

CAUCUS MEETING
February 7, 2019

A REGULAR SCHEDULED CAUCUS MEETING of the Mayor and Council of the Borough of Carlstadt was held in the Caucus Room of the Borough Hall, 500 Madison Street, Carlstadt, New Jersey on Thursday, February 7, 2019 at 7:05 P.M.

Council President Richard Bartlett asked Claire Foy, Borough Clerk to call the roll: Councilmen David Stoltz, Richard Bartlett, James Lenoy, Joseph Emerson and William Roseman were present. Councilman Robert Zimmermann arrived at 8:40 P.M. and Mayor Craig Lahullier was absent.

Council President Bartlett led all present in the Pledge of Allegiance to the Flag.

Council President Bartlett – This meeting has been called pursuant to the Open Public Meetings Law and in accordance with Section 5 of the Open Public Meetings Act, adequate notice of this meeting having been provided in the annual notice schedule which contained the time, date and location of the meeting, copies of which were sent and advertised in the following official newspapers of Carlstadt: The Record on January 5, 2019 and the Herald News on January 5, 2019 a copy of which is on the Bulletin Board in the Borough Hall and a copy on file in the office of the Borough Clerk.

Robert Ceberio of RCM Ceberio LLC read his report for the month and a copy is on file in the office of the Borough Clerk.

Gregory Polyniak of Neglia Engineering read his report for the month regarding projects that are being done in the Borough of Carlstadt and a copy is on file in the office of the Borough Clerk.

A resident of 611 Fifth Street asked when Fifth Street is going to be repaved. Gregory Polyniak said the target date would be in the Spring. She mentioned how people speed down the street. She was wondering if speed bumps could be put in. Councilman Roseman said this was discussed years ago and that they cause noise in front of the houses.

Councilman Stoltz made a motion to have the police to do a survey on Fifth Street, seconded by Roseman, unanimous on call of roll of those present.

CONSENT AGENDA
RESOLUTION NO. 2019-36

WHEREAS, Thomas J. Ondrof has notified the Borough of Carlstadt of his intent to retire from the position of Driver for the Department of Public Works effective December 31, 2019; and

WHEREAS, pursuant to the terms and conditions set forth in the attached letter dated December 13, 2018 has been granted terminal leave of nine (9) months in recognition of his 25 years of dedicated service to the Borough of Carlstadt.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Carlstadt, Bergen County, New Jersey that the retirement of Borough of Carlstadt DPW Driver Thomas J. Ondrof effective December 31, 2019, be and hereby is accepted.

AND, BE IT FURTHER RESOLVED that consistent with attached letter dated December 13, 2018 and subject to the terms and conditions current DPW Contract, Article XIX, Paragraph C, the Payroll Clerk and Chief Financial Officer are hereby directed and authorized to pay to Thomas J. Ondrof an amount equal to nine (9) months' salary, which includes all allotted time regardless of nature, together with any other amounts that may be due to him upon separation from service.

AND, BE IT FURTHER RESOLVED that in recognition of his dedicated service to the Borough in excess of 25 years, the Mayor and Council approve and authorize continuation of medical benefits for Thomas J. Ondrof and his wife, Diane, as set forth in Article XVII, Paragraph D of the current DPW Contract.

RESOLUTION NO. 2019-50

WHEREAS, the Borough of Carlstadt operates a street sweeper Monday, Tuesday, Thursday and Saturday to clean the Borough's streets; and

WHEREAS, the Borough of Wallington has a need for street cleaning services however lacks the equipment to conduct those operations; and

WHEREAS, the Borough of Wallington and the Borough of Carlstadt believe that their citizens and communities would be best served financially and operationally through the continuation of the shared services agreement for street sweeping services; and

WHEREAS, the continuation of the shared services agreement would not detract from servicing the needs of Carlstadt's citizens due the street sweeper being operated in Wallington on days it is not scheduled for operation; and

WHEREAS, the Borough of Carlstadt's need for the use of the street sweeper will supersede any scheduled operation in Wallington; and

WHEREAS, the continuation of the shared services agreement with Wallington initiated in 2016 would provide continued revenue for the Borough of Carlstadt.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Carlstadt, Bergen County, New Jersey, approve the continuation of the shared services agreement entered into in 2016 pursuant to NJSA40A:65-5 with the Borough of Wallington to continue to provide street sweeper services at the rate of \$360.00 per day for the year 2019.

