the Borough's application yet noted they needed two (2) additional pieces of information which Mr. Avakian stated were minimal and were being addressed. Mrs. Venables asked when the Borough could expect a response to the application. Mr. Avakian stated 30 - 45 days would be reasonable noting the representative they are working with from DEP is very responsive. Mrs. Venables asked if there were any other permits needed. Mr. Avakian stated that there is an Army Corps permit which was submitted for review. Mrs. Venables asked about the FEMA assessment. Mr. Avakian stated that FEMA has accepted all the revisions without comment which is a good indication. Mr. Avakian noted that the only outstanding issue in connection with FEMA is the consultant reviews which he expects to be addressed soon.

Borough Administrator's Report

Brian Dempsey reported that the County will be putting in a storm drain at the intersection of Passaic and Ocean Avenues within the next couple of weeks. In connection with the Warren Avenue affordable housing project, Mr. Dempsey reported that bids should be received by roughly September 28, 2012. Mr. Dempsey further reported that five (5) individuals have been pre-qualified in connection with the First Aid Building; bid packets will be going out soon with a contract to be awarded in October. Mr. Dempsey stated that there is an environmental summit scheduled for Thursday and the Wreck Pond Homeowner's Alliance is expected to attend to address their concerns. Also, Mr. Dempsey continued, the Italian Festival is scheduled for October 6, 2012; the organizers have asked that food vendors be allowed to erect canopies over the food stations to protect the food from the sun. Council Members discussed the location of the vendors and the various considerations. Mr. Drasheff stated that he felt it was a reasonable request. Mr. Dempsey noted an additional request was made for the use of a gondola on a trailer as a photo backdrop to be situated on Jersey Avenue.

Eleanor Twomey, 108 Vroom Avenue, voiced concern that the Italian Festival was getting bigger with each passing year and reminded the Council of a recommendation she made years ago to have Third Avenue closed to vehicle traffic from Washington to Passaic during the sidewalk sale. Ms. Twomey suggested serious consideration be given to this recommendation. Mr. Drasheff raised the question of the loss of parking. Mrs. Reilly suggested that the BID consider this and offer their thoughts and potential recommendation.

Mr. Dempsey continued and reported that the South End pool was open from 9:00 am to 6:00 pm during September and October last year while this year it is closing at 5:00 pm. There's been a request to keep it open until 6:00 pm which Mr. Dempsey stated he believed was a reasonable request stating that he visited the pool at

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5:00 pm and there was a fair amount of residents there. Mr. Dempsey also stated that the Borough has adequate staff to cover the pool for the additional hour. No objections were raised.

Borough Attorney's Report

Mr. Jay Colao stated that he has two (2) items for the Executive Session.

Resolutions

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Judge.

**R-12-160 - RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL
SERVICES CONTRACT WITH THE BOROUGH OF SPRING LAKE FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, there exists a need for professional services to be provided to the Borough of Spring Lake, County of Monmouth, New Jersey (the "Borough") and the Borough Council desires to authorize the execution of a professional services contract between following listed persons/firms and the Borough for the provision of said services; and

PS#11-2012	Wreck Pond Federal Consulting Services	Jim Crum	Van Scoyoc Associates, Inc. 101 Constitution Avenue, NW Washington, DC 20001
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WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the anticipated term of this contract is for one (1) year on an as-needed basis at \$5,000 per month; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, they are required to complete and submit a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political candidate or candidate committee in the Borough of Spring Lake in the previous one year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

WHEREAS, sufficient funds are available for the services and will be certified on each voucher submitted for payment.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Borough Clerk are hereby authorized to execute a contract between the above named persons/firms and the Borough to provide professional services to the Borough of Spring Lake; and

BE IT FURTHER RESOLVED, that a copy of this Resolution, the Business Entity Disclosure Certification and the Contract shall be placed on file with the Clerk of the Borough; and

BE IT FURTHER RESOLVED, that a notice in accordance with the Local Public Contracts Law of New Jersey in the form attached hereto shall be published in accordance with law; and

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: NONE

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Judge.

