

**BOROUGH OF MEDFORD LAKES, NJ**  
**WORKSHOP COUNCIL MEETING**  
**July 22, 2009**

A Meeting of the Borough Council of the Borough of Medford Lakes, New Jersey, was held on the above date in Oaks Hall at Municipal Cabin, 1 Cabin Circle, Medford Lakes, NJ 08055 beginning at 7:30pm. Following the pledge of allegiance and moment of silence (Council and the public observed a moment of silence to honor service men and women defending our country), Clerk McIntosh read the Statement of Compliance with the Open Public Meetings Act: this is to announce that adequate notice in the form of Notice of Meetings was (1) posted on the Administration Building bulletin board, (2) mailed to The Central Record, Medford, NJ, (3) mailed to the Burlington County Times, (4) mailed to the Courier Post and (5) filed with the Municipal Clerk. Advance written notice of this meeting was mailed or emailed to all persons who requested such notice according to the Clerk of the Municipality.

**ROLL CALL**

Clerk McIntosh called roll. Mayor Paul G. Weiss, Esq., Councilman Timothy S. Casey and Councilman Gregory C. Lackey answered in attendance. Also present were Manager Geoffrey D. Urbanik, Solicitor Peter C. Lange, Jr., Esq., Police Chief Frank Martine, Public Works Foreman Dominick Valentino, Code Enforcement Officer Dave Crane and Deputy Manager/Acting Clerk Mark J. McIntosh.

*Clerk McIntosh informed Mayor and Council that the sound system is working at 1/2 capacity, speakers were lowered for better projection but remote microphones still not operable.*

**SPECIAL PRESENTATION – BRIDGE COMMISSION**

*Mayor Weiss introduces Gary LeVenia, Director of Burlington County Improvement Authority and Shared Services Coordinator*

Mr. LeVenia explains the background history of the Improvement Authority and explains the bond rating capabilities, borrowing as a pool of municipalities, single line costs (i.e. Bond Counsel, Advertising, etc.). The Authority has expanded scope of services to include redevelopment and grant application writer services. The Authority is visiting all municipalities to explain services.

*Councilman Casey inquires about assistance with purchase of the EASI property*

Mr. LeVenia says that he might be able to assist

*Councilman Lackey asked if research of what grants are available is also a service provided.*

Mr. LeVenia stated that they do on a regular basis notify municipalities of available grants.

*Mayor Weiss asked if just State Grants were identified or were federal sources available.*

**PUBLIC COMMENT**

*Mayor Weiss opened the meeting to public comment for items not listed on the agenda*

Pam O'Neill, 82 Tecumseh Trail: (comments in bullets)

- Status on police advisory committee?

***Councilman Casey will discuss later in meeting under Ordinance priorities***

- Any word on the police vest?

***Manager Urbanik reported that a letter was sent to Medford Township to either pay for it or return it but he'd not heard back yet.***

- Will Council be voting on the representative for the Church festival?

***Mayor Weiss stated yes, later in the meeting.***

***Mayor Weiss closed public comment***

## **MINUTES**

***Mayor Weiss motions for approval of workshop council meeting minutes from June 24, 2009, seconded by Councilman Casey.***

VOTE TO APPROVE 6/24/09 MEETING MINUTES

Ayes: Weiss, Casey, Lackey

Nays: None

Minutes Approved

## **REPORTS**

Manager Urbanik highlighted the following from his written report: (comments in bullets)

- Reviewed tree cutting issue regarding 300 McKendimen Road, Medford Twsp., borough has taken legal action against property owner, future actions YTBD
- Received formal communication from FEMA regarding appeals
- 2009 tax rate is 5.259.
- Will be attending Pinelands meeting tomorrow to discuss public works property improvements, Lion and EMS building.
- Meeting tomorrow with reps to discuss various health care options and meeting with Dr. Lynch (MLBOE) to discuss merging health care costs. State has approved a 16% increase in 2010 which equates to roughly a \$40,000 increase next year.

***Mayor Weiss asked that we be prepared for the 2010 budget workshops which will start in September.***

***Councilman Casey stated that one stumbling block is that the municipality will have to buy claims experience back, less than \$10,000 but more than \$2,000.***

- Will contact NJ State Pension & Benefits to see cost of switching

***Mayor & Council want health care to be listed under old business in future.***

***Mayor Weiss states that the response to FEMA needs to address the sewer line across Upper Aetna Lake Dam. Need to explain how the engineers arrived at their decision regarding pump house (i.e. DEP wouldn't allow). FEMA will refund approximately 90% if we can demonstrate our actions.***

*Councilman Lackey asked if the borough has a survey of all borough right-of-ways?*

*Councilman Casey stated probably not. But the 300 McKendimen Road issue is probably recorded in a deed.*

*Solicitor Lange said that the County has probably what was recorded on a plat related to the development.*

*Manager Urbanik stated that the difficulty is in finding buried property markers. Luckily the development is only 25 years old. The rest of the borough is much tougher to determine.*

*Councilman Casey asked for status on the 300 McKendimen Road issue.*

*Solicitor Lange summarized the actions to date; 1. Signed order in place with temporary restraint against further cutting in the buffer zone, 2. Hearing scheduled for Friday and 3. Did receive communication from attorney representing the owners of 300 McKendimen Road. Will need a survey to develop the facts of the case. Told by council for the property owner that PSE&G had cut down trees in the buffer zone. A tone of reconciliation being sought with the intent of coming to some form of agreement to repair the damage to the buffer. Pete questioned why the amount of \$7,000 is being mentioned in a memo from the manager.*

*Manager Urbanik stated that he was anticipating \$2,500 to \$5,000 for legal, \$2,000 for survey work. Money not spent yet, just being budgeted for.*

*Councilman Lackey asked about public hearing dates for revaluation presentation*

*Manager Urbanik stated that we cannot do anything without approval from NJ State Board of Taxation of tax map. Numerous requests have been asked of them yet no response.*

*Mayor and Council asked for a planning meeting given by reval company to be scheduled in August.*

Deputy Manager/Acting Clerk McIntosh highlighted the following from his written report: (comments in bullets)

- Bid for emergency sewer repairs coming in tomorrow
- FD bid is out for a fire engine with a 30-day response period
- Dixontown Road line painting has been completed
- Borough hosted safety training (blood borne pathogens and lock-out/tag-out)
- Insurance company loss control inspection completed, marked improvements noted by inspector, thanks to Jim Giordano and Dominick Valentino for those improvements
- Recall petition is due 160 days from notice of intention which will be July 30, 2009.

*Mayor Weiss questioned the need to go for a two-year contract. Did we ask for bids for a one-year and/or a two-year contract?*

- No, we only asked for a two-year

*Mayor Weiss asked the Solicitor if we could do a, "best and final offer"*

*Solicitor Lange stated that if we asked for a two-year bid then we must give a two-year award, he will investigate the Mayor's question.*

Solicitor Lange highlighted the following: (comments in bullets)

- Investigating the ADA issues brought to Councils attention by Mr. Cottingham. Spoke to Remington Vernick who stands by their site plan design as meeting all requirements under the law. Pete will further investigate and report back to council

***Councilman Casey asked when the Ordinance priority list will be discussed?***

***Mayor Weiss said we could add it to the workshop section later in the meeting.***

## **ORDINANCES**

***Mayor Weiss introduced Ordinance Number 565 on second reading with public hearing, seconded by Councilman Casey***

### ORDINANCE NUMBER 565 AN ORDINANCE REGULATING DANGEROUS BUILDING

***Councilman Lackey made the following suggestions; capitalize the title, “Public Officer”.***

***Mayor and Council discussed some minor wording alterations (i.e. public hearing process, access to property, breaching the peace) with approval to amend the end product by Solicitor***

### **Public Hearing of Ordinance Number 565**

David Crane, 143 Wahwahtaysee Trail: (comments in bullets)

- Who pays for relocation of occupants if building is determined unfit?

***Mayor Weiss only pertains to condemnation.***

***Solicitor Lange states that only applies to multifamily dwellings and must have a legal lease in force.***

***Councilman Lackey asked if whether the property occupants are the owners or renters change anything?***

***Solicitor Lange stated that doesn't change existing issues***

- Owner remediation timeframe, does that conflict with remedy through the courts

***Mayor and Council respond that it would coincide with the Borough liening the property.***

Joe Aromando, 285 Shingowack Trail: (comments in bullets)

- Purpose of the ordinance was to collect costs if the borough had to take actions
- This Ordinance is overextending
- Building Code Official already has this authority
- Very heavy handed ordinance

***Councilman Casey stated this ordinance was at the request of the Construction Official***

***Mayor Weiss closes the public hearing***

***Mayor and Council agree that the ordinance language is direct from State Statute and the reason for ordinance is to allow lien on property***

*Mayor Weiss motions to amend the Ordinance for changes made tonight, seconded by Councilman Casey*

VOTE TO AMEND ORDINANCE 565.

