

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

Mayor Naughton called the Regular Meeting of the Mayor and Council of the Borough of Spring Lake to order at 7:00 P.M. with a moment of silent prayer. She then proceeded with the Pledge of Allegiance to the Flag. Mayor Naughton announced that the meeting is being held in accordance with the Open Public Meetings Act.

PRESENT: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley, Mayor Naughton

ABSENT: None

ALSO PRESENT: W. Bryan Dempsey, Borough Administrator/Deputy Clerk  
Joseph Colao, Esq., Borough Attorney  
Peter Avakian, Borough Engineer  
Dina M. Zahorsky, Borough Clerk

\*\*\*\*\*

**Proclamations, Presentations & Special Guests:**

a. Proclamation – Celebration of Life- Joseph Raffetto, Jr.

**CELEBRATION OF LIFE**

**JOSEPH RAFFETTO JR.**

WHEREAS, Joseph Raffetto Jr. was born in his family home on St. Clair Avenue, on August 31, 1929; and

WHEREAS, Joe attended the Spring Lake Public School, Asbury Park High School, and Seton Hall University; and

WHEREAS, Joe was an active member in the community, serving on the Board of Education and Preservation Alliance; and

WHEREAS, Joe and his wife, Theresa, raised five daughters; Laura, Linda, Theresa, Christina, and Valerie, and one son, Joseph; and

WHEREAS, Joe served as President of the St. Catharine’s Pro Life Committee, and was honored as a Champion For Life in 1997; and

WHEREAS, Joe has a long and distinguished career with Young & Rubicam in New York City, as the Operator of Wall Liquors and as the developer of the Fountain 9 Complex in Wall, NJ; and

WHEREAS, Joe was a Roman History buff and extremely proud of his Italian heritage. He loved his membership in the Italian Club of Ocean and The Amerigo Vespucci Society of Long Branch; and

WHEREAS, Joe was a founding member of the Spring lake Italian Festival Committee and generous supporter; and

WHEREAS, Joe was an avid golfer and runner, enjoying these activities well into his 70’s; and

NOW, THEREFORE IT BE RESOLVED, that Mayor Naughton and the Spring Lake Borough Council Spring Lake, celebrates the life of Joe Raffetto and we further dedicate the Spring Lake Italian Festival to his memory.

\*\*\*\*\*

**Workshop Discussions:** None

\*\*\*\*\*

**Approval of Minutes:**

Mr. Erbe offered a motion to approve the minutes of September 10, 2019, seconded by Mr. Drasheff.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: Mr. Judge

\*\*\*\*\*

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

**Public Comments:**

Dolores Cacace, 104 York Avenue would like the beach access on York Avenue to remove the steps. She has started a petition on behalf of dozens of residents who use the York Avenue beach access to remove all of the steps and change to a ramp. She continued that in Spring Lake they have twenty-six access areas, twenty-three of them have ramps. Ms. Cacace explained that the wood steps are now getting old and splintering. She continued that there are two families with special needs that signed the petition. She hopes to see this accomplished by next summer. Mr. Judge explained that this has been a recurring issue, he suggested the beach committee consider the petition and meet with Mr. Avakian and try to come up with a solution.

Mr. Avakian explained that prior to sandy, the beach access paths cut through the dunes, rather than going over. During the storm, the storm surge breached through these openings, and created a significant amount of damage. FEMA regulations and the State decided to make a substantial dune from the South End Pavilion to the south end of town. Mr. Avakian continued that where they could put ramps they did, but for the more difficult access areas they installed steps.

Mr. Frost asked if the grade of the ramp would be dangerous. Mr. Avakian indicated that it would not be ADA compliant and could be considered dangerous.

Lyle Marlowe, 110 Pennsylvania Avenue asked about the clock on Third Avenue. Mr. Dempsey explained that the power was turned on yesterday for the lights on Morris Avenue and the electric box that powers the clock should be done either today or tomorrow, it will definitely be done by the weekend.

Mayor Naughton explained that the power had to be turned off when they milled and paved Morris Avenue.

Mr. Marlowe asked when the Planning Board minutes are going to be on the website. Mr. Dempsey will check with the Planning Board secretary.

\*\*\*\*\*

**Council Comments & Staff Reports:**

Mayor Naughton reported that the Italian Festival is this weekend downtown on Saturday.

Mr. Judge reported that the beach is closing on September 29 at 6:00 pm, he reminded the public to empty out their lockers and beach boxes by then. He asked to please not remove any locker doors.

Mr. Frost thanked the residents that voiced their support of the project at Lake Como that was discussed at last meeting.

Mr. Sagui reported that they will be scheduling a water/sewer meeting.

Mr. Sagui then reported that the dunes need some pruning and weeding in areas of the beach front. He continued that they need to establish a maintenance program.

Mayor Naughton asked if they are allowed to prune and remove vegetation. Mr. Avakian explained that there are types of vegetation that can be pulled, they will have an environmental scientist take a look at it.