**R-12-161 - RESOLUTION – RELEASING STREET OPENING BOND
417 WARREN AVENUE – BLOCK 60, LOT 7**

WHEREAS a street opening application and appropriate fees was received by the Borough of Spring Lake from Kerry & Mark Whitcomb for property located at 417 Warren Avenue, Block 60, Lot 7 and

WHEREAS, a \$1,250.00 bond was posted for each property to ensure that the work was completed satisfactorily, and

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WHEREAS, the Borough Engineer's office has inspected the site and found the work to be completed in accordance with Borough Ordinances and recommended the refund of the bond posted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough of the Borough of Spring Lake that the above referenced street opening bond in the amount of \$1,250.00 be and the same is hereby authorized for return.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: NONE

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Judge.

**R-12-162 - RESOLUTION – RELEASING STREET OPENING BOND
1312 THIRD AVENUE – BLOCK 80, LOT 8 &**

WHEREAS a street opening application and appropriate fees was received by the Borough of Spring Lake from A. DeLuca Paving for property located at 1312 Third Avenue, Block 80, Lot 8 & 9 and

WHEREAS, a \$1,250.00 bond was posted for each property to ensure that the work was completed satisfactorily, and

WHEREAS, the Borough Engineer's office has inspected the site and found the work to be completed in accordance with Borough Ordinances and recommended the refund of the bond posted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough of the Borough of Spring Lake that the above referenced street opening bond in the amount of \$1,250.00 be and the same is hereby authorized for return.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: NONE

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Judge.

R-12-163 - RESOLUTION – APPROVAL OF BILLS – SEPTEMBER 11, 2012

WHEREAS, the Borough of Spring Lake received certain claims against it by way of vouchers received during the period ending September 11, 2012, and

WHEREAS, the Borough Finance Committee has reviewed said claims.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake, County of Monmouth, that the following claims be certified by the Chief Financial Officer for approval and payment.

<u>SUMMARY</u>	
CURRENT FUND (1)	626,547.63
GENERAL CAPITAL (4)	53,200.00
WATER/SEWER OPERATING (9)	16,790.17
DOG TRUST (13)	918.40
SPRING LAKE TRUST (15)	3,982.50
MT LAUREL TRUST (16)	1,275.00
RECREATION (25)	4,985.08
JUNIOR LIFEGUARDS (26)	390.00
BEACH OPERATING (81)	176,847.76
POOL OPERATING (91)	27,626.41
TOTAL	\$912,562.65

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: NONE

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Mrs. Venables introduced Mr. Collins thanking him for his assistance with the license agreement with the County as well as the application with the County Planning Board. Mrs. Venables asked Mr. Collins to provide an explanation of the license agreement being considered.

Mr. Collins spoke to the recent requirement by the County to appear before the Development Review Committee and the County Planning Board in connection with the existing encroachment of the North End Pavilion into the County road of Ocean Avenue. Mr. Collins continued noting that the license agreement being considered is a standard document that authorizes the Borough to continue its presence on Ocean Avenue at the North End Pavilion site. Mr. Fay stated that he intends to abstain due to his concerns about the hold harmless clause. Mr. Avakian inquired as to whether a hold harmless clause is typical. Mr. Collins noted that it was and stated that the hold harmless is intended to advise the Borough that anything the Borough does on the County's property that becomes problematic will be the problem of the Borough not the County. Mr. Collins likened it to a theoretical situation in which a property owner has their fence on a neighbor's property and the neighbor asks for a hold harmless in the event that someone is injured by the fence, thus making it the responsibility of the fence owner. Mr. Fay asked how it may affect the Borough from a risk perspective in connection with the Borough's insurance and whether the premiums would be impacted. Mr. Collins stated that the premiums would be unchanged. Mr. Fay asked if the license agreement will be presented to the Freeholders. Mr. Collins indicated that he could not speak to that issue. Mr. Fay asked Mr. Dempsey what will happen in 2013 if the project is delayed. Mr. Dempsey stated that the contractor has reset the dates with hopes of work beginning on the 17th of September with a target completion date of mid-June. Mr. Dempsey continued noting that if things get moved back by ten (10) days it may be closer to the end of June.

Eleanor Twomey, 108 Vroom Avenue, asked if such a license agreement was in place now or had existed in the past. Mr. Collins indicated that it had been overlooked by the County in the past yet reiterated that the agreement is fairly standard and straight forward.