Ayes: Weiss, Casey, Lackey

Nays: None

Motion passes

*Councilman Lackey motions to table Ordinance 565, seconded by Mayor Weiss*

*Councilman Casey asked if Tom Heck, Construction Official had seen this current draft of the Ordinance*

*Dave Crane, Code Official stated that yes a copy had been provided to Mr. Heck*

*Councilman Lackey motions to withdraw his earlier motion to table Ordinance 565, seconded by Mayor Weiss*

VOTE TO WITHDRAW THE MOTION TO TABLE ORD. #565

Ayes: Lackey, Weiss, Casey

Nays: None

Motion withdrawn

*Councilman Casey motions for a five minute recess, seconded by Mayor Weiss*

VOTE TO RECESS MEETING FOR FIVE MINUTES

Ayes: Casey, Weiss, Lackey

Nays: None

Motion approved

**[MEETING IN RECESS FOR FIVE (5) MINUTES]**

*Mayor Weiss reopens the meeting*

*Manager Urbanik states that Tom Heck had read Ordinance 565 and has no issues with it.*

*Councilman Lackey motions to table Ordinance 565*

Motion fails for lack of second

*Mayor Weiss motions to adopt Ordinance Number 565, seconded by Councilman Casey*

## **ORDINANCE NUMBER 565**

### **AN ORDINANCE REGULATING DANGEROUS BUILDINGS**

**WHEREAS**, the Borough Council of the Borough of Medford Lakes finds and determines that the provisions of the Borough of Medford Lakes Code are intended to maintain and improve the quality of life for all residents of the Borough; and

**WHEREAS**, the Borough Council has determined that there exists a need to regulate certain building conditions of the character described and defined herein.

**NOW THEREFORE, BE IT ORDAINED**, by the Council of the Borough of Medford Lakes, County of Burlington, State of New Jersey that the Medford Lakes Borough Code is hereby amended by adding the following Chapter 220:

**CHAPTER 220 BUILDINGS, DANGEROUS**  
**§ 220-1 Designation of public officer.**

The Borough Construction Code Official is hereby designated as the public officer to exercise the powers prescribed by this chapter.

**§ 220-2 Determination that dwelling is unfit; conditions.**

For the purpose of this chapter, the public officer may determine that a building is unfit for human habitation or occupancy or use if he finds that conditions exist in such building which are or may become dangerous or injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents of the Borough of Medford Lakes. Such conditions may include the following, without limiting the generality of the foregoing:

- A. Defects therein increasing the hazards of fire, accident or other calamities.
- B. Lack of adequate ventilation, light or sanitary facilities.
- C. Dilapidation, disrepair, structural defects or uncleanness.
- D. Conditions otherwise inimical to the welfare of the residents of the Borough.

**§ 220-2.1 Adoption of standards.**

Pursuant to the provisions of Chapter 21, Public Law 1946 (N.J.S.A. 40:49-5.1 et seq.), the New Jersey State Housing Code (1980 Revision), as approved by the Department of Community Affairs and filed in the Secretary of State's Office, is hereby accepted, adopted and established as a standard to be used as a guide in determining the fitness of a building for human habitation or occupancy or use. A copy of the New Jersey State Housing Code (1980 Revision) is annexed to this ordinance, and three copies of the same have been placed on file in the office of the Borough Clerk and are available to all persons desiring to use and examine same.

**§ 220-3 Notice of complaint; hearing procedure.**

Whenever a petition is filed with the public officer or the Borough Manager by a public authority, as defined in N.J.S.A. 40:48-2.4, or by at least five residents of the Borough charging that any building is unfit for human habitation or occupancy or use as herein defined, or whenever it appears to the public officer, on his own motion, that any building is unfit for human habitation or occupancy or use, as herein defined, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect and containing a notice that:

- A. A hearing will be held before the public officer and the Borough Manager or his designated agent at a place therein fixed not less than seven days nor more than 30 days after the serving of said complaint.
- B. The owner and parties in interest including any Mortgagee shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaints.
- C. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearings.

**§ 220-4 Findings of hearing; issuance of order.**

If, after such notice and hearing, the public officer determines that the building under consideration is unfit for human habitation or occupancy or use, as herein defined, he/she shall state in writing his/her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest, including any mortgagee, an order requiring that:

- A. The repair, removal, alteration, improvement or demolition of the said building be made by the owner within a reasonable time, which time shall be set forth in the order.

B. If the owner fails to act with due diligence and/or comply with an order to repair, remove, alter, improve or, demolish the building, the public officer may cause to be posted on the main entrance of any building so closed a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful."

C. Not less than thirty (30) days after issuance of the Public Officer's Order and after the property owner has been provided with an estimate of the costs to be incurred, If the owner fails to comply with an order to repair, remove, alter, improve or demolish the building, the public officer may cause such building to be repaired, removed, altered, improved or demolished or may contract for the repair, removal, alteration, improvement or demolition thereof after advertisement for and receipt of bids therefore on notice to the owner and any mortgagee which notice shall include an estimate of the costs to be incurred in complying with said order.

D. The amount of:

(1) The cost of filing of legal papers, expert witnesses' fees, search fees and advertising charges, incurred in the course of any proceeding taken under this chapter determined in favor of the municipality; and

(2) The actual cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the public officer, he shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof, including the cost of clearing and, if necessary, leveling of the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Municipal Tax Assessor or other custodian of the records of tax liens and said official shall file a municipal lien certificate against the real property and a copy thereof shall be forthwith forwarded to the owner by certified mail. If the total of the credits exceed such costs, the balance remaining shall be deposited in the Superior Court by the public officer, shall be secured in such manner as may be directed by such Court and shall be disbursed according to the order or judgment of such Court. Any owner or party in interest may, within 30 days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

F. If any actual and immediate danger to life is imposed by the threatened collapse of any fire-damaged or structurally unsafe building, the public officer may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof.

G. Nothing in this section shall be construed to impair or limit in any way the power of the Borough to define and declare nuisances to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this chapter intended to limit the authority of the Construction Code Official under the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) or any rules or regulations adopted thereunder.

**§ 220-5 Service of complaints and orders.**

Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons either personally or by certified mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by said public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once in a newspaper printed and published in the County of Burlington and circulated in the Borough. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order, and a copy of such complaint or order shall be duly recorded or lodged for record with the county recording officer of Burlington County.

**§ 220-6 Remedies.**

Any person aggrieved by an order issued by a public officer under this chapter may, within 30 days after the posting and service of such order, bring an action for injunctive relief to restrain the public officer from carrying out the provisions of the order and for any other appropriate relief. The court may proceed in the action in a summary manner or otherwise. The remedy herein provided shall be exclusive, and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant thereto or because of noncompliance by any person with any order of the public officer.

**§ 220-7 Powers of public officer.**

The public officer is hereby authorized and empowered to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following, in addition to others herein granted:

- A. To investigate the conditions of buildings in the Borough of Medford Lakes in order to determine which buildings therein are unfit for human habitation.
- B. To administer oaths and affirmations, examine witnesses and receive evidence.
- C. To enter upon premises for the purpose of making examination, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.
- D. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.
- E. To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

**§ 220-8 Conflict of powers and legislation.**

Nothing in this chapter shall be construed to abrogate or impair the power of the Borough or any officer or department to enforce any provisions of its Charter, or its ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred upon the Borough by any other law or ordinance.

**§ 220-9 Costs as obligation of owner.**

In the event any building or structure is removed, repaired, altered, improved or demolished pursuant to this chapter because it is found to be dangerous to human life or the public welfare, the Borough, in addition to assessing the cost of such removal, repair, improvement, alteration or demolition as a municipal lien against the premises, may enforce the payment of such assessment, together with interest, as a debt of the owner of the premises and may authorize the institution of an action at law for the collection thereof. The Superior Court or the Burlington County District Court shall have jurisdiction over any such action.

