

Regular Meeting of Mayor and Council June 15, 2006

PRESENT: Mayor DeIorio; Councilmembers Badillo (arrived at 7:40 p.m.), Harms, Matarante, Rubilla and Dinardo; and Borough Attorney Bill Lane

ABSENT: Councilman Zeglarski

Mayor DeIorio called the meeting to order at 7:35 p.m. and said it is being held in accordance with the Open Public Meetings Act and adequate notice of this meeting has been provided as required by law.

All contracts awarded by Mayor and Council must comply with the affirmative action requirements of P.L. 1975, C172. (NJAC 17:27).

As required by the Fire Prevention Code, he indicated the fire exits and procedure to be allowed in case of fire.

Borough Clerk Doreen Cali read a short prayer followed by the Pledge of Allegiance.

COMMUNICATIONS & PETITIONS

Councilman Harms moved the following communication; seconded by Councilman Rubilla, all members present voting Aye, said motion was adopted.

- Request from the residents of Charlotte Terrace between E. Grant Avenue & Madison Avenue to hold a block party on Saturday, July 15, 2006 from 12:00 Noon to 8:00 p.m.

REPORT & RECOMMENDATIONS OF MAYOR

- Community Planning Associates, Heyer & Gruel, will hold a meeting on Thursday, June 22, 2006, at 7:00 p.m., in Council Chambers to discuss redevelopment in the Borough. Mayor DeIorio encouraged residents to attend and participate.
- Thanked the Sherman School 2nd grade classes who read two books regarding Helping Keep Your Community Clean. He said they celebrated “Donuts for Dad’s Day” and Mrs. Romano’s class wrote letters to him on how they could improve the cleanliness and appearance of Roselle Park. He said on June 27th, at 9:00 a.m., the second grade classes from Sherman School will participate in a cleanup of the Gazebo area. He said other students are welcome to participate and if interested they can have their parents contact the Borough Clerk’s Office.

PROCLAMATIONS/CERTIFICATES

Certificates:

- Marc Signorello
- Brian Kinsley, Jr.
- Matthew Ramirez
- Cub Scout Packs 116 & 155 and Boy Scout Troop 56
- William Williams
- Reliable Wood

RESOLUTIONS

The following routine resolutions, listed on a consent agenda, were offered by Councilman Rubilla and seconded by Councilman Badillo, all members present voting Aye, said resolutions were adopted.

RESOLUTION NO. 69-06 (Postponed from 4/20/06)

WHEREAS an application has been filed for a Place-to-Place Transfer (expansion of premises) of Plenary Retail Consumption License No. 2015-33-004-003, 600 Westfield Avenue Associates, Inc., t/a Sun Tavern, for purposes of expanding the premises under license wherein the sale, service and storage of alcoholic beverages are authorized; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid and the license has been properly renewed for the current license term; now therefore

BE IT RESOLVED, that the Mayor and Council of the Borough of Roselle Park does hereby approve, effective immediately, the expansion of the aforesaid Plenary Retail Consumption Licensed premises located at 600 Westfield Avenue, Roselle Park, New Jersey, to place under license the area delineated in the application form and the sketch of the licensed premises attached thereto.

RESOLUTION NO. 99-06

WHEREAS, all Plenary Retail Consumption, Retail Distribution, Limited Distribution and Club Licenses will expire on June 30, 2006; and

WHEREAS, the following applicants have complied with the provisions of the Act of the Legislature entitled, "An Act Concerning Alcoholic Beverages", being Chapter 436 of the Laws of 1933, its supplements and amendments, and with the Rules and Regulations issued or to be promulgated by the State Commissioner of Alcoholic Beverage Control applicable, thereto, now therefore

BE IT RESOLVED, that the Borough Clerk be and is hereby authorized to issue licenses to expire June 30, 2007, to the following as approved by the License Committee:

PLENARY RETAIL CONSUMPTION LICENSES - \$1,155.00

(2015-33-002-005) Cascio's Taverne II, Inc., t/a Cascio's Tavern II, 400 Seaton Avenue

(2015-33-004-004) 600 Westfield Avenue, Inc., t/a Sun Tavern, 600 West Westfield Avenue

(2015-33-005-002) Frenchy's Bar & Grill, Inc., t/a Frenchy's Bar & Grill, 545 West Westfield Avenue

- (2015-33-006-010) Almsea, Inc., t/a Domani's, 230 West Westfield Avenue
(2015-33-008-004) LaCatena Restaurant, Inc., t/a LaCatena Restaurant, 386 East Westfield Avenue
(2015-33-009-011) Sports Section, Inc., t/a Mulligan's Pub, 117 Chestnut Street
(2015-33-010-006) Ocean Castle, Inc., t/a Ristorante Michelangelo, 9 West Westfield Avenue
(2015-33-012-004) Solar Do Minho II, Inc., t/a Solar Do Minho Steak House, II, 147 West Westfield Avenue
(2015-33-016-007) Spilanga Food, Inc., t/a Costa's Ristorante & Pizzeria, 120 Chestnut Street
PLENARY RETAIL DISTRIBUTION LICENSES - \$770.00
(2015-44-001-007) R & K Corp., t/a Andy's Twin Borough Liquors, 596 Chestnut Street
(2015-44-003-002) Charles Francis DiStefano, t/a DiStefano's Liquors, 117 West Colfax Avenue
(2015-44-013-008) David McAdam, Inc., t/a Roselle Park Liquors, 137-145 Chestnut Street
CLUB LICENSES - \$132.00
(2015-31-017-001) Roselle Park Post 60 American Legion, 34 East Westfield Avenue
(2015-31-018-001) West End Community Center, 205 West Clay Avenue

RESOLUTION NO. 101- 06

Borough of Roselle Park Youth Baseball Field Complex

The Borough of Roselle Park owns approximately 2 acres of land known as lot 1 in Block 506, within the Borough of Roselle Park.

In 1974, the Borough developed a Youth Baseball Field Complex at lot 1 in Block 506 for recreational use by Borough residents. The Complex had been in continuous use since that time and represents a significant recreational resource of the Borough.

The Youth Baseball Field Complex includes two baseball fields: Wolf Field and Adase Field.

As a result of environmental investigations performed by the US Environmental Protection Agency (USEPA) in 2000, 2001 and 2005, the USEPA and the New Jersey Department of Environmental Protection (NJDEP) required that Wolf Field be closed to public use. Additionally, the USEPA and NJDEP have allowed public access to continue at Adase Field for a limited period of time pending further investigation and remediation of Adase Field.

To address the findings of the USEPA, the Borough retained the services of ERM, Inc. on March 16, 2006 by Resolution 63-06.

Now, be it resolved on this 15 day of June, 2006, the Borough of Roselle Park, is applying for a grant from the New Jersey Department of Environmental Protection Hazardous Discharge Site Remediation Fund to cover costs associated with remedial activities at the site.

RESOLUTION NO. 102- 06

WHEREAS, two (2) sealed bids were received by the Borough Clerk of the Borough of Roselle Park on June 1, 2006, for the collection of solid waste within the Borough of Roselle Park; and

WHEREAS, the bids have been reviewed to insure the bid meets the bid specifications.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Roselle Park, in the County of Union, that:

1. The aforesaid recitals are incorporated herein as though fully set forth at length.

2. The contract for the collection of solid waste in the Borough of Roselle Park be and the same is hereby awarded to Suburban Disposal, Inc. 54 Montesano Road, Fairfield, NJ.
3. The term of the contract shall be for three years, as provided by N.J.S.A. 40A:1115(3), for the total sum of seven hundred and eighty thousand dollars (\$780,000.00). Said contract price includes alternate #5.2.B-(Apartment Houses, Condo's). The contract term shall begin on July 1, 2006.
4. The Mayor and Borough Clerk are authorized to execute any and all necessary documents and to take any and all actions necessary to complete and realize the intent and purpose of this Resolution including the execution of a contract with Suburban Disposal, Inc., in the form attached to the Contract Documents.

RESOLUTION NO. 103-06

RESOLVED, that Luis Eduardo Caro, 447 Faitoute Avenue, Roselle Park, be and is hereby appointed to the position of part-time Bus Driver in the Borough of Roselle Park, effective immediately, at a salary of \$14.24 per hour.

RESOLUTION NO. 104-06

RESOLVED, that Patricia O'Hara, 756 Westfield Avenue, Elizabeth, be and is hereby appointed to the position of Evening/Day Director for the Casano Community Center, effective immediately, at a salary of \$8.89 per hour.