Lyle Marlowe, 110 Pennsylvania Avenue, asked if the agreement covered the South End as well. Mr. Collins stated that the County has not asked for such an agreement in connection with the South End Pavilion. Mr. Marlowe further inquired about the Arches. Mrs. Venables and Mr. Dempsey confirmed that such an agreement does exist in connection with the Arches. Mr. Collins noted that the agreement is not a crucial element to the process. Mr. Fay inquired as to whether there was additional information needed from CAFRA. Mr. Collins noted that he was not in a position to speak to that topic in that his counsel to the Borough is limited to County issues. Mr. Colao responded to Mr. Fay's inquiry indicating that he did not believe there was any additional information needed from CAFRA.

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Judge.

**R-12-164 - RESOLUTION – AUTHORIZING MAYOR AND MUNICIPAL CLERK TO EXECUTE
LICENSE AGREEMENT WITH THE COUNTY OF MONMOUTH FOR A PORTION OF OCEAN
AVENUE LOCATED ADJACENT TO THE NORTH END PAVILION WITHIN
THE BOROUGH OF SPRING LAKE**

WHEREAS, The Borough of Spring Lake is the owner of certain property east of Ocean Avenue commonly known as the "North End Pavilion" a portion of which presently encroaches on a County Public Right of Way known as Ocean Avenue; and

WHEREAS, the aforementioned encroachment pre-dates the acquisition by the County of the Right of Way; and

WHEREAS, the Borough of Spring Lake proposes to modify the existing encroachment consistent with the proposed new construction/renovation of the North End Pavilion; and

WHEREAS, it is necessary that a license agreement between the Borough and the County be executed for the existing and proposed encroachment, and

WHEREAS, the proposed license agreement will contain a reverter clause as well as an indemnification clause all of which will be subject to review by Counsel acting on behalf of the Borough of Spring Lake prior to its execution, and

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NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough of the Borough of Spring Lake that the Mayor and Municipal Clerk be and hereby are authorized to execute a license agreement for the purposes noted above with the County of Monmouth once reviewed and approved by Counsel.

ROLL CALL:

AYES: Mr. Drasheff, Mrs. Venables, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: Mr. Fay

Public Comments

Eleanor Twomey, 108 Vroom Avenue, asked what the status was in connection with the recent application to film on the beach. Mrs. Venables responded that the applicant had reconsidered their request due to a scheduling issue.

Rich Clayton, 1209 Third Avenue, asked for clarification as to whether the requests made in connection with the Italian Festival had been approved. Mr. Dempsey confirmed that they were. Mr. Drasheff suggested he discuss with the members Mrs. Twomey's suggestion regarding closing Third Avenue. Mr. Dempsey also suggested that Mr. Clayton confirm with Mr. Giblin that the canopies are in compliance with the relevant fire codes.

Executive Session

Mrs. Reilly offered the following Resolution and moved its adoption, seconded by Mr. Judge.

R-12-165 - RESOLUTION – PURSUANT TO N.J.S.A. 10:4-13 – EXECUTIVE SESSION

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that pursuant to N.J.S.A. 10:4-13, the Mayor and Council shall adjourn to Executive Session for the purpose of discussing: North End Pavilion Professional Services, O'Malley vs. Borough of Spring Lake.

BE IT FURTHER RESOLVED that upon conclusion of said matter(s) this discussion will be disclosed by the Borough Clerk via Executive Session Minutes upon written authorization from the Borough Attorney.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: NONE

TIME OF ADJOURNMENT TO EXECUTIVE SESSION: 8:03 P.M.

MEETING IS RECONVENED AT: 8:23 P.M.

Adjournment

Mrs. Reilly offered a motion to adjourn the meeting, seconded by Mr. Judge.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Fay, Mrs. Venables, Mr. Judge, Mrs. Reilly

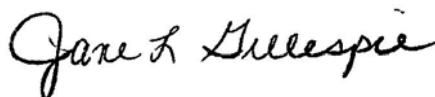
NAYS: NONE

ABSENT: Mr. Jordan

ABSTAIN: NONE

Time of Adjournment: 8:23 P.M.

Respectfully submitted,



JANE L. GILLESPIE
Borough Clerk

Approved at a meeting held on: December 4, 2012