Mr. Judge agrees with Mr. Sagui.

Ms. Cacace agrees with Mr. Sagui and explained that there is poison ivy growing through the steps on York Avenue.

Mr. Marlowe asked if they still pull sand out from under the boardwalk. Mayor Naughton explained that they couldn't do it last year because they did not have a permit, but this year they have the

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

permit and will be doing it up to a certain elevation. Mr. Dempsey explained that they have to keep the sand at a certain elevation.

Ms. Whalley reported that she has the annual library report for 2018. She explained that the library is governed by a Board of Trustees. She continued that the municipality collects library taxes by State law. In Spring Lake, the library tax is so high because of the land values. Ms. Whalley explained that they collect between 1.3 and 1.4 million dollars per year and excess funds are returned to the Borough. She continued that the library budget is about \$340,000 per year to run library. Jim Stokes and Robbin Kirk worked together to submit forms to the State Library Board and are awaiting results within the next forty-five days, and hopes to see about \$2 million to go back to the Borough. She continued that one of the requirements is that they have a strategic plan as well as give an annual report. Ms. Whalley continued that they recently celebrated their 100<sup>th</sup> Anniversary, noting that the library was established by a group of women in 1919. Ms. Whalley thanked Mr. Stokes for working on the numbers. She continued that we are about one of five towns in the State that is fully funded. She explained that the library has been using the Duggan Building for their programs this year which has worked out well. Mayor Naughton explained that the library is here to help, and encouraged the public to use the library. Ms. Whalley added that they have spent a lot of time working on a five-year strategic plan. The plan includes; optimize digital assets, refocus collections, utilize space more, marketing plan, and programming.

\*\*\*\*\*

**Borough Engineer's Report:**

Mr. Avakian reported that on tonight's agenda they will be awarding contract for the 2019 Roadway Improvements Program, this program includes York, Tuttle, Salem, and Washington Avenues, for a variety of blocks and sections of roadway. They received bids and Fernandes was the lowest bidder, they had a total of five bids. He explained that work will begin soon but paving will not occur until the spring.

Mayor Naughton asked if this program has to do with Fifth Avenue. Mr. Avakian indicated no; these are the streets related to water/sewer improvements. He continued that before the end of the month they will go to the DOT for their review and then received authorization to advertise for bids. Mr. Avakian shared that he enjoys working in Spring Lake because he gets to rehabilitate historic landmarks such as the arches and lake platforms that have existed for hundreds of years along with unique park projects. Adding that more recently they got to design the improvement to Morris Avenue, to Mr. Avakian the entire look of Third Avenue has changed because of these improvements.

Ms. Whalley said that the BID has put together a twenty item punch list for Morris Avenue and asked if there is any update on the Divine Park Open Space Grant. Mr. Avakian explained that the application has already been submitted.

\*\*\*\*\*

**Borough Attorney's Report:** None

\*\*\*\*\*

**Borough Administrator's Report:**

Mr. Dempsey reported that on the agenda tonight there is a surf contest. This contest is the NSSA (National Scholastic Surf Association) which prepares the high school surfers for the State contest, which will be at the North End.

\*\*\*\*\*

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

**Business Items Under Consideration:**

**a. Brielle Fire Company No. 1 - Request Use of Beach Tractor** - Mr. Judge offered a motion to approve the request, seconded by Mr. Erbe. All in favor. None opposed.

**b. NSSA Surf Contest - September 29** - Mr. Judge offered a motion to approve the request, seconded by Mr. Erbe. All in favor. None opposed.

\*\*\*\*\*

**Ordinances for Introduction:** None

\*\*\*\*\*

**Ordinances for Adoption:**

Mr. Judge offered a motion to open the public hearing for Ordinance No. 2019-012, seconded by Mr. Erbe.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

**PUBLIC HEARING NOW OPEN**

Mayor Naughton explained that this ordinance is related to utility companies desiring to put small cell technology on existing poles and potentially new poles. She explained that this is difficult to control, as there was a Federal Communications Commission (FCC) ruling back in October 2018 that limited municipalities ability to control this.

Mr. Colao explained that this sets forth a procedure for cell carriers to obtain a right-of-way permit to install small cell equipment on existing utility poles. He added that to install a new pole, it requires Planning Board approval. Mr. Colao explained that this is the first step in putting a procedure in place.

Eugene Cramer, Belmar Resident, said that this is the best ordinance he has seen thus far regarding small cell equipment. He questioned the conditions listed under 330-72-iii, location and safety, specifically condition #3, stating that unless it is located on the opposite side of the street from the electric distribution system. He believes that this creates some practical difficulties because all of the small cell technology requires a power source, which if the power source is on the opposite side of the street, they would run wires overhead or underground, neither of which he believes the borough would like. Mr. Cramer suggested deleting this section. He also commented that condition #4 about pole placement. Compared to other small cell ordinances, they require between five-hundred to six-hundred-foot range within each other. Mr. Colao explained that #3 and #4 go together, that you cannot put a new pole on the same side of the street but it also has to be two hundred feet away from the existing pole. Mr. Colao thought the max distance between poles could be two hundred feet, but he will look into it.