RESOLUTION NO. 106-06

WHEREAS, the Mayor and Council of the Borough of Roselle Park in the County of Union wish to present a fireworks display for the entertainment of the Borough at the July 4, 2006 celebration; and

WHEREAS, Fireworks by Castiglione, has submitted a proposal for said display; and

WHEREAS, this contract falls within the exception to the bidding procedure mandated by the Local Public Contracts Law, N.J.S.A. 40A:11-1 et. seq., as its value is less than the statutory threshold, now therefore be it,

RESOLVED, by the Mayor and Council of the Borough of Roselle Park, that:

1. The proposed agreement between the Borough and Fireworks by Castiglione for the July 4, 2006 fireworks display at the cost of \$12,500.00 is hereby approved.
2. The Mayor and Borough Clerk are authorized to execute the said agreement.
3. A rain date of July, 2006 is necessary.

RESOLUTION NO. 107-06

WHEREAS, the Mayor and Council of the Borough of Roselle Park would like to join with the Borough of Roselle in a Joint Police Patrol Program through a shared service venture in an effort to save money and improve efficiency;

WHEREAS, the Mayor and Council of the Borough of Roselle Park desire to promote shared services between our local units through the sharing of Police personnel, that would be beneficial to both local units; and

WHEREAS, members of the Roselle Park Police Department would like to participate in the Roselle Park-Roselle Joint Police Patrol in criminal investigations which necessitate their physical presence with the Borough of Roselle; and

WHEREAS, it is the intention of the Mayor and Council of the Borough of Roselle Park

that all such officers shall receive and enjoy the same statutory and collective bargaining contract rights, privileges and emoluments they would receive in the discharge of their official duties as police officers within the territorial limits of the Borough of Roselle Park;

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Roselle Park hereby authorize a shared service agreement between the Borough of Roselle Park and the Borough of Roselle for a Joint Police Patrol Program; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Borough of Roselle.

RESOLUTION NO. 108-06

WHEREAS, it is anticipated that the Borough of Roselle Park will not be able to adopt its budget sufficiently in advance of the third quarter tax due date of August 1, 2006; and

WHEREAS, the Borough of Roselle Park has determined that there will be insufficient cash flow to support operations in late July without third quarter revenue being received on time;

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Roselle Park as follows:

1. The Tax Collector be and is hereby directed to take all necessary steps to send out estimated bills for the third quarter 2006 in accordance with the provisions of NJSA 54:4-66.2 et seq.
2. That the Chief Financial Officer has reviewed the permissible tax levy range and found the range should be set at 1.075% of the previous year's tax levy. (2005 Tax Levy \$26,448,557.08 x 1.075% = \$28,432,198.86 or a tax rate of \$9.758)
3. That the Tax Collector take any and all additional steps to implement the substance of this resolution.

RESOLUTION NO. 109-06

WHEREAS, Mayor and Council advertised for bids on May 31, 2006 for the reconstruction of Franklin Place off West Clay Avenue; and

WHEREAS, the three lowest bids received on June 12, 2006 were as follows:

. **JENICAR BUILDERS CONTRACTORS**

573 Belgrove Drive, Kearny, New Jersey 07032

base bid in the amount of **\$148,520.19**

. **TOP LINE CONSTRUCTION CORPORATION**

22 Fifth Street, Somerville, New Jersey 08876

base bid in the amount of **\$199,537.60**

. **4 CLEAN-UP, INC.**

P.O. Box 5098, North Bergen, New Jersey 07047

base bid in the amount of **\$211,894.00**

WHEREAS, the bids were reviewed by the Borough Engineer who has recommended that the bid of Jenicar Builders Contractors in the amount of \$148,520.19 be accepted; and

WHEREAS, this bid has been reviewed by the Borough Attorney and found to be in proper form and compliance with the specifications, now therefore

BE IT RESOLVED by the Mayor and Council of the Borough of Roselle Park that the bid of Jenicar Builders Contractors be accepted; and

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to enter into a contract for the reconstruction of Franklin Place off West Clay Avenue, subject to the approval of the Borough Attorney.

RESOLUTION NO. 110-06

**New Jersey Department of Transportation
Resolution, Application, and Agreement for**

State Aid to Counties and Municipalities

Name of Sponsor: **Borough of Roselle Park**

Mailing Address: **110 East Westfield Avenue**

Roselle Park, NJ 07204

E-mail Address eddec1@aol.com

Federal Tax Identification Number **22-6002275**
(Must be inserted by Sponsor)

Program (only check one): _____ County Aid _____ Discretionary Aid
 XXX Municipal Aid _____ Bikeway
 _____ Centers of Place _____ Safe
Streets to Schools _____
 _____ Other (Specify) _____ Bridge
Bond Act _____

Sponsor Priority No. **1** (Prioritized by Program)

Total Center Line Municipal Road Mileage **27 Miles**

BE IT RESOLVED, that application is hereby made to the Commissioner of Transportation for an allotment of aid for the improvement of:

RESURFACING OF EAST CLAY AVENUE
(Project Name)

From: **GALLOPING HILL ROAD**

To: **SPRUCE STREET**

in the Municipality of **Roselle Park** County of Union

State of New Jersey for a distance of **0.40** miles or such portion thereof as may be approved by the Commissioner of Transportation. The total cost estimate for this improvement is **\$200,000**. The Sponsor requests **\$175,000** in State funds and anticipates contributing **\$25,000**. AND BE IT RESOLVED that any aid received as a result of this application will only be used for eligible costs for the project.

Type of Improvement (Check only major type of work)

XXX Resurfacing
(Less than 20 foot span)

_____ Culvert

____ Roadway Reconstruction
foot span or greater)
____ Surface Treatment
Improvement
____ Traffic Signal Installation
Streets to Schools
____ Intersection Improvement
(Describe Below)
____ Bikeway

____ Bridge (20
____ Safety
____ Safe
____ Other

Scope of Work (Provide a detailed written description of the project - use additional sheets if necessary)
Upgrade all drainage, construct curb between Sheridan Avenue and Bender Avenue, mill entire road and overlay with Hot Mix Asphalt

[SUBMIT 3 ORIGINALS OF THIS FORM ALONG WITH 3 LOCATION MAPS AND FOR CENTERS OF PLACE SUBMIT 6 ORIGINALS OF THIS FORM ALONG WITH 6 LOCATION MAPS TO THE DIVISION OF LOCAL AID AND ECONOMIC DEVELOPMENT]

Total Estimated Cost of Improvement (Attach a detailed cost estimate)

| | |
|---|--------------|
| Construction Cost (From attached estimate) | \$200,000.00 |
| Design Engineering (List only if eligible for Urban Aid or as a Depressed Rural Center) | \$0.00 |
| Right-of-Way (List only if eligible for Urban Aid or as a Depressed Rural Center) | \$0.00 |
| Construction Inspection and Material Testing if requesting (15% of the final allowable construction cost maximum) | \$0.00 |
| Total Estimated Cost | \$200,000.00 |

Project Information

Is utility work planned within the project limits over the next five (5) years? – Yes _____ No XXX
Is the purchase of right-of-way required before the start of project construction? – Yes _____ No XXX
Does the project intersect a State Highway? – Yes _____ No XXX If yes, which highway? _____
If Yes, is the intersection signalized? – Yes _____ No XXX
Is there a railroad crossing within the project limits? – Yes _____ No XXX
Is there a railroad crossing 100 feet outside of the project limits? - Yes _____ No XXX
Will the construction impact traffic across a railroad crossing outside the project limits? – Yes _____ No XXX

ADDITIONAL FORMS OR DOCUMENTS REQUIRED - ATTACH ONLY THOSE FORMS APPLICABLE TO THE PROJECT

Traffic Signal and/or Channelization - Attach a copy of the "Authorization to Design or Install"

Roadway Project – Attach a copy of "Appendix RD"

Bridge Project – Attach a copy of "Appendix BR" and Appendix RD"

Bikeway Project – Attach a copy of "Appendix BW"

Safe Streets to Schools Project – Attach a copy of "Appendix SS"

Location map - 8 1/2" x 11" only, showing project limits (all information must be clear and legible with street names labeled)

NOTE For projects located within right-of-way or on property owned by other jurisdictions, proof of permission to construct this project must be attached to this form or the project will not be considered for possible funding.