**INTRODUCTION VOTE:**

NAME	Moved	Second	Yes	No	Abstained	Absent
Weiss	X		X			
Casey		X	X			
Lackey			X			

**ADOPTION VOTE:**

NAME	Moved	Second	Yes	No	Abstained	Absent
Weiss	X		X			
Casey		X	X			
Lackey				X		

I hereby certify that the foregoing is a true copy of an Ordinance introduced by the Borough Council of the Borough of Medford Lakes at a meeting held on the 8th day of July 2009. The public hearing and final adoption of this ordinance is scheduled for July 22, 2009.

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Mark J. McIntosh  
Acting Borough Clerk

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Paul G. Weiss, Esq., Mayor

I hereby certify that the foregoing is a true copy of an Ordinance adopted by the Borough Council of the Borough of Medford Lakes at a meeting held on July 22, 2009

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Mark J. McIntosh  
Acting Borough Clerk

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Paul G. Weiss, Esq., Mayor

***Councilman Lackey asked where the court gets involved in remedies***

***Solicitor Lange states that any property owner may seek an injunction with Superior Court; this Ordinance creates the lien mechanism***

VOTE TO ADOPT ORDINANCE NUMBER 565

Ayes: Weiss, Casey

Nays: Lackey

Ordinance is adopted

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***Mayor Weiss introduces Ordinance 566 on second reading with public hearing, seconded by Councilman Casey***

Ordinance Number 566

AN ORDINANCE AMENDING CHAPTER 145, THE LAND DEVELOPMENT  
CHAPTER OF THE BOROUGH OF MEDFORD LAKES CODE ESTABLISHING  
A DEFINITION FOR DRIVEWAY, IMPERVIOUS SURFACE AND PERVIOUS SURFACE  
AND MODIFYING BULK REGULATIONS RELATING TO LOT COVERAGE

***Councilman Lackey states that we don't need to rush into this Ordinance. 90-day moratorium still in effect.***

***Solicitor Lange spoke with Tom Heck regarding how the IBC code relates to this Ordinance.***

***Council discusses at length areas regarding lot coverage, sidewalks, surveys, pervious and impervious products, etc.***

***Mayor Weiss opened public hearing on Ordinance Number 566***

***Dave Wasson, 97 Wabun Trail: (comments in bullets)***

- In favor of the Ordinance as a member of the Planning Board
- Recommends tabling Ordinance to better define design description (i.e. pitch, swales, etc.)

- According to Pinelands Commission there is no such thing as a pervious surface
- Borough Engineer should look into hydraulics, soil, etc.

Robert Hanold, 45 Natchez Trail: (comments in bullets)

- 25% came from the original Land Use Ordinance
- Thought the original intent of this Ordinance was to regulate driveways
- Definitions are very vague in draft
- Need to better define repairs

Dave Feast, 246 Chippewa Trail: (comments in bullets)

- Who is judging permeable and non-permeable products?

***Mayor Weiss stated that all towns are expected to follow the Pinelands comprehensive management plan***

- One whole unit of his company is dedicated to going green, storm water management, installing water barrels and rock gardens
- Give credit/incentives to houses that manage their rainwater

***Councilman Lackey stated that he has been in discussion with Collingswood about the rain barrels***

Joe Aromando, 285 Shingowack Trail: (comments in bullets)

- Appreciate that there has been a lot of discussion regarding this Ordinance
- Do we really have to follow the Pinelands comprehensive management since that is meant for new construction, isn't it more of a guideline
- The planning board discussed this topic at length at their last meeting
- Parking on grass would over time make the surface impervious
- If we don't allow homeowners to have the basics (i.e. house, driveway, shed and deck) then we are making our properties less marketable
- Streets in Medford Lakes are the biggest abusers of runoff, all 24 miles.
- No design requirements.

Dave Crane, 143 Wahwahtaysee Trail: (comments in bullets)

- Concerned with percentages
- Ordinance doesn't address egg size stones
- Ordinance will be a substantial cost to residents, if we force engineered products to be used verse a dump truck load of stone.

***Mayor Weiss closes public hearing***

***Councilman Casey motions to table Ordinance Number 566 until August 12, 2009 meeting, seconded by Councilman Lackey***

***Councilman Casey would like the following to be addressed:***

- 1. Average soil is "X"***
- 2. Percolations ratio is "Y"***
- 3. Produce an average for all of Medford Lakes***
- 4. Have borough engineer look into defining the soil***
- 5. Design criteria should be provided by Planning Board***

**6. Define repair percentages**

VOTE TO TABLE ORDINANCE NUMBER 566

Ayes: Casey, Lackey, Weiss

Nays: None

Ordinance is tabled to August 12, 2009 meeting

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***Mayor Weiss introduces Ordinance Number 567 for second reading and public hearing, seconded by Councilman Casey***

***Mayor Weiss opens the public hearing***

***Joe Aromando, 285 Shingowack Trail: (comments in bullets)***

- How does this Ordinance apply to current vendors?

***Manager Urbanik stated that this is a new Ordinance and all vendors need to conform to this new regulation.***

***Council wants to make sure that all current and future vendors meet the standards as described.***

***Council discusses the three-year appointment terminology. Make amendment for vendors needing to apply 90-days prior to termination of permit.***

***Mayor Weiss closes public comment***

***Mayor Weiss motions to adopt Ordinance Number 567 as amended, seconded by Councilman Casey***

**BOROUGH OF MEDFORD LAKES**

**ORDINANCE NO.: 567**

**AN ORDINANCE PROVIDING FOR  
TOWING AND STORAGE OF VEHICLES  
IN THE BOROUGH OF MEDFORD LAKES**

BE IT ORDAINED by the Borough Council of the Borough of Medford Lakes, County of Burlington, State of New Jersey, that the within towing and storage ordinance be and is hereby enacted:

1. Definitions and word usage

A. For the purposes of this chapter, the following terms, phrases and words shall have the meanings given herein:

ABANDONED VEHICLE: Any vehicle which has been left on or along any highway or other public property or on private property without consent of the owner or person in charge of the private property for a period of more than 48 hours or for any period without current license plates.

**DISABLED VEHICLE: Any vehicle located on or along any public right of way, not in operation, and with no owner visible, and not legally parked will constitute an inoperable vehicle.**

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

TOWER: A person engaged in the business or offering the services of a vehicle tower or towing service, whereby abandoned and/or disabled vehicles are towed or otherwise removed from the places where they are disabled, impounded or abandoned by use of a tower or truck so designed for that purpose.

*TOWING: Hoisting, lifting, removal, hauling and transportation of any type of vehicle of any size from the highways, streets and roads located within the Borough of Medford Lakes or any other highway, street, or road within the State of New Jersey.*

BOROUGH: The Borough of Medford Lakes.

VEHICLE: Any motor vehicle of any type or size including, but not limited to passenger vehicles, trucks, trailers and other heavy vehicles and equipment.

WAITING TIME: Additional time a tow operator spends at the scene other than the time required for the actual tow, and/or recovery. Examples of waiting time may include but are not limited to Fire/EMS services, which must be performed and/or police investigations.

WINCHING SERVICE: Any operation in which a vehicle is moved onto a roadway, from a position off the roadway, or any other operation whereby a vehicle is moved by the use of a cable from a position that is not accessible for a direct hook up by conventional means for loading onto a tow vehicle. Winching is not pulling a vehicle onto a tilt bed carrier or lifting a motor vehicle with conventional tow sling.

**B. When not consistent with the context, words used in the present tense include the future; words in plural number include the singular number; and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.<sup>1</sup>**

2. Contract required; liability of Borough; application

**A. Generally, the governing body of the Borough, at the beginning of each period, shall appoint towers to be called by the police department on a next available basis. The police department shall maintain a rotation list of towers authorized and appointed under the terms of this Ordinance. A fee, set by resolution shall be paid to the Municipal Treasurer by each tower so authorized. The appointment shall be made after the submission of an application as hereinafter set forth, and the review and recommendation of the same by the Chief of Police, said appointment to be made by the Borough Manager. Any tower receiving appointment shall be placed on the rotation list, which shall entitle the tower(s) to be called by the police department on a rotation basis, as the next available tower. In the event that the next tower on the rotation list is unavailable, then the next tower on the list shall be called. Tower(s) wishing to reapply at the end of their three year appointment will be required to complete the application process to include a fee, set by resolution, and submitted to the Borough, if appointed. Applications for the next appointment shall be received no later than ninety (90) days prior to expiration of the then existing appointment.**

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<sup>1</sup>Editor's Note: Former Subsection C, which provided that any term or work defined in the New Jersey Department of Insurance Rules and Regulations, N.J.A.C. 11:38-1 et seq., shall be applicable in this chapter, and which immediately followed this subsection, was repealed 9-5-2000 by Ord. No. 33-9-2000.