BE IT FURTHER RESOLVED that this Resolution shall take effect and be in force from and after the earliest date allowed by law.

RESOLUTION NO. 2019-51

**DECLARATION OF ZONING RESTRICTION
RE: BLOCK 124, LOTS 1, 2, 3, 4 AND 5**

WHEREAS, the Borough of Carlstadt has ownership of certain properties designated as Block 124, Lots 1, 2, 3, 4, and 5 on the Official Tax Map of the Borough of Carlstadt located within the commercial/industrial portion of the Borough; and

WHEREAS, under a previously entered lease agreement with KDC Solar Carlstadt, LLC, (“KDC”), the Borough has authorized and consented to KDC seeking zoning approval from the NJSEA for installation of a solar energy facility to be located on the property; and

WHEREAS, the Borough, is required to establish the Property as a single “Zoning Lot of Record” as a condition of the NJSEA approval as provided for in N.J.A.C. 19:4-3.22.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Carlstadt, Bergen County, New Jersey, that the Mayor and Borough Clerk are hereby authorized to execute the attached Declaration of Zoning Restriction for Block 124, Lots 1,2,3,4 and 5 and return it to KDC for forwarding to the NJSEA for execution and thereafter attend to the recording of same.

RESOLUTION NO. 2019-52

WHEREAS, Title 40A:4-59 of the New Jersey Statutes provides that should it be necessary, during the first three months of any fiscal year, the amount of any appropriation reserve for the immediately preceding fiscal year is insufficient to pay the claims authorized or incurred during said preceding year which were chargeable to said appropriation, and there shall be an excess in any appropriation reserve over and above the amount deemed to be necessary to fulfill its purpose, the Governing Body may, by resolution adopt (by not less than 2/3 vote of the full membership thereof), transfer the amount of such excess of those appropriation reserves deemed to be insufficient.

NOW, THEREFORE BE IT RESOLVED, by the Governing Body of the Borough Carlstadt that the Borough Treasurer be and is hereby authorized to make the following transfer of the 2018 appropriation reserves:

	IN	OUT
Fire Department		
Other Expenses	\$ 32,000.00	

Zoning Official		
Salaries & Wages		\$ 5,000.00
Legal Services		
Other Expenses	4,000.00	
A&E		
Other Expenses		4,000.00
Fire Safety		
Salaries & Wages		7,000.00
Other Expenses		3,000.00
Finance		
Salaries & Wages		4,000.00
Other Expenses	4,000.00	
Unemployment Ins.		
Other Expenses		9,000.00
Friendship Club		
Other Expenses		8,000.00
TOTAL	\$40,000.00	\$40,000.00

RESOLUTION NO. 2019-53

RESOLUTION TO ADVERTISE FOR BIDS

BE IT RESOLVED by the Mayor and Council of the Borough of Carlstadt, Bergen County, New Jersey upon the recommendation of the Borough Engineer, Gregory J. Polyniak, Neglia Engineering Associates that the plans & specifications for:

**BID FOR GARBAGE DISPOSAL
BOROUGH OF CARLSTADT
BERGEN COUNTY, NEW JERSEY**

are hereby approved and the Borough Clerk is hereby authorized to advertise for bids. This Resolution to take effect immediately.