Mayor Naughton thanked Mr. Cramer and explained that they want to follow the FCC ruling, but limit development at the same time.

Lyle Marlowe, 110 Pennsylvania Avenue believes they need to limit the equipment and shouldn't allow them to install small cell technology on the new light poles downtown, they should keep the aesthetic of the town. Mayor Naughton explained that this ordinance is in regards to utility poles only and not light poles.

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

Mr. Marlowe continued with cabinets, that they should not be allowed to put cabinets on Third Avenue because sidewalks are narrow already.

Mr. Colao explained that they do not have much leeway, continuing that this is not a land use ordinance, but the size of the equipment is under FCC rule and have been limited in what the Borough is allowed to limit. Mr. Colao explained that this ordinance is a balance between the most they can restrict because of current law; any changes could subject the Borough to being sued. Mayor Naughton read the October ruling and it strips away a lot of local control over this.

Mr. Dempsey added that they are focusing on Ocean Avenue and the beach, not necessarily in residential areas.

Mr. Marlowe thinks they will have to put in new poles, so they should change the requirement for poles. Mr. Colao explained that new poles require Planning Board approval.

Mr. Erbe explained that there are paragraphs within the ordinance about blending poles with cabinets so they are camouflaged.

Kelsey Pegler, 1701 Third Avenue asked about the sizing of the cabinets in the ordinance. He explained that 330-72 d (i) & (ii) explains that the cabinets are much larger than the antennas. He added that they know that in a few years this technology will advance and they will be everywhere. He asked if there is a way to push the utilities to utilize the smallest cabinets and antennas available. Mr. Dempsey explained that there is a lot of this technology already from Asbury Park to Long Branch along the beach. They have placed the technology on the light poles, they have larger bases that enclose the cabinets and the pole extends an extra three feet for the antenna. Mr. Dempsey continued that when this technology comes to Spring Lake, many of the light poles are not individually metered, which is required for small cells, so they will be camouflaging the cabinets within new poles.

Maria Mills, 700 Ocean Avenue, hopes that the Borough Council realizes the health risks and radiation with small cell technology. She explained that these towers release intense radiation, as a cancer patient for two years, she knows that too much radiation will kill.

Maria Ackerman, 700 Ocean Avenue has concerns similar to Ms. Mills but believes they are going to give more access to boaters and not the beach goers. She has never had a problem with cell phone reception on the beach. Her understanding is that they will be bombarded with this technology and asked to do everything possible to limit and potentially stop this technology.

Mr. Marlowe, 110 Pennsylvania Avenue asked what the fee is for applicants. Mr. Drasheff interpreted the ordinance that each right-of-way application is \$500.00 which covers five sites (poles). Mayor Naughton asked if the fee came from the FCC. Mr. Colao verified that it was and explained it is a reasonable standard fee.

Mr. Judge offered a motion to close the public hearing for Ordinance No. 2019-012, seconded by Mr. Erbe.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

26234

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

ABSTAIN: None

**PUBLIC HEARING NOW CLOSED**

Mr. Judge offered a motion to adopt Ordinance No. 2019-012, seconded by Mr. Erbe.

**ORDINANCE NO. 2019-012- AN ORDINANCE OF THE BOROUGH OF SPRING LAKE,  
COUNTY OF MONMOUTH NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 330  
ENTITLED "STREETS AND SIDEWALKS" BY ADDING ARTICLE VII ENTITLED "RIGHT-OF-  
WAY PERMITS."**

WHEREAS, the Borough of Spring Lake ("Borough") is aware that certain technological developments have made access to its Municipal Rights-of-Way desirable by certain telecommunications companies for the placement of small cell wireless facilities ("Small Cells"); and

WHEREAS, it is "axiomatic that municipal corporations are required to exercise ordinary care to maintain their streets and sidewalks...[n]or may a municipality in any way surrender or impair its control over the streets." McQuillan Mun. Corp. (3<sup>rd</sup> Ed), Section 30.73; and

WHEREAS, the Borough acknowledges that its streets "are used for the ordinary purposes of travel and such other uses as customarily pertain there-to which, in recent years, are numerous and various. It thus follows that these public ways must be kept free from obstruction, nuisances, or unreasonable encroachments which destroy, in whole or in part, or materially impair, their use as public thoroughfares." Id.; and

WHEREAS, the Borough has determined that its public Rights-of-Way, such as they are or may be, themselves constitute a valuable resource, finite in nature, and which exists as a common right of the public to pass and repass freely over and across said lands without unreasonable obstruction or interference, and which therefore must be managed carefully; and

WHEREAS, the Federal Telecommunications Act preserves local government's ability to "manage the public Rights-of-Way...on a competitively neutral and non-discriminatory basis." 47 U.S.C. 253(c); and