AND BE IT FURTHER RESOLVED that if this application is approved and accepted by the New Jersey Department of Transportation ("the Department"), the Sponsor agrees that:

- It shall arrange for financing of the total cost of the project provided for in this Agreement.
- It recognizes and agrees that continuation of funding under this Agreement is expressly dependent upon the availability to the Department of funds appropriated by the State Legislature from State revenues or such other funding sources as may be applicable. The Department shall not be held liable for any breach of this Agreement because of the absence of available appropriation.

- c. In the event that the Department approves funds in an amount less than requested, the Sponsor, at its option, 1) may either rescind this Agreement or 2) continue with the project and assume the entire difference between the total cost of the project and the allotment of State funds or 3) reevaluate the project limits or scope and submit a letter of justification to the Department for approval. In the event the Sponsor rescinds the Agreement, the allotted funds shall revert to the source of the funding.
- d. The Sponsor must notify the Department of its rescission of this Agreement within thirty (30) days of the expiration of the agreement or subsequent extensions. Not meeting this requirement will result in future grants being provided on a reimbursement basis until such time as the municipality demonstrates satisfactory performance in awarding construction contracts. This does not apply to the County Aid Program.
- e. Any purported transfer or assignment of the written obligations of the Sponsor contained herein without prior approval of the Department shall be void.
- f. New Jersey Office of Management and Budget, Circular Letter 05-12, Grant Agreements – Agency Contracts and any supplemental compliance statements by the Department, must be complied with by the Sponsor.
- g. The work to be performed by the Sponsor under this Agreement shall include but not be limited to the following:
 - 1. Preparation of contract drawings and supplementary specifications.
 - 2. The acquisition of all necessary right-of-way, easements, slope rights and permits.
 - 3. Construction of the above referenced improvement.
 - 4. Monitoring and supervising compliance with all provisions of this Agreement.
- h. It shall defend, indemnify, protect and save harmless the State and its officers, agents, servants, and employees from and against any and all suits, claims, demands or damages of whatsoever kind and nature arising out of, or claimed to arise out of, any act, error or omission of the Sponsor, its consultants, contractors, agents, servants and employees in the performance of the work of the project including, but not limited to, expenditures for and costs of investigations, hiring of expert witnesses, court cost, counsel fees, settlements, and judgments.
- i. It shall engage a Professional Engineer, registered in the State of New Jersey, for design services on the project. In its agreement for professional services, the Sponsor shall require the provision of professional liability insurance or errors and omissions insurance sufficient to protect against liabilities arising out of the professional obligations performed pursuant to the agreements.
- j. In its agreements for professional and non-professional services, the Sponsor shall require the provisions of public liability insurance and every such policy shall include the Sponsor and State as additional named insureds.
- k. All design work shall conform to the applicable American Association of State Highway and Transportation Officials (AASHTO) design criteria and the Department's Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines. The design of traffic barriers and drainage systems shall conform to the Department's Roadway Design Manual. No deviation shall be allowed without the knowledge of the Department. If there is deviation from those standards, the Sponsor shall accept any and all responsibility for any injury or damage by such deviation to any person or property and shall indemnify the State as outlined in this Agreement. All design shall also conform to the current "Manual on Uniform Traffic Control Devices" published by Federal Highway Administration. Design Exception reports will be prepared for all controlling substandard design elements in accordance with the Department's Design Exception Manual. Design Exception reports shall be certified by a New Jersey licensed professional engineer.
- l. It shall provide maps, reports, detailed plans, supplementary specification and contract documents required by the Department.
- m. All workmanship and materials shall conform to current "New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction" as amended for State Aid.
- n. It is the responsible authority, without recourse to the State, regarding the settlement and satisfaction of all contractual and administrative issues arising out of the procurement entered in support of this funding.
- o. Prior to advertising for bids, the Sponsor shall notify the Department if it intends to substantially change the scope of the project proposed in the Resolution, Application, and Agreement. No substantial change shall be included in the project unless it has been approved by the Department.
- p. Any changes in work after the award of contract shall be documented with a Department approved change order.
- q. Fifteen (15) calendar days prior to advertisement, the Sponsor shall submit the following to the Division of

Local Aid and Economic Development:

- 1. One (1) copy of the contract plans, specifications, engineer's estimate, and engineer's design certification.

2. Other documents as required.
- r. It shall advertise and award the contract in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40 A:11-1 et. seq.
 - s. It shall comply with all applicable Federal, State and Local laws, rules, ordinances and regulations.
 - t. Within thirty (30) calendar days of construction bids, unless the Department grants an extension of this time, the Sponsor shall submit the following to the Division of Local Aid and Economic Development.
 1. Two (2) copies of the summary of construction bids.
 2. A resolution awarding the contract to the lowest responsible bidder submitting a responsive bid, subject to the approval of the Department.
 - u. For municipal grants, the municipality shall award a construction contract for the grant project within eighteen (18) months of approval of this Resolution, Application, and Agreement by the Department. The Department in its sole discretion may provide one six (6) month extension after receiving an adopted resolution and justification from the Sponsor at least thirty (30) days prior to the expiration of the grant agreement. The Department in its sole discretion may provide a second six (6) month extension under extraordinary circumstances as defined by NJAC 16:20B1.3 after receiving an adopted resolution and justification from the Sponsor at least thirty (30) days prior to the expiration of the first six month extension. The Department may cancel the grant agreement if the Sponsor does not award the construction contract by the specified time or if an extension is not requested at least thirty (30) days prior to the expiration of the grant agreement or subsequent extensions; or if an extension of time is not granted.
 - v. Cancellation of the grant agreement because a construction contract was not awarded within the time requirements or because an extension of time was not properly requested thirty (30) days prior to grant agreement expiration or subsequent extensions will result in future grant funds being provided on a reimbursement basis until such time as the Sponsor demonstrates it can award a construction contract within the specified timeframes.
 - w. Sponsors may voluntarily cancel the grant agreement with written notice thirty (30) days prior to the expiration of the grant agreement or subsequent extensions. Voluntarily canceling the grant agreement with proper notification will result in no penalties on future grants.
 - x. Upon prior approval of the Department, it may elect to undertake the work through the use of its own forces when it is deemed applicable and appropriate.
 - y. Neither design costs, the costs for acquisition of all necessary right-of-way, easements, slope rights, and permits nor utility costs shall be considered costs of the project for purposes of computation of the allotment of State Aid funds under this Agreement except in special cases approved by the Department.
 - z. State participation in the cost of the project shall not exceed the lesser of either 100 percent of the cost of the completed construction work including eligible construction supervision, inspection and material testing, or the original allotment. State participation in inspection and material testing costs combined shall be limited to 15 percent of the eligible construction work cost. The State shall not participate in costs that the Department determines to be beyond the scope of the purposes of the allotment, excessive or otherwise unallowable. The Sponsor shall be afforded an opportunity to challenge this determination at an informal hearing.
 - aa. At the discretion of the Commissioner of Transportation, payment of the allotted funds may be made to the project Sponsor in the form of a grant. Grant payments shall be made as follows:
 1. For programs administered by the Division of Local Aid and Economic Development, a specified percentage, of the lesser of the eligible award amount or allotment amount shall be paid at the time of concurrence in the award of contract by the Department or the full amount of the allotment shall be paid upon approval of this agreement as determined by the Commissioner. The remaining percentage or balance of funds shall be paid upon submission of a final voucher with supporting information as required by the Department. The final voucher must be submitted to the Department within six (6) months of project acceptance. The Department reserves the right to inspect the work associated with the grant as per N.J.A.C 16:20B-3.2.
 2. For County Aid and the Local Bridge Bond Act, the full amount of the annual allotment amount shall be paid upon approval of the Annual Transportation Plan (ATP) and the execution of this Agreement unless the County has demonstrated unsatisfactory performance, whereby funds will be provided similar to municipal grants.
 3. If the Sponsor requests, progress payments shall be on a reimbursement basis. It shall request reimbursement from the Department by submitting vouchers supplied by the Department with supporting information as required by the Department. Progress payments of not less than \$50,000 may be made.