**B. Application process. Any person interested in being placed on the aforementioned rotation list shall submit an application on a form to be prepared by the Borough Manager or their designee, said form to contain at a minimum the information specified herein. The applicant shall provide, at a minimum, the following information:**

- 1. List of required equipment and proof of ownership.**
2. *Experience of applicant with references.*
3. *Available personnel (employees)*
4. *Proper business and trade licenses and licenses of vehicles.*
5. *Tow trucks having two-way radio/cellular telephone capability with a dispatching center on a twenty-four hour basis.*
6. *Storage location setting forth capacity, contractor responsible for safe storage area location, proof of ownership or lease of storage area along with a survey certifying the square footage within the surveyed area.*
7. *Insurance and proofs of required coverage.*
8. *List of stockholders.*
9. *Non-collusion affidavit.*
10. *Affirmative action affidavit.*
- 11. Hold-harmless agreement**
12. *Certification that the applicant is able to provide towing services anywhere in the chapter in accordance with the response time established within this chapter.*
13. *Certification that the applicant will be available to provide service on a 24 hour per day, 7 day per week basis, and will abide by the fees set forth in this chapter.*
14. *Certification that the applicant shall consent to the appointment of the Borough Clerk as the applicant's true and lawful attorney for the purpose of acknowledging service out of any court of competent jurisdiction to be served against the applicant.*

C. *Review of application.* The Chief of Police shall conduct a background check of the applicant and any employees to be utilized in the towing and storage operation. The background check is to determine if either the applicant or its employees have been convicted of a criminal offense or have had their driver`s license suspended or revoked in the past year. Conviction of a criminal offense or suspension of a driver`s license within the past year shall be cause for the disqualification from being appointed to provide towing and impound services. The Chief of Police, or his designee, shall conduct an inspection of the employees, vehicles, equipment and storage area proposed to be utilized by the applicant to verify the accuracy of the information contained in the application, and to determine compliance with the applicable laws, regulations and standards of performance required by this chapter. The Borough shall, at the cost of the applicant, obtain a better Business Service Bureau report, and any other reports that the Borough Manager may deem necessary. After a thorough investigation, the Chief of Police shall recommend to the Borough Manager whether an applicant should be appointed to provide towing service to the Borough of Medford Lakes in accordance with the terms and conditions of this chapter.

D. *Independent contract.* By submission of the fee and application, the tower agrees that all personnel and equipment used shall be and remain the property of the tower, and in no event shall the property or any employee of the tower be represented or considered belonging to or employed by the Borough of Medford Lakes. The tower is in no way or sense an agent or employee of the Borough of Medford Lakes.

E. *Hold harmless agreement; liability.*

1. *The tower, by submission of the fee and application, agrees to assume the defense of and indemnify and hold harmless the Borough, its elected officials, boards, commissions, officers, employees and agents from all suits, actions, damages or claims to which the Borough may be subjected, of any kind or nature whatsoever, resulting from, caused by, arising out of or as a consequence of the provisions of providing the services required by this chapter. Prior to providing the towing services, the tower shall execute the appropriate hold harmless clause.*

2. *The owner of the garage or the parking or storage location shall also agree to indemnify and hold harmless the Borough and its officers, employees and agents from any and all suits and actions, damages or claims arising out of the performance of the duties specified in this chapter.*

3. *The Borough of Medford Lakes shall not be liable for any services whatsoever, which may be rendered to motor vehicles, and the tower shall only seek payment from the driver, and/or owner of such vehicles for compensation.*

F. *Borough Manager`s decision.* The Chief of Police shall conduct the aforementioned review and investigation, and render a report to the Borough Manager recommending either approval or denial of the application. The Borough Manager shall then take action with regard to appoint vendor(s) for towing and impound services. Written notice of the approval or denial of the application shall be provided to the applicant within seven days of the decision of the Borough Manager.

3. *Requirements.*

The following general requirements shall apply to all towers and towing operations acting on behalf of the Borough of Medford Lakes:

A. *Equipment.* The tower shall have sufficient equipment (either owned or by subcontract) to tow any size vehicle utilizing the highways, streets and roads in the Borough of Medford Lakes. The minimum requirements are one heavy-duty large capacity wrecker minimum of 25-ton capacity, one medium-duty wrecker

*minimum of ten-ton capacity, and two light duty wreckers, one of which must be a flatbed, minimum four-ton capacity. The specifications are as follows:*

**1. Heavy duty**

*(a) Minimum of 25 ton capacity.*

**( b) Air brakes**

*( c) Minimum 1,000 x 20 tires with dual rear wheels.*

*(d) Air fittings for releasing air pressure lock brakes on dump trucks and tractor trailers*

*(e) Under reach capabilities.*

*(f) All required ICC safety equipment must be carried.*

*(g) Must meet all Federal, and New Jersey Division of Motor Vehicle requirements.*

*(h) Portable safety lighting to be installed on rear of towed vehicle.*

*(i) Offside truck winching.*

**2. Medium duty**

**( a) Minimum of 10 ton capacity.**

**( b) Minimum 1,000 x 20 tires with dual wheels.**

**( c) Chassis requirements should be 10 ton`s gross weight.**

**( d) Steering wheel lock for towing vehicles from the rear.**

**( e) Wheel lift and under reach capacity.**

**( f) All ICC safety equipment must be carried.**

( g) Must meet all Federal and New Jersey Division of Motor Vehicle requirements.

3. Light duty

( a) Minimum of 4 ton capacity

( b) Chassis requirements should be 10,000 pounds gross vehicle weight and dual rear tires.

( c) Steering lock on each wrecker for towing vehicles from the rear.

( d) Tow sling type bar, rubber strap, to lift the car so that no part of metal touches the car.

( e) One wrecker must be of flatbed capability.

( f) All ICC safety equipment must be carried.

( g) Must meet all Federal, and New Jersey Division of Motor Vehicle requirements.

*B. At the time of the submission of the application, the tower shall submit proof satisfactory to the Borough and the Police Department of ownership of the aforementioned vehicles. Adequate proof shall be proof of ownership by recorded title of the required number of vehicles necessary to meet the chapter requirements or executed lease/rental agreement for the equipment required extending six months beyond the length of the contract. Failure to submit to the aforementioned satisfactory proof shall result in the disqualification of the tower.*

**C. Employees**

1. The tower shall have sufficient number of employees available to comply with the minimal operational requirements of this chapter. The tower shall

indicate in his application the number of employees on call and available to respond 24 hours a day, seven days per week.

2. The tower shall submit with the application to the Borough the names and addresses of all proposed drivers and employees who will be rendering service under this contract on behalf of the tower. This information is to be kept current with the Borough by the tower.

3. All operators of the towers equipment providing services required by this chapter shall be over the age of 18, and must have a valid, current, driver's license.

4. No person shall be utilized by the tower to provide services required by this ordinance for the Borough unless the Borough has obtained a record check and has been approved by the Chief of Police. The Chief of Police may reject the services of an employee of the tower for the following reasons:

( a) Conviction of any crime of the first or second degree.

( b) Conviction of any crime involving the use of a firearm.

( c) Conviction of any crime involving the manufacture/distribution of any controlled dangerous substance.

( d) Conviction of any crime or offense, which subjects the employee to the provisions of Megan`s Law.

( e) Conviction within the last five years for driving under the influence of intoxicating beverages or drugs.

5. No employee of the tower shall perform services unless previously listed by the contractor to the Borough.

*D. Availability; response time. The tower shall be available 24 hours a day, seven days a week for use of the Borough at the direction of the authorized representatives of the Police Department as per the rotation requirements herein. The rotation list shall be as a result of the receipt and review of the approval of the aforementioned applications. In the event that none of the towers set forth on the rotation list are available or are available to provide the appropriate services requested by the Borough, or, if an emergency exists, the Borough may request such services from any other available source. During adverse weather conditions, heavy traffic conditions or emergency conditions, the tower set forth on the rotation list shall give priority to requests from the Borough over any other request which may be received by the tower. Notwithstanding the establishment of a rotation list, no tower shall be called until the Chief of Police or his designee has ascertained that the following requirements have been met:*

1. The insurance policies, as required, have been procured and supplied.
2. No towed vehicle may be parked upon the public street and shall be stored by the tower within the storage area as hereinafter defined.
3. The tower must provide access to the storage area to the police department as needed on a 24 hour a day basis.
4. The storage area shall accept all types of vehicles and be able to hold at least 25 vehicles.
5. The entire land area shall be enclosed by a fence of sturdy construction of at least six feet in height, and shall be secured with lighting.
6. The land used for storage is to be level and clear from all debris and must be clearly marked.
7. The storage area shall be used for the storage of vehicles awaiting a claimant or proper disposition. The land shall not be used for storage of vehicles owned by the tower even if the tower purchases same at an auction held on his premises. Vehicles purchased by the tower at an auction held at the towers storage facility must be removed within the time frame specified on the advertisement.