WHEREAS, the Federal Telecommunications Act preserves local government's authority over the, "placement, construction and modification of personal wireless service facilities." 47 U.S.C. 332(c)(7)(A); and

WHEREAS, the Federal Telecommunications Act makes it unlawful for local government to prohibit or have the effect of prohibiting the provision of personal wireless service. 47 U.S.C. 332(c)(7)(B)(i)(II); and

WHEREAS, the Federal Telecommunications Act provides that municipalities "shall not unreasonably discriminate among providers of functionally equivalent services;" 47 U.S.C. 332(c)(7)(B)(i)(I); and

WHEREAS, recent developments in wireless technology, specifically the development of 5G, involve the placement of Small Cells and Cabinets in the Municipal Right-of-Way. Fitzgerald, Drew Wireless Companies to Offer 5G Plans at Mobile Forum, Wall Street Journal (February 28, 2018); and

WHEREAS, New Jersey municipalities must give consent before a Small Cell, i.e. a small antenna, can be placed on existing poles pursuant to N.J.S.A. 48:3-19 and for the erection of new poles within the public Rights-of-Way pursuant to N.J.S.A. 48:17-10; and

WHEREAS, the Federal Communications Commission (FCC) has recently adopted an order entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment" WT Docket No. 17-79; WC Docket 17-84, which places a shot clock on municipal approval for the placement of Small Cells on Existing Poles and the placement of New Poles in the Municipal Right-of-Way; and

WHEREAS, the erection of New Poles and Ground Level Cabinets in the Municipal Right-of-Way raise significant aesthetic and safety concerns; and

WHEREAS, the FCC in its recent order provides that municipalities can impose aesthetic requirements on Small Cells where said requirements are: 1) reasonable; 2) no more burdensome than those applied to other types of infrastructure deployments; and 3) published in advance; and

WHEREAS, the FCC in its recent order further clarified what it considers "reasonable" aesthetic requirements by stating that "in assessing that this standard has been met, aesthetic requirements that are more burdensome than those the state or locality applies to similar infrastructure deployments are not

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

permissible, because such discriminatory application evidences that the requirements are not, in fact, reasonable and directed at remedying the impact of the wireless infrastructure deployment;" and

WHEREAS, the FCC's requirement that, in order to protect the aesthetics of the Borough's Municipal Right-of-Way, it must treat like infrastructure in a like manner, necessitates the introduction of broader aesthetic requirements that apply to all Poles and Antennas and Cabinets in the Municipal Right-of-Way and not just Small Cells; and

WHEREAS, the Borough has determined that the most efficient way to handle this process is to create a Right-of-Way Permit system for all new Poles, Cabinets and Antennas in the Municipal Right-of-Way; and

WHEREAS, the Borough's 2010 Master Plan Review raised concerns related to the negative aesthetic impacts of above ground utilities on the Borough; and

WHEREAS, to wit, Section 225-27(B) of the Code of the Borough of Spring Lake requires that all utility service to new developments must be underground; and

WHEREAS, in addition, Ground Level Cabinets attached to small cells trigger certain collocation requirements pursuant to Section 6409(a) of the Middle Class Tax Relief and Jobs Creation Act of 2012 which raises serious concerns as to the ability of local government to protect the public's interest in the Borough's rights-of-way when it comes to aesthetics and the ability of the public to pass and repass over same; and

WHEREAS, New Poles also raise concerns as to the public's interest in the Borough's rights-of-way about aesthetics and the public's ability to pass and repass over same; and

WHEREAS, New Poles and Ground Level Wireless Cabinets also raise concerns related to sight triangles and other safety related issues related to the use of roadways by the public; and

WHEREAS, the Federal Highway Administration has acknowledged this problem by stating, "[as] demand for the finite space in existing ROW increases, the difficulty and cost of adding new utility facilities and relocating existing utility facilities also increases. Just as significant is how utility service interruptions may add to public discontent with overall highway construction. It is therefore essential for planners, designers, and builders of street and highway projects to avoid unnecessary utility relocations..." Federal Highway Administration, Avoiding Utility Relocations, <https://www.fhwa.dot.gov/utilities/utilityrelo/2.cfm> (accessed March 26, 2019); and

WHEREAS, the Borough has determined that it is necessary to set forth clear standards in relation to the siting of Poles, Cabinets and Antennas for the benefit of its citizens and any utilities which use or will seek to make use of said Municipal Rights-of-Way.