- bb. The Sponsor hereby certifies that all allotted funds shall only be spent on eligible costs for the approved project(s) as described in this Agreement.
- cc. In the event allotted funds remain after completion of the work, the remaining funds shall revert to the source of the funding and shall be reallocated by the Department in a manner determined solely by the Commissioner of Transportation.
- dd. In the event that the Department determines that it has reimbursed the Sponsor in an amount in excess of the funds actually due under this Agreement, the Sponsor shall, upon notice from the Department, make timely repayments to the State. Upon failure of the Sponsor to timely repay such funds, the State is hereby authorized by this Agreement to deduct those funds from any monies due the Sponsor under the terms of any agreement between the State, its Departments and Agencies and the Sponsor or to gain reimbursement through any other remedies available at law or equity.
- ee. It shall provide cost certification and maintain financial records relating to all costs for the project in accordance with N.J.A.C. 16:20A or 16:20B, as applicable, and comply with State of New Jersey audit requirements specified therein.
- ff. It shall maintain complete documentation of the project for a period of three (3) years after receiving final reimbursement or payment by the State.
- gg. It shall maintain the completed project in a manner satisfactory to the Department.
- hh. It will comply with Title VI of the 1964 Civil Rights Act.
- ii. Failure to comply with all provisions contained in this Resolution, Application and Agreement may result in the suspension and/or termination of funding.
- jj. Approval as to Form by Certification Process.

ADOPTED: June 15, 2006

I hereby certify that the foregoing resolution was adopted by the Council on June 15, 2006.

Doreen Cali, RMC/CMC
Borough Clerk

"Appendix RD"
Roadway Data Sheet

Project – RESURFACING OF EAST CLAY AVENUE

From: - GALLOPING HILL ROAD To: - SPRUCE STREET

Municipality – ROSELLE PARK County – OF UNION

Existing Road Conditions

Current ADT - 2100 % Truck Traffic over 5 Tons – 5% Legal Speed Limit – 25 MPH
Commuter Bus Route - Yes _____ No XXX
Right of Way Width – 60'

Pavement Width - 34' Type - Concrete & Macadam Base Depth - 6" Surface Depth - 1-1/2"

Shoulder Width - n/a Type - _____ Depth - _____
(If different for each side or varying, provide minimum width for each side)

Curbing - One Side - _____ Both Sides - yes - all but Sheridan to Bender Ave
Sidewalk - One Side - _____ Both Sides - yes

Parking Restrictions - none except at bend in road-at this point no parking any time

Existing Bridge being replaced or repaired - Yes _____ No XXX
If Yes, and is part of project, complete Appendix BR

Proposed Improvements

Right of Way Width - 60'
Pavement Width - 34' Type - Concrete & Macadam Base Depth - 6" Surface Depth - 1-1/2"

Shoulder Width - n/a Type - _____ Depth - _____
(If different for each side or varying, provide minimum width for each side)

Curbing - One Side - _____ Both Sides - yes
Sidewalk - One Side - _____ Both Sides - yes

Parking Restrictions - None except at bend in road-in this area "no parking any time"

Will the project meet AASHTO standards? - Yes XXX No _____ If No, list Design Exceptions below

"Appendix BW"
Bikeway Data Sheet

Project - _____

Municipality - _____ County - _____

Project Classification

- _____ Bike Path Width - _____ (attach typical section(s))
- _____ Bike Lanes
- _____ Bike Route (Signing)
- _____ Bike Compatible Road
- _____ Widening
- _____ Hazard Elimination
- _____ Other _____

| | <u>YES</u> | <u>NO</u> | <u>N/A</u> |
|---|------------|-----------|------------|
| Is the project part of a local bike network? | _____ | _____ | _____ |
| Is the project a continuation of a previous funded bikeway project? | _____ | _____ | _____ |
| Is the project part of a regional bike network? | _____ | _____ | _____ |
| Does the project provide access to community centers? | _____ | _____ | _____ |
| Does the project provide access to schools? | _____ | _____ | _____ |
| Does the project provide access to residential areas? | _____ | _____ | _____ |
| Does the project provide access to employment centers? | _____ | _____ | _____ |
| Does the project provide access to retail areas? | _____ | _____ | _____ |
| Does the project provide access to parks? | _____ | _____ | _____ |
| Does the project provide access to transit facilities? | _____ | _____ | _____ |
| Is the project in an Urban Coordinating Council neighborhood? | _____ | _____ | _____ |

"Appendix SS"
Safe Streets to Schools Data Sheet

Project - _____

Municipality - _____ County - _____

Project Classification

- _____ New Sidewalk (Not replacement)
- _____ Pedestrian Walkway
- _____ Pedestrian Overpass
- _____ Pedestrian Underpass
- _____ Pedestrian Bridge
- _____ Crosswalks
- _____ Traffic Signals
- _____ Pedestrian Signs
- _____ Warning Devices (School Flashers)
- _____ Traffic Calming
- _____ Intersection Improvements
- _____ Other _____

| | <u>YES</u> | <u>NO</u> | <u>N/A</u> |
|---|------------|-----------|------------|
| Is the project in an Urban Coordinating Council neighborhood? | _____ | _____ | _____ |
| Has the sponsor undertaken other pedestrian improvements utilizing their own resources to which this project is linked? | _____ | _____ | _____ |
| Project must be within 2 miles of school. Insert distance from school _____ | | | |
| Is the project on a walking route (within 2 miles) to a school? (Show on location map) | _____ | _____ | _____ |
| How, will it improve the safety of that route? (Explain below) _____ | _____ | _____ | _____ |
| Number of pedestrian accidents on the school route reported over the last five (5) years | | _____ | |
| Number of students served by the proposed project (walkers) | | _____ | |
| % of students within community that are not bused | | _____ | |

(Attach a map and list of streets involved in the project)

"Appendix BR"
Bridge or Culvert Project Data Sheet

Project - _____

Over the - _____

Municipality - _____ County - _____

Existing Structure

Year Built _____

Structure Number _____

Sufficiency Rating _____

Current Load Posting _____

Span Length _____

Structure Width _____

Superstructure Type _____

Substructure Type _____

Proposed Improvement

Bridge or Culvert Type _____

Type of Work:

- _____ New Deck
- _____ Rehabilitate
- _____ Widen
- _____ New Structure, Same

Location

- _____ New Location
- _____ Removal

Number of Spans _____

Design Loading _____

Structure Width _____

Span Length _____ Number of Spans _____

Superstructure Type _____

Substructure Type _____

Attach "Appendix RD" for roadway portion of project

RESOLUTION NO. 111-06

**AMENDMENT TO HORIZON, AETNA, DELTA DENTAL & MET LIFE GROUP
HEALTH PLAN**

THIS AMENDMENT TO **HORIZON, AETNA, DELTA DENTAL & MET LIFE GROUP HEALTH PLAN GROUP HEALTH PLAN** (the "**Amendment**") is made as of the 15th day of June 2006.

R E C I T A L S:

A. WHEREAS, the **Borough of Roselle Park (“Plan Sponsor”)** established a group health plan for its employees dated as of Horizon 1/1/67, Delta 1/1/91, Aetna, 1/1/90 and Met Life 1/1/93 (the “**Plan**”).

B. WHEREAS, on August 9, 2002, the Department of Health and Human Services released substantial modifications to its rule establishing “Standards for Privacy of Individually Identifiable Health Information” (the “**Rule**”).

C. WHEREAS, the Plan Sponsor wishes to amend the Plan in order to bring it into compliance with the Rule.

NOW THEREFORE, in consideration of the Recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Incorporation. The Recitals are hereby incorporated and made a part hereof as if fully restated herein.

2. Disclosure Information.

a. Plan Sponsor may only use and/or disclose Protected Health Information (as such term is defined in 45 C.F.R. §164.501) as permitted by the Rule.

b. The Plan will disclose Protected Health Information to the Plan Sponsor only upon its receipt of a certification by the Plan Sponsor that the Plan has been amended to incorporate the following provisions and that the Plan Sponsor agrees to:

(i) Not use or further disclose the information other than as permitted or required by the plan documents or as required by law;

(ii) Ensure that any agents, including a subcontractor, to whom it provides Protected Health Information received from the Plan agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such information;

(iii) Not use or disclose the Protected Health Information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Plan Sponsor;

(iv) Report to the Plan any use or disclosure of the Protected Health Information that is inconsistent with the uses or disclosures permitted by the Rule of which it becomes aware;

(v) Make available Protected Health Information in accordance with 45 C.F.R. §164.524;

(vi) Make available Protected Health Information for amendment and incorporate any amendments to Protected Health Information in accordance with 45 C.F.R. §164.526;

(vii) Make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. §164.528;

(viii) Make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from the Plan available to the Secretary for purposes of determining compliance by the Plan with the Rule;

(ix) If feasible, return or destroy all Protected Health Information received from the Plan that the Plan Sponsor still maintains in any form and retains no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and

(x) Ensure that separation of the plan and plan sponsor as indicated below.