8. The tower shall be responsible for each vehicle and its contents in the tower's possession until final disposition and removal as ordered by the Borough. All vehicles, regardless of condition, shall be stored singly and so arranged to permit inspection and subsequent removal. Adequate walkway inspection space shall be provided at all times.

*F. Violations.*

*1. If a tower is in violation of any terms of this chapter, the Chief of Police shall notify the Borough Manager and the Borough Manager shall notify the tower in writing. If the violation is not corrected within 48 hours of the receipt of said written notice, the Borough Manager, upon recommendation of the Chief of Police, shall terminate the tower services and remove said tower from the rotation list. Adequate grounds for termination of services shall include but are not limited to a violation of the terms of this chapter, fraudulent or inaccurate application information, unsatisfactory service, billing irregularities, or the violation of any New Jersey statute or regulation.*

*2. Complaints of any kind relative to service, overcharging, theft of parts, damage to towed or stored vehicles, discourteous treatment and the like shall be referred to the Chief of Police for investigation and recommendation to the Borough Manager, if necessary. Such complaints may be cause for termination of the tower's services and removal from the rotation list by the Borough Manager.*

G. Records, Inspection; release of vehicle. The Tower shall maintain a record of all vehicles towed, stored and released by him pursuant to this chapter. Records shall be kept for a seven year period. The tower shall maintain a record provided by the police of all property found anywhere in a towed vehicle, including the trunk and glove compartment, if opened, or if a key is available, and the tower shall be responsible to safeguard and release the vehicle and the contents left with the vehicle to the owner.

1. The tower is to notify the Chief of Police or his designee once a vehicle is towed, pursuant to this chapter, and has been in the tower's possession for a period of seven calendar days.

2. The tower shall not release vehicles towed pursuant to this chapter, without the claimant first obtaining a release from the Police Department. In addition, the tower shall notify the Chief of Police, or his designee, of the release of a vehicle towed pursuant to this chapter within 24 hours.

3. Only the Chief of Police or his designee shall have access to any part of the storage area at any time of the day or night for inspection purposes, including both indoor and outdoor areas. Authorized representatives of the Police Department or the Borough Manager or their designees shall have access to any of the records required to be kept by the tower. Access to these records shall be provided to the Chief of Police, Borough Manager, or their designees, upon their request during normal business hours.

4. The service, equipment and personnel of the tower are subject to inspection and approval by the Borough. The Borough reserves the right to have a qualified person or agency make such inspections.

*H. Disputes and adjustments.*

1. Any disputes over the interpretation of this chapter, including the reasonableness of any fees assessed, shall be settled amicably, if possible through negotiations between the tower, the police department and the Borough Manager.

2. In cases where the Borough has been at fault in wrongfully directing that a vehicle be towed, the tower may petition the Borough Manager for reimbursement of costs incurred in the towing and storage of said vehicle.

**I. Standby Service**

*1. In addition to the service requirements of this chapter, the tower shall be required to finish extra towing equipment and service during storm periods, periods of snow emergencies, traffic emergencies, disasters, any acts of God, and for any other reason when so designated by the Borough Manager, the Chief of Police, or their authorized representatives. During such periods, which are herein referred to as standby service periods, the tower shall be required to furnish adequate equipment and service to be held ready to remove all types of vehicles.*

2. Standby service will begin when the Chief of Police or his authorized designee calls the tower initially, and will end when he terminates the standby status by calling the tower.

3. The Borough reserves the right, during any emergency, to designate temporary areas owned or leased by the Borough for the storage of disabled vehicles in said area at the direction of the Chief of Police or his designee.

4. Removal and storage of vehicles.

A. *Removal. Vehicles shall be removed as follows:*

1. *Abandoned vehicles.*

a. Abandoned vehicles, as defined in Title 39 of the New Jersey revised statutes, shall be removed under the direction and supervision of the Police Department on a twenty-four hour a day basis. All calls with respect thereto shall be answered within 20 minutes from the time of notification under normal conditions seven days a week, anywhere within Borough limits, unless the Police department determines it is not a threat to vehicle traffic, or persons and could be removed during regular business hours. Abandoned vehicles shall be towed without charge to the Borough to the aforementioned required storage area, and stored thereon for no longer than 90 days without any charges or liens accruing against the Borough. Abandoned vehicles remaining after 90 days may be removed from the secured area provided that a junk title has been applied for pursuant to the provisions of Title 39.

b. The tower may be penalized, **at a cost set by resolution** per day for each abandoned vehicle not removed and towed within a reasonable amount of time after notification by the Police Department, and may be grounds for termination of the tower`s appointment.

c. The requirement to tow abandoned motor vehicles shall only apply to public right-of-way, easements, avenues and places including public parks and playgrounds, and all quasi-public areas. The owner of private property shall

be responsible for the removal of any unattended or disabled vehicles in accordance with the provisions of N.J.S.A.39:4-56.6, and shall employ a tow of their choice.

d. The Borough retains the right to require that the abandoned vehicle shall be towed to municipal property and to retain any monies realized from the sale of such vehicles. The Borough shall pay the borough's reasonable fees as set forth in this chapter for towing a vehicle sold in this manner from the proceeds of the sale. Abandoned vehicles not claimed by the owner or lien holder, may be sold at public auction pursuant to the provisions of N.J.S.A.39:10A-1 through 7. Prior to sale at auction of any abandoned vehicle, the Borough will obtain the appropriate junk title or certificate of ownership for said abandoned vehicle from the Division of Motor Vehicles.

2. *Vehicles not abandoned.*

a. All vehicles involved in accidents, disablements, stolen vehicles, vehicles involved in suspected crimes, and the like, shall be towed and stored under the direction and supervision of the Police Department 24 hours a day, seven days a week. Vehicles shall be available for release between the hours 9:00 a.m. to 5:00 p.m., Monday through Fridays, and 9:00 a.m. to 12:00 noon, Saturdays and Sundays, except legal holidays. Sunday hours are optional; however, no storage charge for Sunday shall be assessed if a vehicle is picked up on Monday. The tow shall arrive at the scene of the accident within 20 minutes under normal conditions after police notification. Repeated late arrivals at the scene of accidents may result in the termination of the tow's services, as otherwise provided in this chapter.

b. In the event that the tow has been summoned by the Borough for purposes of towing a vehicle, and the owner of the vehicle has also summoned his own tow, and said tow arrives on the scene prior to removal of the vehicle by the Borough's tow, then the owner is entitled to remove his own vehicle at no cost or expense to the owner or the Borough. There shall be no charge to the Borough for the tow appearing at the scene under said conditions.

B. Storage. The tower shall store the abandoned and non-abandoned vehicles in the storage area, as required in this chapter. The vehicles shall be stored until claimed by the owner or until auctioned by the Borough in compliance with state law, or as otherwise to be disposed of pursuant to state law. Vehicles to be removed shall be towed to the tower's storage area or to township property at the discretion of the police department.

5. Indemnity and insurance.

A. *The tower shall indemnify and hold harmless the Borough of Medford Lakes from any and all claims against the Borough of Medford Lakes arising out of the operation of any towing services or garage services or storage services or repair services under this chapter. Liability insurance shall include contractual liability of \$1,000,000 combined single limit.*

B. The tower shall carry Workmen's Compensation Insurance in accordance with the requirements of New Jersey state law. The tower shall also carry public liability and property damage, contingent liability insurance to indemnify the Borough of Medford Lakes, and the public against any loss due to injuries, accidents or damages of any character whatsoever, where any such damage is the result of any act or omission of the tower, his agents or employees in or due to the execution of the work called for under this chapter. Such policies shall contain the provision that 30 days notice of change or cancellation be given to the Borough by the insurance company. Public liability insurance limits shall be at least \$500,000 per accident, and be specifically endorsed to provide collision insurance for vehicles in tow. In addition, the tower shall have coverage for contractual liability, and also name the Borough as an additional insured. All insurance required hereunder shall remain in full force and effect for the period of the appointment.