FOR THE FOREGOING REASONS, it is hereby ordained by the Borough Council of the Borough of Spring Lake, in the County of Monmouth and State of New Jersey as follows:

Section 1. Chapter 330 entitled "Streets and Sidewalks" is hereby amended and supplemented through the addition of Article VII entitled "Right-of-Way Permits" as follows:

**330-69 DEFINITIONS**

- a. "Anticipated Municipal Expenses" mean the cost of processing an application for a Right-of-Way Permit including, but not limited to, all professional fees such as engineer and attorney costs to the Borough.
- b. "Cabinet" shall mean a small box-like or rectangular structure used to facilitate utility or wireless service from within the Municipal Right-of-Way.
- c. "Electric Distribution System" shall mean the part of the electric system, after the transmission system, that is dedicated to delivering electric energy to an end user.
- d. "Existing Pole" shall mean a pole that is in lawful existence within the Municipal Right-of-Way.
- e. "Ground Level Cabinets" shall mean a Cabinet that is not attached to an existing pole and is touching the ground.
- f. "Municipal Right-of-Way" shall mean the surface of, and the space above or below, any public street, road, place, public way or place, sidewalk, alley, boulevard, parkway, drive, and the like, held by the Borough as an easement or in fee simple ownership. This term also includes

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

rights-of-way held by the County of Monmouth where the Borough's approval is required for the use of same pursuant to N.J.S.A. 27:16-6.

- g. "Pole" shall mean a long, slender, rounded piece of wood or metal.
  - h. "Pole Mounted Antenna" shall mean a device that is attached to a Pole and used to transmit radio or microwave signals and shall include, but not be limited to, small cell equipment and transmission media such as femtocells, picocells, microcells, and outside distributed antenna systems.
  - i. "Pole Mounted Cabinet" shall mean a Cabinet that is proposed to be placed on an Existing or Proposed Pole.
  - j. "Proposed Pole" shall mean a Pole that is proposed to be placed in the Municipal Right-of-Way.
  - k. "Right-of-Way Agreement" shall mean an agreement that sets forth the terms and conditions for use of the Municipal Right-of-Way and includes, but is not limited to, municipal franchise agreements.
  - l. "Right-of-Way Permit" shall mean an approval from the Borough setting forth applicant's compliance with the requirements of this Chapter.
  - m. "Surrounding Streetscape" shall mean Existing Poles within the same right-of-way which are located within five hundred (500) feet of the Proposed Pole.
  - n. "Borough Council" shall mean the Borough Council of the Borough of Spring Lake.
  - o. "Utilities Regulated by the Board of Public Utilities" shall mean companies subject to regulation by the New Jersey Board of Public Utilities under Chapter 48 of the Revised Statutes.
  - p. "Utility Service" shall mean electric, telephone, or cable service.
- 330-70 POLE MOUNTED ANTENNAS, ACCESS TO RIGHT-OF-WAY, RIGHT-OF-WAY AGREEMENTS
- a. No person shall operate or place any type of Pole Mounted Antenna within the Municipal Right-of-Way without first entering into a Right-of-Way Agreement pursuant to the provisions of this Section.
  - b. The terms of said Right-of-Way agreement shall include:
    - i. A term not to exceed 15 (fifteen) years;
    - ii. Reasonable insurance requirements;
    - iii. Fine for unauthorized installations;
    - iv. A reference to the siting standards set forth in this Section; and
    - v. Any other items which may reasonably be required.
- 330-71 APPLICATION TO UTILITIES REGULATED BY THE BOARD OF PUBLIC UTILITIES, OTHER ENTITIES
- a. Notwithstanding any franchise or Right-of-Way Agreement to the contrary, all facilities proposed to be placed within the Municipal Right-of-Way by a Utility Regulated by the Board of Public Utilities and all other entities lawfully within the Municipal Right-of-Way shall be subject to the standards and procedures set forth in this Chapter and shall require Right-of-Way Permits for the siting of Poles, Antennas and Cabinets in the Municipal Right-of-Way.
- 330-72 RIGHT-OF-WAY PERMITS, SITING STANDARDS FOR POLES, ANTENNAS AND CABINETS IN THE RIGHT-OF-WAY
- a. No Pole, Antenna or Cabinet shall be installed within the Municipal Right-of-Way without the issuance of a Right-of-Way Permit.



**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

b. Pole Siting Standards

- i. Height. No Pole shall be taller than thirty-five (35) feet or 110% of the height of Poles in the Surrounding Streetscape, whichever is higher.
- ii. Distance from the curb line. No pole shall be farther than eighteen (18) inches from the curb line.
- iii. Location, Safety and Aesthetics. No Pole shall be erected in the Right-of-Way unless it:
  1. Is replacing an Existing Pole; or
  2. Approved pursuant to a land development application by the Borough's Planning Board pursuant a land use application; or
  3. Located on the opposite side of the street from the Electric Distribution System; and
  4. Is two hundred (200) linear feet from any other Existing Pole or Proposed Pole along the same side of the street; and
  5. Is not located in an area with Underground Utilities; and
  6. Does not inhibit any existing sight triangles; and
  7. Allows adequate room for the public to pass and re-pass across the Right-of-Way; and
  8. Is finished and/or painted so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties.
- iv. Any necessary equipment is permitted within a Pole where said Pole otherwise conforms with the standards set forth in Section 330-70(b).