3. Separation of Plan and Plan Sponsor

- a. Only the following types of employees under the control of the Plan Sponsor will be given access to the Protected Health Information: Human Resources/Payroll, Chief Financial Officer, and Chief Administrative Officer (:"Permitted Employees"). Provided, however, that any employee or person not described above who receives Protected Health Information relating to payments under, health care operations of, or other matters pertaining to the Plan in the ordinary course of business, will also be included in the definition above of Permitted Employees.
- b. The Permitted Employees may only use the Protected Health Information for Plan administrative functions that the Plan Sponsor performs for the Plan.
- c. Any controversy or claim arising out of or relating to a violation of any of the separation and/or disclosure provisions contained herein shall be settled by arbitration in accordance with the American Arbitration Association in the County of Union in the State of New Jersey. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Each party shall pay an equal share of the fees and expenses of the arbitrators and administrative fees and expenses of arbitration.

4. Conflict. The provisions of the Plan, as modified hereby, will remain in full force and effect. If any provision of the Plan conflicts with a provision of this Amendment, this Amendment will control.

Councilman Matarante moved the following resolution; seconded by Councilman Harms, all members present voting Aye, said resolution was adopted.

RESOLUTION NO. 100-06

BE IT RESOLVED that John W. Deegan III, 496 Ragland Drive, Roselle Park, is hereby appointed a Probationary Police Officer (Academy 0-6 months), in the Roselle Park Police Department, at a salary set by Borough Ordinance, effective July 21, 2006 for a 12 month period ending July 20, 2007, subject to a satisfactory completion of background investigation, medical and psychological evaluations.

Councilman Badillo said he was a fine young man following in his father's footsteps and wished him well.

The Oath of Office was given to John W. Deegan, III by Mayor DeIorio, while his family looked on.

Mayor DeIorio wished Officer Deegan well saying he was from this community and brings a wealth of experience from knowing the people and the streets. Chief Wielgus welcomed him and his proud parents. He spoke of how many years he has known John and what a fine young man he is. He presented him with Badge No. 12, wished him well and told him to wear it with pride.

Officer Deegan said it was the proudest moment of his life and spoke of how he always wanted to be a Police Officer in this town. He thanked the Mayor, Council and Chief Wielgus for their support.

Councilman Badillo moved the following resolution; seconded by Councilman Rubilla, all members present voting Aye, said resolution was adopted.

Mayor DeIorio said he has asked Council to support this resolution to cut State spending and scrap the proposed sales tax plan.

RESOLUTION NO. 105-06

BE IT RESOLVED, that the Mayor and Council of the Borough of Roselle Park, do hereby support Senator Stephen M. Sweeney, Assemblyman Jerry Green and Assemblyman Paul Moriarty and their initiatives to cut state compensation costs by 15% and introduce specific measures to curb existing and further abuse for new employees and expiring government employee contracts.

PASSAGE OF ORDINANCES

Introduction

ORDINANCE NO.2178

AN ORDINANCE AMENDING CHAPTER 159, PEACE AND GOOD ORDER, §159-1, PROHIBITING PUBLIC URINATION OF THE CODE OF THE BOROUGH OF ROSELLE PARK

BE IT ORDAINED by the Mayor and Council of the Borough of Roselle Park, County of Union, State of New Jersey that Chapter 159 (Peace and Good Order) of the Borough Code is hereby amended as follows:

SECTION I

§159-1 Prohibitions.

No person shall, within the limits of the Borough of Roselle Park:

- A. Play, operate or use any television, radio, phonograph or tape equipment or other sound-producing instrument, device or apparatus in such a manner that the sound thereof shall annoy any person or persons or disturb the comfort, rest or repose of any person or persons.
- B. Permit, make or continue or cause to be permitted, made or continued any unnecessary noise, produced by human or mechanical means, which shall disturb the comfort, rest, and repose of any person or persons being in his or their place of abode or at any public or private meeting or at church services.
- C. Keep of harbor any dog or other animal which shall disturb the neighborhood by excessive barking, whining or howling.
- D. Throw or discard any cans, bottles, refuse or garbage of any kind whatsoever into the waters of any pond, stream, lake or river, or upon a public street or public place, or

discharge any sewage or waste into said waters or places, or any of them, or pollute said waters in any manner whatsoever.

- E. Throw any papers, sticks, glass, metal or any hard, dangerous or offensive substances upon any sidewalk, street, highway or public place or at any automobile, vehicle, house, building, fence or person.
- F. Participate in any practice, sport or exercise in such a manner so as to annoy, disturb or frighten any person or persons on any sidewalk, street, road, park or other private or public place.
- G. Disrupt or disturb the exercises of any public school or any lawful assembly therein, or interfere with or annoy any child attending such school or any teacher therein.
- H. Intentionally, willfully or maliciously destroy or injure any of the wires, posts, machines, bells, signs, boxes, box or any other apparatus of any fire alarm system or intentionally, willfully or maliciously interfere with the same or any part thereof or hinder or impede any of the operations intended to be accomplished thereby.
- I. Hinder, prevent or deter by any device whatsoever any fireman or any person from rendering lawful assistance in abating or quenching a fire, or hinder or interfere with any fireman going to or returning from any fire or place from which a fire alarm proceeds, or hinder or obstruct any fire engine, hook and ladder truck, hose cart or other fire apparatus going to or from any place from which a fire alarm proceeds or where any building or property may be burning.
- J. Interfere with or obstruct a police officer (whether a regular police officer or special police officer), a member of the auxiliary police of the Civil Defense – Disaster Control Bureau or a member of the First Aid Squad of the Borough of Roselle Park, whether in uniform or not, in the carrying out of his duties or functions. **[Amended 11-8-79 by Ord. No. 1096]**
- K. Enter or remain upon the land or property of any person without lawful permission to do so.
- L. Urinating, expectorating or defecating in a public place, other than a wash room or toilet room, under circumstances where such act is or could be observed by a member of the public situated in or near a public place. The term “public place”, for the purposes of the within section is defined as “an area generally visible to the public view and includes but is not limited to streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, buildings open to the public and doorways and entrances to buildings or dwellings and the grounds enclosing same”.

SECTION II

All ordinances and parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION III

This Ordinance shall take effect at the time and in the manner prescribed by law.

Councilman Rubilla moved that Ordinance #2178 be adopted on first reading and advertised as prescribed by law for second reading and public hearing on July 6, 2006; seconded by Councilman Badillo, all members present voting Aye, said motion was adopted.

ORDINANCE NO. 2179

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ROSELLE PARK TO AMEND SECTION 128-58-B RELATING TO STORM DRAINS AND CREATE CHAPTER 130, A STORMWATER CONTROL ORDINANCE, IN THE BOROUGH OF ROSELLE PARK TO ENACT STORMWATER CONTROL REGULATIONS.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF ROSELLE PARK:

SECTION 1. Chapter 128-58.B (1). Is hereby amended to read as follows:

Provisions shall be made for stormwater drainage, sanitary sewerage and disposal, water mains, culverts and utilities. Sanitary sewers, water mains and other utilities shall be adequate for all present and probable future development and shall be made according to standard requirements and specifications of the borough and as approved by the Borough Engineer.

Stormwater drainage shall be designed and constructed in accordance with Chapter 130 of this code, where applicable, but in no case shall the rate of runoff for a 2, 10 and 100 year storm be increased over the present rate of runoff for any development or redevelopment. All improvement and changes to stormwater drainage shall be reviewed and approved by the Borough Engineer prior to implementation.

SECTION 2. Chapter 130 “STORMWATER CONTROL” Ordinance is hereby created as part of the Code of the Borough of Roselle Park to establish Stormwater Control Regulations enacting the following:

STORMWATER CONTROL

§130-1 Scope and Purpose.

A. Policy Statement.

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural Best Management Practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose.

It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for “major development,” as defined in § 130-2.

C. Applicability.

1. This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

Non-residential major developments; and

Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This ordinance shall also be applicable to all major developments undertaken by the Borough of Roselle Park.

D. Compatibility with Other Permit and Ordinance Requirements.

Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§130-2. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

“CAFRA Planning Map” means the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

“CAFRA Centers, Cores or Nodes” means those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

“Compaction” means the increase in soil bulk density.