C. Appropriate bodily injury liability insurance with \$1,000,000 combined single limit, automobile bodily injury liability insurance with limits of not less than \$500,000.00 for each person, and \$1,000,000 for each accident, and property damage liability insurance with a limit of not less than \$500,000.00 for each accident.

D. Garage keeper`s liability in an amount not less than \$60,000 per location; garage liability in an amount not less than \$1,000,000 combined single limit.

E. Certificates of insurance showing that the tower and the Borough of Medford Lakes are named as additional insured, in conformance with the above, shall be furnished to the Borough of Medford Lakes, subject to approval of the Borough Solicitor, and filed with the Borough Clerk. The certificates of insurance shall be delivered to the Borough Manager.

6. *Rate Schedule; Charges and Fees.*

A. *Generally.*

1. *Towing and storage charges and fees shall be **set periodically by resolution and** in accordance with N.J.S.A.40:48-2.5, as well as the provisions of this chapter. The Borough shall not be responsible for the collection or payment of any charges for the towing or storage of vehicles. The charges and fees and rates applicable to services performed pursuant to this chapter shall be posted in a conspicuous place, visible to the public at the tower`s storage area, and shall be presented to the owner of a vehicle to be towed at the time of service. The tower shall prepare an itemized bill in detail as to the actual services rendered and present the bill to the claimant of a vehicle. Each bill shall contain a statement that the claimant may file a complaint with the Borough with respect to charges. The Borough will not be responsible for charges due and owing from a claimant of a vehicle, nor will it assist the tower in collecting such charges. Vehicles impounded, as a result of police investigations involving stolen vehicles or fatal accidents, will not result in storage charges; however, the Borough reserves the right to store such vehicle at a location of its choosing.*

2. In the event that the Borough conducts an auction of unclaimed abandoned vehicles pursuant to Title 39, the tower`s bill for towing and storage shall be an expense of possession and sale, and shall be paid from the proceeds of this subsection. Each vehicle auctioned shall be a separate item for purposes of this subsection. The title fee for which the Borough must pay to the State of New Jersey for title certificates shall be paid by the purchaser at the auction, even if the tower is the purchaser and shall be in addition to the bid price of each vehicle. In the event that the Borough determines to utilize the provisions of Title 39, with respect to unclaimed vehicles, the tower shall receive no compensation for its services.

3. The fee for towing a vehicle shall include the service rendered from the scene where the vehicle is located to the storage area, and from the storage area to the curb line of the property on which is located the storage area. There

shall be no additional charge for towing a vehicle from the storage area to the curb line for the purpose of an owner of a vehicle towing the vehicle to a service station or other repair shop, or the person`s home or other location. The charge for towing includes any incidental and related costs, such as disconnecting and reconnecting a transmission. There shall be no additional charges for any other services, including, but not limited to waiting time, debris removal, winching and additional labor when routine towing services, as provided for by this chapter, are performed. The tower shall be responsible for the cleanup and disposal of motor vehicle fluids, in accordance with state law and accepted standards, and there shall be no additional labor charges for this service. The tower may charge the owner/operator for material used in the cleanup of motor vehicle fluids. The tower may charge a fee for lockout service, as well as roadside assistance, such as jump-starts, tire changes, and providing gasoline for vehicles that have run out of fuel.

B. Charges and Fees. The charges, fees and rates for vehicles to be towed and stored **shall be set periodically by resolution.**

C. Specialized Equipment. In cases where the tower must hire laborers or rent or utilize specialized equipment not specified in this chapter, all reasonable charges therefore shall be paid by the owner of the vehicle, after the owner of the vehicle or his agent has given his prior written consent thereto, except where said vehicle is deemed a hazard to health or safety, whereupon said vehicle will be removed by the direction of the Chief of Police or his designee, with the owner then being responsible for all personnel, equipment and labor costs. The Chief of Police or his designee shall determine the necessity for specialized equipment.

D. Unloading of Goods. In the event that it is necessary to unload a vehicle, which has been used for transportation of goods prior to towing, an agreement shall be reached between the tower and the owner of the vehicle or the owner`s agent or representative, as to the charge for said

service. No written agreement is necessary in an emergency situation, and the Chief of Police or his designee shall determine when an emergency exists.

**INTRODUCTION VOTE:**

NAME	Moved	Second	Yes	No	Abstained	Absent
Weiss	X		X			
Casey		X	X			
Lackey			X			

**ADOPTION VOTE:**

NAME	Moved	Second	Yes	No	Abstained	Absent
Weiss	X		X			
Casey		X	X			
Lackey			X			

I hereby certify that the foregoing is a true copy of an Ordinance introduced by the Borough Council of the Borough of Medford Lakes at a meeting held on the 8th day of July 2009. The public hearing and final adoption of this ordinance is scheduled for July 22, 2009.

\_\_\_\_\_  
 Mark J. McIntosh  
 Acting Borough Clerk

\_\_\_\_\_  
 Paul G. Weiss, Esq., Mayor

I hereby certify that the foregoing is a true copy of an Ordinance adopted by the Borough Council of the Borough of Medford Lakes at a meeting held on July 22, 2009

\_\_\_\_\_  
 Mark J. McIntosh  
 Acting Borough Clerk

\_\_\_\_\_  
 Paul G. Weiss, Esq., Mayor

**VOTE TO ADOPT ORDINANCE NUMBER 567 AS AMENDED**

Ayes: Weiss, Casey, Lackey

Nays: None

Ordinance is adopted

## CONSENT AGENDA RESOLUTIONS

*Mayor Weiss introduces and reads by title the pending consent agenda resolutions 117, 118 and 119, seconded by Councilman Casey.*

RESOLUTION NUMBER 117-09

A RESOLUTION AUTHORIZING THE ISSUANCE OF A RAFFLE LICENSE TO CONDUCT A LEGALIZED GAME OF CHANCE (OFF-PREMISE 50/50 CASH RAFFLE) TO THE MEDFORD LAKES EDUCATION FOUNDATION, INC.

RESOLUTION NUMBER 118-09

A RESOLUTION AUTHORIZING THE ISSUANCE OF A RAFFLE LICENSE TO CONDUCT A LEGALIZED GAME OF CHANCE (ON-PREMISE DRAW RAFFLE) TO THE MEDFORD LAKES EDUCATION FOUNDATION, INC.

RESOLUTION NUMBER 119-09

A RESOLUTION AUTHORIZING APPLICATION FOR AN ENERGY AUDIT

### RESOLUTIONS

*Mayor Weiss motions to untable Resolution Number 110-09, seconded by Councilman Lackey*

VOTE TO UNTABLE RESOLUTION NUMBER 110-09

Ayes: Weiss, Lackey, Casey

Nays: None

Resolution is untabled

*Mayor Weiss introduces Resolution Number 110-09 for adoption, seconded by Councilman Lackey*

*Clerk McIntosh explains the changes as requested by council to include the purpose.*

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*Mayor Weiss motions to table Resolution Number 120-09, seconded by Councilman Casey*

RESOLUTION NUMBER 120-09

A RESOLUTION AWARDED A PROFESSIONAL SERVICES CONTRACT TO WHITE & WILLIAMS FOR SERVICES RELATED TO THE FEMA APPEAL

VOTE TO TABLE RESOLUTION NUMBER 120-09

Ayes: Weiss, Lackey, Casey

Nays: None

Resolution is tabled

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*Mayor Weiss introduces Resolution Number 121-09 for adoption, seconded by Councilman Casey*

RESOLUTION NUMBER 121-09

A RESOLUTION AMENDING RESOLUTION NUMBER 82-09, A PROFESSIONAL SERVICES CONTRACT WITH PETER C. LANGE, JR., ESQ. FOR LEGAL SERVICES RELATED TO THE TEAMSTERS GRIEVANCE

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*Mayor Weiss introduces Resolution Number 122-09 for adoption, seconded by Councilman Lackey*

RESOLUTION NUMBER 122-09

A RESOLUTION AUTHORIZING THE CLERK TO DISPOSE OF SURPLUS PROPERTY

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*Mayor Weiss introduces Resolution Number 123-09 for adoption, seconded by Councilman Casey*

RESOLUTION NUMBER 123-09

A RESOLUTION ESTABLISHING FEES FOR TOWING

### **WORKSHOP ITEMS**

Canoe Portage:

*Manager has confirmed that the Medical Mission Sisters are not offering portage ability over their property. The Colony should approach the Borough with a plan/recommendation.*

Pine Barrens Festival:

*Councilman Casey motions to recommend residents Paul Zetts, Jr. and Margo Pellegrino for consideration to represent the Borough as outstanding community volunteer at the Church of the Holy Eucharist 2009 Pine Barrens festival, seconded by Councilman Lackey*

VOTE ON MOTION

Ayes: Casey, Lackey, Weiss

Nays: None

Motion carries

Ordinance Priority List:

*Mayor and Council discuss the following priority list for the Solicitor to follow:*

1. Driveway
2. Police Advisory
3. Underground Storage Tank (UST)
4. Fertilizer
5. Home Occupation
6. Commercial Vehicle Parking

### **PUBLIC COMMENT #2**

*Mayor Weiss opened meeting to public comment*

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Dave Feast, 246 Chippewa Trail: (comments in bullets)

- Is a dock/ramp a cost that the Borough should pay or the Colony?
- Spoke with the sisters regarding portage and they said they weren't aware of the proposed dock/ramp.
- Sisters felt misled when dam was built
- Dave offered to landscape the area free
- Medical Mission Sisters attorney was working on a hold harmless agreement for portage

***Councilman Casey stated that the Borough Engineer should weigh in on future plantings along the dam and also cuts in the railing.***

- Will provide the Borough Manger with the name of a broker to talk with regarding health insurance

Tina Growney, 38 Hahia Trail: (comments in bullets)

- How were Pine Barrens Festival nominees picked?

***Councilman Casey states Paul Zetts, Jr., was chosen for many years of volunteer service with Rotary and MLEMS and Margo Pellegrino for many years of volunteer service with Colony and her involvement in environmental issues that affect our waterways.***

Robert Hanold, 45 Natchez Trail: (comments in bullets)

- The driveway Ordinance was supposed to be much simpler. Why not just pass an Ordinance that requires all driveways to be permitted. Design standards are already in pre-existing Ordinances.

Joe Aromando, 285 Shingowack Trail: (comments in bullets)

- Current Ordinance doesn't calculate lot coverage issue, 90-day driveway moratorium ending no big deal, Council has shown the Planning Board that they are making an attempt to do this properly.
- Don't just Band-Aid the problems, let's take our time and do these Ordinances correctly
- Send the Underground Storage Tank (UST) draft Ordinance to Carl Pellegrino, Chairperson of Environmental Commission for review; he is very knowledgeable on the subject.
- I spoke to the Nuns. The Nuns say the Borough is the culprit. I don't want to see the Borough cut into the dam. Let's not act hastily on the portage issue, let's try to acquire a small strip of that property.

***Mayor Weiss stated that the Borough would fail in any condemnation process for the following reasons:***

- 1. No public purpose***
- 2. Even if the access were granted it would be a public access for anybody to use.***

- Joe said that doesn't scare him

***Mayor Weiss said that dues paying members of the Colony might be concerned, it might devalue their membership***

- We should tell the Nuns

***Mayor Weiss stated that he doesn't threaten Nuns***

- Joe stated its not a threat, the Lord givith and the Lord takith
- Joe stated that he grew up here. The ability to portage between the lakes had always been there. Integral part of Medford Lakes lifestyle.

***Mayor Weiss stated that a portage through the Medical Mission Sisters property never existed.***

- The borough screwed up the design, the ten million spent we lose, the docks and bleachers we don't have we lose, the ability to move from one lake to the other we lose, what do we get for our ten million dollars

**Mayor Weiss stated two lakes and two new dams**

- Those lakes now only benefit the people that live on them. I pay the same freight as them.
- You can offer them money to purchase. We don't have to be adversarial about it.

**Mayor Weiss stated that he did and their answer was no way, no how.**

**Councilman Lackey stated the Colony should be pursuing the portage**

**Mayor Weiss agreed and if they are successful, wonderful, great.**

- It's great that you can dismiss it, you live on the lake (directed at Mayor Weiss)

**Mayor Weiss said that if he was dismissing it he wouldn't have taken the time to talk to her (Sister Jane). Let's talk facts, don't make innuendoes.**

- This is the facts. When we were initially told about the dams, portage was promised, portage was to be planned. We were told we were getting five million for that dam. But I found out now that since we don't have project worksheets and no prior approval we are being declined what is due to us.

**Mayor Weiss states that his facts are wrong.**

- Joe asks Manager Urbanik to help clarify

**Manager Urbanik stated that FEMA has various reasons for denying certain portions and is true as it relates to the pump station**

**Mayor Weiss stated that FEMA disputes the cost of the dam. FEMA wanted a dam based on standards that our engineers all agree couldn't have been built in NJ. FEMA is relying on an engineer from Texas on how to build a dam in NJ. Those are the facts.**

- Review your minutes. Portage was part of the deal.
- If we are going to cut down the railing, and were going to put some big concoction there I want to see your kids get a canoe over it.

**Mayor Weiss asked whose kids?**

- Joe stated yours

**Mayor Weiss advised Mr. Aromando that he was out of order.**

## **ACTION ON CONSENT RESOLUTIONS**

**Mayor Weiss calls the vote for the Consent Agenda Resolutions**

**Resolution Number: 117-09**

**A RESOLUTION AUTHORIZING THE ISSUANCE  
OF A RAFFLE LICENSE TO CONDUCT A  
LEGALIZED GAME OF CHANCE (OFF-  
PREMISE 50/50 CASH RAFFLE) TO THE  
MEDFORD LAKES EDUCATION FOUNDATION,  
INC.**

**WHEREAS, the MEDFORD LAKES EDUCATION FOUNDATION, INC. has qualified in the prescribed manner and submitted an application to hold a Off-Premise 50/50 Cash Drawing on September 26, 2009; and**

**WHEREAS**, Council has reviewed the findings and determinations and concur that the **Off-Premise 50/50 Cash Drawing** is to be conducted according to law.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Medford Lakes, New Jersey that a license to conduct the aforementioned **Off-Premise 50/50 Cash Drawing Raffle** be and is hereby granted to the **Medford Lakes Education Foundation, Inc.**

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**Resolution Number: 118-09**

**A RESOLUTION AUTHORIZING THE ISSUANCE  
OF A RAFFLE LICENSE TO CONDUCT A  
LEGALIZED GAME OF CHANCE (ON-PREMISE  
DRAW RAFFLE) TO THE MEDFORD LAKES  
EDUCATION FOUNDATION, INC.**

**WHEREAS**, the **MEDFORD LAKES EDUCATION FOUNDATION, INC.** has qualified in the prescribed manner and submitted an application to hold a **On-Premise Draw Raffle** on September 26, 2009; and

**WHEREAS**, Council has reviewed the findings and determinations and concur that the **On-Premise Draw Raffle** is to be conducted according to law.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Medford Lakes, New Jersey that a license to conduct the aforementioned **On-Premise Draw Raffle** be and is hereby granted to the **Medford Lakes Education Foundation, Inc.**

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**Resolution Number 119-09**

**A Resolution Authorizing Application for an Energy Audit**

**WHEREAS**, the New Jersey Board of Public Utilities, Office of Clean Energy administers the Local Government Energy Audit Program (Program), an incentive program to assist local government agencies to conduct energy audits and to encourage implementation of energy conservation measures; and

**WHEREAS**, the Governing Body of the Borough of Medford Lakes has decided to apply to participate in the Local Government Energy Audit Program; and,

**WHEREAS**, the facilities to be audited are in New Jersey, are owned by the Borough of Medford Lakes, are served by a New Jersey regulated public utility, and that the Borough of Medford Lakes has not already reserved \$100,000 in the Program this year as of this application; and

WHEREAS, it is acknowledged that acceptance into the Program is dependent on the Scope of Work and cost proposal, and that Program rules will have to be met in order to receive incentive funds; and

WHEREAS, upon acceptance into the Program, the Borough of Medford Lakes will prepare Facility Data Forms and Scopes of Work for each facility to be audited, solicit quotations from the authorized contractors, and submit the Part B application; and

WHEREAS, the Borough of Medford Lakes understands that energy audit work cannot proceed until an Application Approval Notice is received from the Program; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Medford Lakes, approves the submission of an Application for participation in the Local Government Energy Audit Program of the New Jersey Board of Public Utilities; and

VOTE TO APROVE RESOLUTION NUMBERS 117-09, 118-09 and 119-09.

Ayes: Weiss, Casey, Lackey

Nays: None

Resolutions are approved.