c. Ground Level Cabinet Site Standards

- i. Ground Level Cabinets are prohibited in the Municipal Right-of-Way located in the R-1, R-2 and R-3 zones.
- ii. Ground Level Cabinets are permitted in the RC and GC zones provided that such Ground Level Cabinet:
  1. Is less than twenty-eight (28) cubic feet in volume; and
  2. Is finished and/or painted so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  3. Does not inhibit any existing sight triangles or sight distance; and
  4. Allows adequate room for the public to pass and repass across, along and through the Municipal Right-of-Way.

d. Pole Mounted Antenna and Pole Mounted Cabinet Siting Standards

- i. Pole Mounted Antennas are permitted on Existing Poles, provided that each Pole Mounted Antenna:
  1. Does not exceed three (3) cubic feet in volume; and
  2. Is finished and/or painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  3. Does not inhibit sight triangles; and

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

4. Allows adequate room for the public to pass and repass across the municipal right-of-way.
- ii. Pole Mounted Cabinets are permitted on Existing Poles, provided that each Pole Mounted Cabinet:
  1. Does not exceed sixteen (16) cubic feet; and
  2. Is finished and/or painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  3. Does not inhibit sight triangles; and
  4. Allows adequate room for the public to pass and repass across the municipal right-of-way.
- iii. The Borough may also require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any Pole Mounted Antenna or Pole Mounted Cabinet.

**330-73 APPLICATION PROCESS**

- a. Pre-Application Meeting- Prior to making a formal application with the Borough for use of the Municipal Right-of-Way, all applicants are advised to meet with the Zoning Officer to review the scope of applicant's proposal.
- b. The Borough Council shall, by resolution, approve or disapprove every Right-of-Way Permit application based on the recommendations provided to it pursuant to subsections (e) and (f) below.
- c. All applications made under this section shall be expedited so as to comply with the shot clocks set forth in the Federal Communications Commission Order titled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by the Removal of Barriers to Infrastructure Investment." WT Docket No. 17-79; WC Docket No. 17-84.
- d. Every application for a Proposed Pole made pursuant to this Chapter must include a stamped survey prepared by a New Jersey licensed surveyor demonstrating that any such Proposed Pole is located within the Municipal Right-of-Way. Any such application which does not include such a survey shall immediately be deemed incomplete.
- e. Proposed Poles and Ground Level Cabinets
  - i. The Zoning Officer shall review applications for the placement of Proposed Poles and Ground Level Cabinets within the Municipal Right-of-Way and advise the Borough Council of its recommendation to approve or disapprove same.
    1. If the Zoning Officer recommends a denial of an application, it shall set forth the factual basis for such a denial in writing.
- f. Pole Mounted Antenna and Pole Mounted Cabinets
  - i. The Zoning Officer shall review applications to place Pole Mounted Antenna and Pole Mounted Cabinets within the Municipal Right-of-Way and advise the Borough Council of his or her recommendation to approve or disapprove same.

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

1. If the Zoning Officer recommends a denial of an application, he or she shall set forth the factual basis for such a denial in writing.
- g. If the Borough Council denies any application made under this Section, it shall do so in writing and set forth the factual basis therefor.
- e. Waiver. The Borough Council may waive any siting standard set forth in Section 330-72 where the applicant demonstrates that strict enforcement of said standard:
  - i. Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. 253(a); or
  - ii. Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. 332(c)(7)(B)(i)(II); or
  - iii. Will violate any requirement set forth by the Federal Communications Commission Order entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment." WT Docket No. 17-79; WC Docket 17-84; or

**330-74 RIGHT-OF-WAY PERMIT FEES AND DEPOSIT TOWARDS ANTICIPATED MUNICIPAL EXPENSES**

- a. Every Right-of-Way Permit application must include a Right-of-Way Permit Fee in the following amounts:
  - i. One (1) to five (5) sites - \$500.00
  - ii. Each additional site - \$100.00
- b. Deposit Towards Anticipated Municipal Expenses
  - i. In addition to the Right-of-Way Permit Fee, the Zoning Officer may, in his or her own discretion, require the posting of a two thousand-dollar (\$2,000.00) Deposit Towards Anticipated Municipal Expenses related to an application made pursuant to this Chapter.
  - ii. Applicant's Deposit Towards Anticipated Municipal Expenses shall be placed in an escrow account. If said deposit contains insufficient funds to enable the Borough to perform its review, the Chief Financial Officer of the Borough shall provide applicant a notice of insufficient balance. In order for review to continue, the Applicant shall, within ten (10) days post a deposit to the account in an amount to be mutually agreed upon.
  - iii. The Chief Financial Officer shall, upon request by the Applicant after a final decision has been made by the Borough Commission regarding his or her pending Right-of-Way Permit application, refund any unused balance from applicant's Deposit Towards Anticipated Municipal Expenses.