“Core” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

“County review agency” means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

“Department” means the New Jersey Department of Environmental Protection.

“Designated Center” means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

“Design engineer” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any

building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

“Drainage area” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water-body or to a particular point along a receiving water-body.

“Environmentally critical areas” means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department’s Landscape Project as approved by the Department’s Endangered and Non-game Species Program.

“Empowerment Neighborhood” means a neighborhood designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A. 55:19-69.

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

“Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“Infiltration” is the process by which water seeps into the soil from precipitation.

“Major development” means any “development” that provides for ultimately disturbing one or more acres of land or an increase of 10,000 square feet of additional impervious surface. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

“Municipality” means any city, borough, town, township, or village.

“Node” means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

“Nutrient” means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

“Person” means any individual, corporation, company, partnership, firm, association, the Borough of Garwood, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and non-hazardous pollutants.

“Recharge” means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

“Sediment” means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

“Site” means the lot or lots upon which a major development is to occur or has occurred.

“Soil” means all unconsolidated mineral and organic material of any origin.

“State Development and Redevelopment Plan Metropolitan Planning Area (PA1)” means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state’s future redevelopment and revitalization efforts.

“State Plan Policy Map” is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.

“Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Stormwater management basin” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

“Stormwater management measure” means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

“Tidal Flood Hazard Area” means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

“Urban Coordinating Council Empowerment Neighborhood” means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

“Urban Enterprise Zones” means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

“Urban Redevelopment Area” is defined as previously developed portions of areas:

- (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- (2) Designated as CAFRA Centers, Cores or Nodes;
- (3) Designated as Urban Enterprise Zones; and
- (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

“Waters of the State” means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

“Wetlands” or “wetland” means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§130-3. General Standards.

A. Design and Performance Standards for Stormwater Management Measures

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in §130-4. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

§130-4. Stormwater Management Requirements for Major Development.

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with §130-10.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of §130-4 F and G:

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;

2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and

3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of §130-4 F and G may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of §130-4 F and G to the maximum extent practicable;

3. The applicant demonstrates that, in order to meet the requirements of §130-4 F and G, existing structures currently in use, such as homes and buildings, would need to be condemned; and

4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of §130-4 F and G that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies.

1. To the maximum extent practicable, the standards in §130-4 F and G shall be met by incorporating nonstructural stormwater management strategies set forth at §130-4E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:

- a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
- b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
- c. Maximize the protection of natural drainage features and vegetation;
- d. Minimize the decrease in the "time of concentration" from pre-construction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
- e. Minimize land disturbance including clearing and grading;
- f. Minimize soil compaction;
- g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
- h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
- i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy §130-4E.3 below;
 - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
 - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

3. Site design features identified under §130-4E.2.i(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means

sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see §130-4E.3.c below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard does not apply:

(1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(2) Where flows from the water quality design storm as specified in §130-4.G.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

(b) A bar screen having a bar spacing of 0.5 inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in §130-4.G.1; or

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in §1306-4.F and 4.G shall be dedicated to a government

agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in §130-7, or found on the Department's website at www.njstormwater.org.

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards.

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b. The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at §130-5, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.

(3) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, which is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials;

intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.

c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

(4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

2. Any application for a new agricultural development that meets the definition of major development at §130-2 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, “agricultural development” means land uses normally associated with the production of food, fiber

and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater Runoff Quality Standards.

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional ¼ acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

| Table 1: Water Quality Design Storm Distribution | | | |
|--|------------------------------|----------------|------------------------------|
| Time (Minutes) | Cumulative Rainfall (Inches) | Time (Minutes) | Cumulative Rainfall (Inches) |
| 0 | 0.0000 | 65 | 0.8917 |
| 5 | 0.0083 | 70 | 0.9917 |
| 10 | 0.0166 | 75 | 1.0500 |
| 15 | 0.0250 | 80 | 1.0840 |
| 20 | 0.0500 | 85 | 1.1170 |
| 25 | 0.0750 | 90 | 1.1500 |
| 30 | 0.1000 | 95 | 1.1750 |
| 35 | 0.1330 | 100 | 1.2000 |
| 40 | 0.1660 | 105 | 1.2250 |
| 45 | 0.2000 | 110 | 1.2334 |
| 50 | 0.2583 | 115 | 1.2417 |
| 55 | 0.3583 | 120 | 1.2500 |
| 60 | 0.6250 | | |

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in §130-7, or found on the Department’s website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in §130-7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal

rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.

3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

| Table 2: TSS Removal Rates for BMPs | |
|-------------------------------------|--------------------------|
| Best Management Practice | TSS Percent Removal Rate |
| Bioretention Systems | 90 |
| Constructed Stormwater Wetland | 90 |
| Extended Detention Basin | 40-60 |
| Infiltration Structure | 80 |
| Manufactured Treatment Device | See Section 6.C |
| Sand Filter | 80 |
| Vegetative Filter Strip | 60-80 |
| Wet Pond | 50-90 |

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in §130-4.F and 4.G.

6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in §130-7.

7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

(1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided. (2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the “Standards For Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the “Standards for Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

(1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;

(2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;

(3) Temperature shall be addressed to ensure no impact on the receiving waterway;

(4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

(5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

(6) All encroachments proposed under this section shall be subject to review and approval by the Department.

d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to §130-4.G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in G.8.a. (1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

e. Paragraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

§130-5. Calculation of Stormwater Runoff and Groundwater Recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:

a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or

b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology at §130-5.A.1.a and the Rational and Modified Rational Methods at §130-5.A.1.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without

interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Groundwater Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

§130-6. Standards for Structural Stormwater Management Measures.

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1”) spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of §130-8.D.

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.
 4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
 5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at §130-8.
- B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by §130-4 of this ordinance.
- C. Manufactured treatment devices may be used to meet the requirements of §130-4 of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

§130-7. Sources for Technical Guidance.

- A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.
1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
 2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.
- B. Additional technical guidance for stormwater management measures can be obtained from the following:
1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;
 2. The Rutgers Cooperative Extension Service, 732-932-9306; and
 3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

§130-8. Safety Standards for Stormwater Management Basins.

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions.

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.

b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.

2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

b. The overflow grate spacing shall be no less than two inches across the smallest dimension.

c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.

3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in §130-8 C a free-standing outlet structure may be exempted from this requirement.

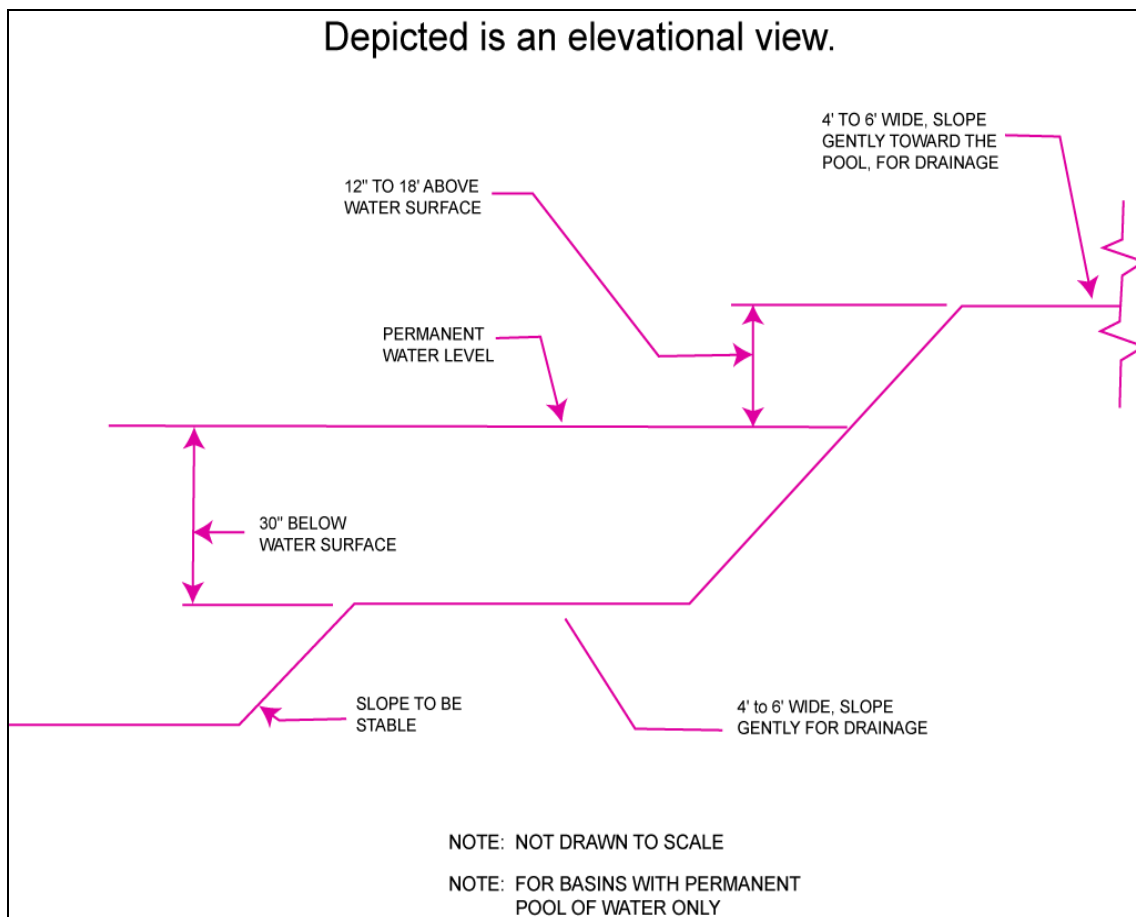
b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See §130-8.D for an illustration of safety ledges in a stormwater management basin.