### **RESOLUTIONS**

***Mayor Weiss calls the vote for Resolution Number 110-09***

#### ***RESOLUTION NUMBER 110-09***

***A RESOLUTION REQUESTING THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE IN THE BOROUGH OF MEDFORD LAKES BUDGET FOR THE YEAR 2009 TO INCLUDE A GRANT ENTITLED "GREEN ACRES GRANT" IN THE AMOUNT OF \$56,000.00 AND A LOAN ENTITLED "GREEN ACRES LOAN" IN THE AMOUNT OF \$168,000.00"***

***WHEREAS, NJS 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and,***

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

***WHEREAS, the Borough of Medford Lakes has received notice from the New Jersey Department Of Community Affairs, that it has been awarded funds from the Sharing Available Resources Efficiently fund and wishes to amend its 2009 Budget to include this amount as a revenue; and***

**WHEREAS**, the Borough would like to use these funds to assist in the acquiring of 32 Stokes Road, also known as Block #30068, Lot #2812.01 and #2812.02.

**NOW THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Medford Lakes, in the County of Burlington, State of New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget for the year 2009 in the sums of \$56,000 for a Green Acres Grant and \$168,000 for a Green Acres Loan, which are now available as a revenue from:

*Miscellaneous Revenues:*

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

*State and Federal Revenues Off-Set with Appropriations:  
Green Acres Grant/Loan*

**BE IT FURTHER RESOLVED** that a like sums of \$56,000 and \$168,000 be and the same are hereby appropriated under the caption of:

*General Appropriations*

*(a) Operations Excluded from 5% "CAPS"*

*Public and Private Program's Off-Set by Revenues  
Green Acres Grant/Loan;*

VOTE TO APPROVE RESOLUTION NUMBER 110-09

Ayes: Weiss, Lackey, Casey

Nays: None

Resolution approved.

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**Mayor Weiss calls for the vote on Resolution Number 121-09**

**Resolution Number: 121-09**

**A RESOLUTION AMENDING A PROFESSIONAL SERVICES CONTRACT FOR LEGAL SERVICES**

**WHEREAS**, the Borough of Medford Lakes has a need to acquire Legal Services pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, legal services resolution number 82-09 amended resolution number 81-09 from a not to exceed (NTE) cost of \$45,000 to a NTE cost of \$55,000; and

**WHEREAS**, there now exists in the Borough of Medford Lakes a need for additional Legal Services for the Borough in connection with pre-litigation of the Collective Bargaining Agreement with Wastewater Employees and Teamsters Union; and

**WHEREAS**, the certification of the availability of funds requirements per N.J.A.C. 5:30-5.4 has been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Medford Lakes, New Jersey hereby amends Resolution Number 82-09, a resolution amending

Resolution Number 81-09 appointing Peter C. Lange, Jr., Esq. as Borough Solicitor for a one year contract with additional appointment as legal counsel for certain pre-litigation for a cost NTE \$55,000 and is now amended to include appointment as Legal Counsel for pre-litigation matters related to the Collective Bargaining Agreement with Wastewater Employee for a fee NTE \$5,000.

The professional services contract is now amended to a NTE contract of \$60,000, an increase of \$5,000.

This contract is awarded without competitive bidding as a "Professional Service" under the provisions of the Local Public Contracts Law because it is a recognized profession licensed and regulated by the law.

A copy of this resolution shall be published as required by law.

VOTE TO APPROVE RESOLUTION NUMBER 121-09

Ayes: Weiss, Casey, Lackey

Nays: None

Resolution approved.

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*Mayor Weiss calls for the vote on Resolution Number 122-09*

### **Resolution Number 122-09**

#### **A Resolution Authorizing the Acting Clerk to Dispose of Surplus Property**

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WHEREAS, the Borough of Medford Lakes is the owner of certain surplus property which is no longer needed for public use; and

WHEREAS, the Borough Council are desirous of selling said surplus property in an "as is" condition without express or implied warranties.

NOW THEREFORE, be it RESOLVED by the Borough Council of the Borough of Medford Lakes, County of Burlington, State of New Jersey, as follows:

(1) The sale of the surplus property shall be conducted through GovDeals pursuant to State Contract A-70967/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals is available online at govdeals.com and also available from the Office of the Clerk of Medford Lakes.

(2) The sale will be conducted online and the address of the auction site is govdeals.com.

(3) The sale is being conducted pursuant to Local Finance Notice 2008-9.

(4) A list of the surplus property to be sold is as follows:

- One (1) 2000 Ford Expedition, Blue & White, Vin #1FMPU16L6YLC00378
- One (1) Vector Emergency Warning Light Bar
- One (1) Police Prisoner Type Vehicle Cage

(5) The surplus property as identified shall be sold in an “as-is” condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.

(6) The Borough of Medford Lakes reserves the right to accept or reject any bid submitted.

VOTE TO APPROVE RESOLUTION NUMBER 121-09

Ayes: Weiss, Lackey, Casey

Nays: None

Resolution approved.

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*Mayor Weiss calls for the vote on Resolution Number 123-09*

RESOLUTION NUMBER 123-09

A RESOLUTION ESTABLISHING FEES FOR TOWING

**WHEREAS**, Ordinance 567 establishes rules and regulations for the towing of vehicles in the Borough of Medford Lakes; and

**WHEREAS**, Ordinance 567 calls for the fees for towing to be set by resolution.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Medford Lakes, that the following schedule is the official fee schedule for the towing of vehicles for the Borough of Medford Lakes:

Section I: FEES FOR TOWING:

1. Application fee:
  - a) The application fee by a tower for a towing permit is \$100.00 and is valid for a three ( 3) year appointment. Additional three ( 3) year appointments can be made pursuant to Ordinance Number 567.

2. Flatbed and towing service pursuant to this chapter, which will include all towing/winching, labor and cleanup costs associated with removal of the vehicle:

a) \$120.00 for any towing service requested for automobiles, motorcycles, motor scooters, mopeds and trucks under 2.5 tons.

( b) \$150.00 for trucks 2.5 tons to 5 tons.

( c) \$200.00 for trucks over 5 tons, buses, tractor trailers, heavy equipment.

2. Winching service not associated with the towing of a vehicle.

(a) *Light Winches \$75.00 per unit per hour.*

( b) Medium winches \$90.00 per unit per hour.

( c) Heavy winches \$150.00 per unit per hour.

3. Mileage.

( a) There will be no charge for mileage for vehicles towed within the Borough limits.

( b) For vehicles towed to or from areas outside of the Borough limits, \$1.75 per mile.

4. Storage

( a) There will be no charge for storage for any vehicle removed within the first 24 hours of the time the vehicle is towed. For a vehicle towed on Saturday, there will be no charge for storage, if the tower elects not to have business hours on Sunday provided that the vehicle be removed by close of business on Monday.

( b) Automobiles, trucks under 2.5 tons, motorcycles, mopeds and motor scooters will be charged \$15.00 per business day for storage after the first 24 hours.

( c) Trucks 2.5 to 5 tons will be charge \$18.00 pr business day for storage after the first 24 hours.

( d) Trucks, tractor-trailers, buses and heavy equipment

over five tons, \$35.00 per business day after the first 24 hours.

( e) Fees billed to the Borough for vehicles removed at the Borough`s direction will be charged per vehicle. A limit of \$2.00 per day with a limit of \$400.00 per vehicle stored.

#### 5. Road Service

( a) vehicle lockout service; daytime rate \$35.00, nights, weekends, and holidays, \$45.00.

### SECTION II: Specialized Equipment.

In cases where the tower must hire laborers or rent or utilize specialized equipment not specified in this chapter, all reasonable charges therefore shall be paid by the owner of the vehicle, after the owner of the vehicle or his agent has given his prior written consent thereto, except where said vehicle is deemed a hazard to health or safety, whereupon said vehicle will be removed by the direction of the Chief of Police or his designee, with the owner then being responsible for all personnel, equipment and labor costs. The Chief of Police or his designee shall determine the necessity for specialized equipment.

### Section III: Unloading of Goods.

In the event that it is necessary to unload a vehicle, which has been used for transportation of goods prior to towing, an agreement shall be reached between the tower and the owner of the vehicle or the owner`s agent or representative, as to the charge for said service. No written agreement is necessary in an emergency situation, and the Chief of Police or his designee shall determine when an emergency exists.

VOTE TO APROVE RESOLUTION NUMBER 123-09

Ayes: Weiss, Casey, Lackey

Nays: None

Resolution approved.

*Mayor Weiss motioned to adjourn the public meeting, Seconded by Councilman Casey*

VOTE TO ADJOURN PUBLIC MEETING

Ayes: Weiss, Casey, Lackey

Nays: None

Motion passed

July 22, 2009 Minutes: MJM