**330-75 MISCELLANEOUS PROVISIONS**

- a. Any approval received pursuant to this Chapter does not relieve the applicant from receiving consent from the owner of the land above which an applicant's facility may be located as may be required under New Jersey law.
- b. Applicant must, in addition to receiving a Right-of-Way Permit, also receive all necessary road opening permits, construction permits and any other requirement set forth in the Code of the Borough of Spring Lake or state statutes.

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

- c. The Borough’s consent for use of County Roads, as required pursuant to N.J.S.A. 27:16-6, shall take the form of a Right-of-Way Permit subject to the standards and application process set forth in this chapter. No such applicant shall be required to enter into a Right-of-Way Agreement with the Borough.

Section 2. If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect upon final adoption and publication in accordance with law.

INTRODUCED: September 10, 2019

ADOPTED: September 24, 2019

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

**Consent Agenda:**

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-159-RESOLUTION - APPROVING RAFFLE LICENSE APPLICATION  
RA#25-2019 – JAMES F. ACKERMAN FEDERATION INC.  
ON-PREMISE DRAW**

WHEREAS, James F. Ackerman Federation Inc. has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA#25-2019, and

WHEREAS, said license has been forwarded to the Spring Lake Police Department for their review and no objection was received, and

WHEREAS, the appropriate fees and have been received and filed by the Borough Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that Raffle License No. RA#25-2019 be and the same is hereby approved as follows:

**NAME: James F. Ackerman Federation Inc.  
1340 Campus Parkway, Bldg C, Unit 4  
Neptune, NJ 07753  
Identification No.: 334-4-26818**  
**LOCATION: Spring Lake Bath & Tennis Club  
Ocean & Jersey Avenues, Spring Lake, NJ 07762**  
**DATE: October 21, 2019 from 12:00-3:00 pm**

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-160-RESOLUTION - APPROVING RAFFLE LICENSE APPLICATION  
RA#26-2019 – JAMES F. ACKERMAN FEDERATION INC.**

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

**ON-PREMISE 50/50**

WHEREAS, James F. Ackerman Federation Inc. has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA#26-2019, and

WHEREAS, said license has been forwarded to the Spring Lake Police Department for their review and no objection was received, and

WHEREAS, the appropriate fees and have been received and filed by the Borough Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that Raffle License No. RA#26-2019 be and the same is hereby approved as follows:

**NAME:** James F. Ackerman Federation Inc.  
1340 Campus Parkway, Bldg C, Unit 4  
Neptune, NJ 07753  
Identification No.: 334-4-26818

**LOCATION:** Spring Lake Bath & Tennis Club  
Ocean & Jersey Avenues, Spring Lake, NJ 07762

**DATE:** October 21, 2019 from 12:00-3:00 pm

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-161-RESOLUTION - APPROVING RAFFLE LICENSE APPLICATION  
RA#27-2019 – THE ASHLEY LAUREN FOUNDATION  
ON-PREMISE 50/50**

WHEREAS, The Ashley Lauren Foundation has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA#27-2019, and

WHEREAS, said license has been forwarded to the Spring Lake Police Department for their review and no objection was received, and

WHEREAS, the appropriate fees and have been received and filed by the Borough Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that Raffle License No. RA#27-2019 be and the same is hereby approved as follows:

**NAME:** The Ashley Lauren Foundation  
309 Morris Avenue, Suite D  
Spring Lake, NJ 07719  
Identification No.: 54-4-36747

**LOCATIONS:** The Breakers  
1507 Ocean Avenue, Spring Lake, NJ 07762 &  
Morris Avenue, Spring Lake, NJ 07762

**DATES:** September 26, 2019 from 6:00-9:00 pm  
September 28, 2019 from 12:00-5:00 pm

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-162-RESOLUTION - APPROVING RAFFLE LICENSE APPLICATION**

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

**RA#28-2019-- UNITED METHODIST WOMEN OF ST. ANDREWS -  
ON-PREMISE DRAW RAFFLE**

WHEREAS, United Methodist Women of St. Andrews has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA#28-2019, and

WHEREAS, said license has been forwarded to the Spring Lake Police Department for their review and no objection was received, and

WHEREAS, the appropriate fees and have been received and filed by the Borough Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that Raffle License No. RA#28-2019 be and the same is hereby approved as follows:

**NAME:** United Methodist Women of St. Andrews  
907 Fourth Avenue, Spring Lake, NJ  
Identification No.: 475-3-31760  
**LOCATION:** Wesley Hall  
Mercer Avenue, Spring Lake, NJ  
**DATE:** November 23, 2019 from 9:00 am to 2:00 pm

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-163-RESOLUTION – AUTHORIZING REFUND OF TAX OVERPAYMENT**

WHEREAS, taxes on the following property have been overpaid due to a homestead rebate credit certified by the Borough Tax Collector.

<u>OWNER</u>	<u>BLOCK</u>	<u>LOT</u>	<u>AMOUNT</u>
Gallucci, Joseph & Patricia 2 Seawood Way	135	10	\$500.00

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake refund in the total amount of \$500.00 is hereby approved for the aforementioned properties.