c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards.

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin.



§130-9. Requirements for a Site Development Stormwater Plan.

A. Submission of Site Development Stormwater Plan.

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at §130-9.C below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit the number of copies required under § 128-42 or § 128-44 of the materials listed in the checklist for site development stormwater plans in accordance with §130-9.C of this ordinance.

B. Site Development Stormwater Plan Approval.

The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from whom municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist Requirements.

The following information shall be required:

1. Topographic Base Map.

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1" = 200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis.

A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s).

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan.

This plan shall provide a demonstration of how the goals and standards of Sections 3 through 6 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map.

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of

vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations.

a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in 130-4 of this ordinance.

b. When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan.

The design and planning of the stormwater management facility shall meet the maintenance requirements of §130-10.

8. Waiver from Submission Requirements.

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in §130-9.C.1 through 9.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§130-10. Maintenance and Repair.

A. Applicability

1. Projects subject to review as in §130-1.C of this ordinance shall comply with the requirements of §130-10.B and 10.C.

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
 4. If the person responsible for maintenance identified under §130-10.B.2 above is not a public agency, the maintenance plan and any future revisions based on §130-10.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
 5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
 6. The person responsible for maintenance identified under §130-10.B.2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
 7. The person responsible for maintenance identified under §130-10.B.2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
 8. The person responsible for maintenance identified under §130-10.B.2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by §130-10.B.6 and 10.B.7 above.
 9. The requirements of §130-10.B.3 and 10.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
 10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to affect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.
- B. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53. The Planning Board shall provide in its resolution of approval for posting of such guarantees if favor of the municipality in the form approved by the municipal attorney and in the amount approved by the municipal engineer.

§130-11. Penalties.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the following

penalties: A fine of up to \$1500.00, or imprisonment for up to 90 days, or both; each day that a violation continues shall be deemed a separate violation.

SECTION 3. This ordinance shall take effect after final passage and publication in accordance with law immediately upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.

SECTION 4. If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Councilman Rubilla moved that Ordinance #2179 be adopted on first reading and advertised as prescribed by law for second reading and public hearing on July 6, 2006; seconded by Councilman Badillo, all members present voting Aye, said motion was adopted.

ORDINANCE NO. 2180

AN ORDINANCE TO REPEAL CHAPTER 113 (FLOOD DAMAGE PREVENTION))
AND TO ENACT ARTICLE XIII A (FLOOD DAMAGE PREVENTION) IN
CHAPTER 128 (LAND USE) OF THE CODE OF THE BOROUGH OF ROSELLE
PARK TO REVISE FLOOD DAMAGE PREVENTION REGULATIONS

WHEREAS, the Borough of Roselle Park is a participant in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA); and

WHEREAS, continued participation in the NFIP requires updating the Flood Damage Prevention provisions of the Code of the Borough of Roselle Park; and

WHEREAS, the Borough has been notified by the New Jersey Department of Environmental Protection (NJDEP) that the existing Flood Damage Prevention Ordinance of the Borough of Roselle Park should be deleted in its entirety and that a new ordinance be adopted; and

WHEREAS, the Borough of Roselle Park is required by the Code of Federal Regulations to adopt such ordinance to comply with the NFIP pursuant to 44 CFR 60.3, et seq.;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Roselle Park:

SECTION 1. Chapter 113 of the Code of the Borough of Roselle Park is hereby repealed.

SECTION 2. Article XIII A (Flood Damage Prevention) in Chapter 128 (Land Use) of the Code of the Borough of Roselle Park is hereby enacted to read as follows:

ARTICLE XIII A

FLOOD DAMAGE PREVENTION

PART 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

§ 128-58.1.1. STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Council of the Borough of Roselle Park of New Jersey does enact this article.

§ 128-58.1.2. FINDINGS OF FACT

- [1] The flood hazard areas of the Borough of Roselle Park are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- [2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 128-58.1.3. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- [1] To protect human life and health;
- [2] To minimize expenditure of public money for costly flood control projects;
- [3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] To minimize prolonged business interruptions;
- [5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- [6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] To insure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 128-58.1.4. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- [1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood height or velocities;
- [2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- [3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- [4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,

- [5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

PART 2. DEFINITIONS

§ 128-58.2.1. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Appeal" means a request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Development" means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within an area of special flood hazard.

"Elevated building" means a non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

[1] The overflow of inland or tidal waters and/or

[2] The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map"(FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study"(FIS) means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- [a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- [b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- [c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- [d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved State program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in States without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a buildings lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreation vehicle".

"Manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed

on or after the effective date of the flood plain management regulations adopted by the municipality.

"Recreational vehicle" means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- [1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- [2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

PART 3. GENERAL PROVISIONS

§ 128-58.3.1. LANDS TO WHICH THIS ARTICLE APPLIES

This Article shall apply to all areas of special flood hazards within the jurisdiction of Roselle Park, Union County, New Jersey.

§ 128-58.3.2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Roselle Park, Community No.340464, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (a) A scientific and engineering report "Flood Insurance Study, Union County, New Jersey (All Jurisdictions)" dated September 20, 2006.
- (b) Flood Insurance Rate Map for Union County, New Jersey (All Jurisdictions) as shown on Index and panel number (s) 0020, 0021, 0031, 0032, 0033; whose effective date is September 20, 2006.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 110 E. Westfield Ave., Roselle Park, NJ 07027.

§ 128-58.3.3. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Roselle Park from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 128-58.3.4. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 128-58.3.5. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- [1] Considered as minimum requirements; and
- [2] Liberally construed in favor of the governing body; and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

§ 128-58.3.6. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Roselle Park, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

PART 4. ADMINISTRATION

§ 128-58.4.1. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in § 128-58.3.2. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location,

dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

- [1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- [2] Elevation in relation to mean sea level to which any structure has been flood-proofed.
- [3] Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in §128-58.5.2(b); and,
- [4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 128-58.4.2. DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

§ 128-58.4.3. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Official shall include, but not be limited to:

(a) PERMIT REVIEW

- [1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- [2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- [3] Review all development permits to determine if the proposed development is located in the floodway, assure that the encroachment provisions of § 128-58.5.3(1) are met.

(b) USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with § 128-58.3.2, **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer § 128-58.5.2(a), **SPECIFIC STANDARDS**, Residential Construction, and § 128-58.5.2(b), **SPECIFIC STANDARDS**, Nonresidential Construction.

(c) INFORMATION TO BE OBTAINED AND MAINTAINED

- [1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- [2] For all new or substantially improved flood-proofed structures:
 - [i] verify and record the actual elevation (in relation to mean sea level); and
 - [ii] maintain the flood-proofing certifications required in § 128-58.4.1 (3).
- [3] Maintain for public inspection all records pertaining to the provisions of this ordinance.

(d) ALTERATION OF WATERCOURSES

- [1] Notify adjacent communities and the New Jersey Department of Environmental Protection prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- [2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

(e) INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual filed conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 128-58.4.4.