I, Frances Florentine, Tax Collector of the Borough of Spring Lake hereby certify the total amount of overpayments to be \$500.00.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-164-RESOLUTION – APPOINTMENT OF PART-TIME CROSSING GUARDS**

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake, that the following are hereby appointed as Part-time Crossing Guards at an hourly rate of \$14.00 as recommended by the Chief of Police, Edward Kerr:

Nicholas Steele  
Gabrielle Freeman

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

NAYS: None  
ABSENT: None  
ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-165-RESOLUTION – RELEASING STREET OPENING BOND  
334 PITNEY AVENUE, BLOCK 149 LOT 26**

WHEREAS, a street opening application and appropriate fees were received by the Borough of Spring Lake from The Shore Remodeling for the property located at 334 Pitney Avenue, Block 149, lot 26, and

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

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

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

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-166-RESOLUTION – RELEASING STREET OPENING BOND  
302 PENNSYLVANIA AVENUE, BLOCK 22 LOT 19**

WHEREAS, a street opening application and appropriate fees were received by the Borough of Spring Lake from Ken & Kathleen Tobey for the property located at 302 Pennsylvania Avenue, Block 22, lot 19, and

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

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

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

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

**Resolutions:**

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Erbe.

**R-19-167-RESOLUTION – AWARD OF CONTRACT #07-2019  
2019 ROADWAY IMPROVEMENTS PROGRAM**

WHEREAS, on August 29, 2019 bids were received for 2019 Roadway Improvements Program, and  
WHEREAS, five (5) packages were picked up and five (5) bids were received, and

**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

WHEREAS, Fernandes Construction, Inc., Monroe, NJ submitted the lowest responsible bid for 2019 Roadway Improvements Program at a total bid of \$538,334.18, and

WHEREAS, by letter dated September 10, 2019 from David Howarth, Project Engineer, the award of this contract is recommended to Fernandes Construction, Inc., and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Spring Lake that Contract #07-2019 is hereby awarded to Fernandes Construction, Inc., Monroe, NJ for 2019 Roadway Improvements Program at a cost not to exceed \$538,334.18.

I, Robbin Kirk, Chief Financial Officer of the Borough of Spring Lake hereby certify that funds are available for the award of the above contract from Bond Ord 2019-04 Acct#C-04-19-004-238 with an available balance of \$538,334.18.

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Judge offered the following resolution and moved its adoption, seconded by Mr. Drasheff.

**R-19-168-RESOLUTION – APPROVAL OF BILLS – SEPTEMBER 24, 2019**

WHEREAS, the Borough of Spring Lake received certain claims against it by way of vouchers received during the period ending September 24, 2019, and

WHEREAS, the Borough Finance Committee has reviewed said claims.

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

	<u>SUMMARY</u>
CURRENT FUND (1)	708,075.90
GRANT FUND (2)	6,825.00
GENERAL CAPITAL (4)	71,443.75
WATER/SEWER CAPITAL (8)	302,646.81
WATER/SEWER OPERATING (9)	32,183.40
DOG TRUST (13)	910.00
SPRING LAKE TRUST (15)	9,576.00
COAH TRUST (16)	364.80
RECREATION (25)	4,880.94
BEACH OPERATING (81)	60,083.18
POOL OPERATING (91)	15,527.71
<b>TOTAL</b>	<b>\$1,212,517.49</b>

ROLL CALL:

AYES: Mr. Drasheff, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

NAYS: None

ABSENT: None

ABSTAIN: Mr. Erbe

\*\*\*\*\*

**Public Comments:**

Kelsey Pegler, 1701 Third Avenue explained that last Friday they had a fire at the home they are renovating on Third Avenue. He thanked the neighbor, Alex King, who called in the fire, Sean Duggan, the responding Police Officer along with his partner, and the Spring Lake Fire Department.



**BOROUGH OF SPRING LAKE  
MAYOR AND BOROUGH COUNCIL  
REGULAR MEETING  
SEPTEMBER 24, 2019**

It was a dangerous situation that saved the building. He continued that this easily could have been a total loss. He shared his appreciation of the Police Department and Fire Department.

\*\*\*\*\*

**Executive Session:** None

\*\*\*\*\*

**Adjournment:**

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

ROLL CALL:

AYES: Mr. Drasheff, Mr. Erbe, Mr. Judge, Mr. Frost, Mr. Sagui, Ms. Whalley

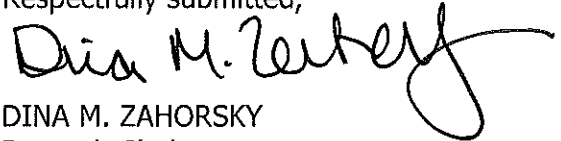
NAYS: None

ABSENT: None

ABSTAIN: None

Time of Adjournment: 8:08 P.M.

Respectfully submitted,



DINA M. ZAHORSKY  
Borough Clerk

Approved at a meeting:     October 8, 2019