§ 128-58.4.4. VARIANCE PROCEDURE

The following variance procedure is adopted:

(a) APPEAL BOARD

- [1] The Planning Board of the Borough of Roselle Park shall hear and decide appeals and requests for variances from the requirements of this Article.
- [2] The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this Article.
- [3] Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided by law
- [4] In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and

facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

- [5] Upon consideration of the factors of § 128-58.4.4(a)(4) and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- [6] The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

(b) CONDITIONS FOR VARIANCES

- [1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in § 128-58.4.4(a)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- [2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- [3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- [4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- [5] Variances shall only be issued upon:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 128-58.4.4(a)(4), or conflict with existing local laws or ordinances.
- [6] Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

PART 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 128-58.5.1. GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

(a) ANCHORING

- [1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- [2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) CONSTRUCTION MATERIALS AND METHODS

- [1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- [2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) UTILITIES

- [1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- [2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- [3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- [4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(d) SUBDIVISION PROPOSALS

- [1] All subdivision proposals shall be consistent with the need to minimize flood damage;
- [2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- [3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- [4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

(e) ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

§ 128-58.5.2. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 128-58.3.2, **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD** or in § 128-58.4.3(b), **USE OF OTHER BASE FLOOD DATA**, the following standards are required:

(a) **RESIDENTIAL CONSTRUCTION**

- [1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation;
- [2] Require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(b) **NON-RESIDENTIAL CONSTRUCTION**

- [1] New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or together with the attendant utilities and sanitary facilities, shall;
- [2] Be required within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or
- [3] Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- [4] Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- [5] Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 128-58.4.3(c)(2).

(c) **MANUFACTURED HOMES**

- [1] Manufactured homes shall be anchored in accordance with § 128-58.5.1(a)(2).
- [2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

§ 128-58.5.3. FLOODWAYS

Located within areas of special flood hazard established in § 128-58.3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- [1] Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- [2] If § 128-58.5.3(1) is satisfied, all new construction and substantial improvements must comply with **PART 5, PROVISIONS FOR FLOOD HAZARD REDUCTION.**
- [3] In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 3. If any portion of this ordinance shall be determined to be invalid, such determination shall not affect the validity of the remaining portions of said ordinance.

SECTION 4. This ordinance shall take effect upon final passage and publication in accordance with law and upon filing with the Union County Planning Board.

Councilman Rubilla moved that Ordinance #2180 be adopted on first reading and advertised as prescribed by law for second reading and public hearing on July 6, 2006; seconded by Councilman Matarante, all members present voting Aye, said motion was adopted.

Mayor DeIorio left the meeting at 7:40 p.m. Councilman Rubilla appointed Councilman Badillo as Council President for the remainder of the meeting.

PRESENTATION BY PSE&G

- Richard Dwyer from PSE&G spoke regarding the trimming of trees and the methods they use.

PUBLIC COMMENT

Councilman Harms moved, at 8:36 p.m., to open the public comment portion of the meeting; seconded by Councilman Badillo and adopted.

Jacob Magiera, 612 Sheridan Avenue, addressed:

- Said that in 1990 Mayor Ryan asked PSE&G to replace trees that were removed for a high tension wire. He said those trees were never replaced and the town was never reimbursed. He questioned how PSE&G could be allowed to do that and why they are not responsible for replacing them.
- Stated that the Boy Scouts are the future and it was nice to see them at the meeting. He said the new Police Officer was a former Boy Scout.
- He asked if street lights were going to be placed under the train bridges.
- Said he supported Resolution #105-06.
- Asked what the Borough had a Councilman-At-Large for and Borough Clerk Doreen Cali said it was the form of Government.
- Mr. Magiera thanked the Mayor for sending home a flyer to the school children regarding safety helmets.

- Said the Business Administrator's salary should be paid for by Mayor and Council.

Michael Peterson, 45 E. Colfax Avenue, addressed:

- Said there was a dead tree near 40 E. Colfax Avenue and Councilman Harms said he would ask the DPW Superintendent to check on it.
- Reported that the back fence and benches at Acker Park were in bad condition. Councilman Harms said the DPW has already addressed those problems and that new mulch would be delivered shortly.

There being no one else wishing to speak, Councilman Badillo moved to close the public comment portion of the meeting; seconded by Councilman Harms and adopted.

MATTERS FOR REFERRAL

Councilman Dinardo:

- Reminded residents that the last day of school was tomorrow and asked drivers to slow down and watch out so that everyone can have a nice safe summer.

Councilman Badillo:

- Gave updates regarding future activities at the Casano Community Center.
- Said the Farmer's Market will start on July 5th and run every Wednesday, from 1:00 p.m. to 6:00 p.m., until October 25th.
- The Roselle Park Little League Tournament will start on Saturday and urged everyone to come out and support them.
- Thanked everyone who attended the Spaghetti Dinner and supporting the Warren Avenue Fire Victims.

Councilman Matarante:

- Reported that on June 21st, at 2:30 p.m., in the Clark Municipal Building a meeting will be held regarding the feasibility of providing a public private partnership with regard to managing the sewerage facility for Rahway Valley.

Councilman Harms:

- Met with the Recycling Contractor who stated they will not pick up after dark.
- Tree branches on Sheridan Avenue and E. Lincoln Avenue have been trimmed. He thanked the Superintendent of Public Works, Frank Wirzbicki, for going above and beyond when it comes to cutting down and trimming trees.

MOTIONS

Councilman Badillo moved to grant permission for the Boys and Girls Club of Union County and Roselle Park Keystone Club to use the Municipal Lot located on Chestnut Street on June 19, 2006 from 3:00 p.m. to 8:30 p.m. to host its second annual Blood Drive; seconded by Councilman Harms, all members present voting Aye, said motion was adopted.

Councilman Badillo moved that a raffle license be granted to the Roselle Park Community Center Association for an on-premise 50/50 raffle to be held on July 15, 2006; seconded by Harms, all members present voting Aye, said motion was adopted.

Councilman Badillo moved to grant permission to the Roselle Park Board of Education to keep the Green Acres Recreational Complex lighting on for graduation weekend, from 8:30 p.m. to 5:30 a.m. on June 14th through June 19th; seconded by Councilman Harms, all members present voting Aye, said motion was adopted.

MOTION TO APPROVE SUBMITTED REPORTS

Councilman Harms moved to approve submitted reports; seconded by Badillo, all members present voting Aye, said motion was adopted.

MINUTES TO BE APPROVED, PENDING ANY CORRECTIONS

Councilman Harms moved to approve the following minutes pending any corrections; seconded by Councilman Badillo, all members voting Aye, said motion was adopted.

- Regular Meeting: May 18, 2006
- Regular Meeting: June 1, 2006

PAYMENT OF BILLS AND PAYROLLS

The following routine bills listed on a consent agenda were offered by Councilman Harms; seconded by Councilman Matarante.

| | |
|---------------------------|----------------|
| Current Fund | \$2,222,083.00 |
| Federal State and Grants | 21,455.55 |
| General Capital | 16,847.55 |
| Sewer Utility Operating | 231,516.36 |
| Recreation Trust Account | 830.00 |
| Other Trust | 2,835.52 |
| Animal Control Trust | 2,100.75 |
| HUD Trust Account | 1,862.85 |
| Public Assistance II Fund | 5,433.65 |
| CAASA Trust Account | 1,096.96 |
| Tax Collector's Premium | 900.00 |

#

Roll called, all members present voting Aye, said resolutions were adopted.

Acting Mayor Rubilla read the Closed Session resolution and said Council would be discussing the following matters:

- Litigation – Spagnolli vs. The Borough of Roselle Park
The Borough of Roselle vs. Blackstone
- Negotiation – Proposal for the transfer of a 18 X 100 ft. strip at Acker Park

INTERRUPT THE REGULAR ORDER OF BUSINESS

Councilman Harms moved to interrupt the regular order of business for a closed session meeting; seconded by Councilman Matarante and adopted.

RESUME THE REGULAR ORDER OF BUSINESS

Councilman Harms moved to resume the regular order of business; seconded by Councilman Matarante and adopted.

Acting Mayor Rubilla said during closed session Council discussed matters pertaining to:

- Litigation – Spagnolli vs. The Borough of Roselle Park
- Negotiation – Proposal for the transfer of a 18 X 100 ft. strip at Acker Park

There being no further business to come before the meeting, Councilman Matarante moved, at 9:17 p.m., to adjourn; seconded by Councilman Harms and adopted.

Attest:

Borough Clerk