(REMOVED FROM CONSENT AGENDA)

RESOLUTION NO. 2019-54

**RESOLUTION AUTHORIZING THE EXECUTION
OF A SHARED SERVICES AGREEMENT BETWEEN THE
BOROUGH OF CARLSTADT, EAST RUTHERFORD AND
RUTHERFORD PERTAINING TO SHARED
CONSTRUCTION CODE OFFICIAL SERVICES**

WHEREAS, the Boroughs of Rutherford and Carlstadt have a need for a Construction Official;
and

WHEREAS, the Borough of East Rutherford has the personnel to meet that need; and

WHEREAS, the Boroughs of East Rutherford, Rutherford and Carlstadt have agreed to enter into a Shared Services Agreement setting forth the terms and conditions pursuant to which East Rutherford will provide that service to Rutherford and Carlstadt (the “Shared Services Agreement”); and

WHEREAS, the form of Shared Services Agreement to be entered into is on file in the Borough Clerk’s Office and may be inspected by members of the public during normal business hours; and

NOW, THEREFORE, BE IT RESOVLED by the Mayor and Council of the Borough of Carlstadt, as follows:

1. The Mayor is authorized to execute, and the Clerk is authorized to attest, to the Shared Services Agreement.
2. A copy of said Shared Services Agreement will be kept on file within the Office of the Borough Clerk.
3. Certified copies of this resolution shall be forwarded to New Jersey Department of Community Affairs/DLGS, the East Rutherford Borough Clerk, the Rutherford Borough Clerk and any other interested parties.

AND, BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

RESOLUTION NO. 2019-55

**RESOLUTION APPROVING ADDITIONAL BUDGET FOR THE
FIRM OF REMINGTON VERNICK IN CONNECTION WITH
PREPARATION OF COAH DOCUMENTS**

WHEREAS, the Governing Body previously retained the firm of Remington & Vernick, 232 Kings Highway East, Haddonfield, NJ 08083, to prepare the Borough's COAH Housing Element and Fair Share Plan with an original budget not to exceed \$22,800.00; and

WHEREAS, the original budget was expanded in May 2016 to include an additional \$4,960.00, in August 2017 to include an additional \$5,000.00, in November 2018 to include an additional \$5,200, and July 2018 to include an additional \$5,400.00 for completion of documents related to the borough's on-going court proceedings; and

WHEREAS, the original and extended budgets as approved have been exhausted, but additional work is required by way finalizing and presenting the final documents and there also remains the potential for the need to participate in on-going court proceedings; and

WHEREAS, by letter dated February 4, 2019, Remington & Vernick outlined the work completed and reported work that remains to be completed together with a request for an additional amount of \$5,500.00 to be budgeted for the finalization and presentation of the documents; and

WHEREAS, the Governing Body is desirous of Remington & Vernick fulfilling the original purpose of its retention with regard to preparation of the Borough's COAH Housing Element and Fair Share Plan; and

WHEREAS, the Chief Financial Officer has certified that funds are available to pay the anticipated amount of the compensation, fees and disbursement for these services.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Carlstadt, Bergen County, New Jersey, hereby authorizes and approves the increased budget amount of \$5,500.00 to Remington & Vernick for such purposes;

Certification as to the availability of funds:

The Chief Financial Officer/Treasurer hereby certifies that sufficient funds are available to pay the anticipated amount of the fees and disbursement for these services.

RESOLUTION NO. 2019-56

BE IT RESOLVED by the Mayor and Council of the Borough of Carlstadt that the Carlstadt PTA, 550 Washington Street, Carlstadt, NJ 07072 be granted permission to hold a raffle at Lindbergh Field, 554 Interstate Place, Carlstadt, NJ 07072 on Saturday, April 27, 2019 for which the application, fee and findings and determination sheet shall be forwarded to the Legalized Games of Chance Control Commission

RESOLUTION NO. 2019-57

WHEREAS, Pegasus Transport Service, Inc. has made application to the Borough of Carlstadt for one additional limousine license; and

WHEREAS, the application has been filed together with the requisite fee, and proof of insurance and Power of Attorney as required under N.J.S.A. 48:16-14 and 16 and vehicle and driver information as required by the ordinance to the satisfaction of the Borough Clerk.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Carlstadt, County of Bergen, State of New Jersey that the application of Pegasus Transport Service, Inc. to operate one additional limousine license at 463 Barell Avenue, Carlstadt, NJ 07072 be and hereby is approved for VIN#01351.

AND, BE IT FURTHER RESOLVED that the Borough Clerk is hereby authorized and directed to issue the license to operate one additional limousine at the above referenced location for the period of one year, commencing February 8, 2019 and ending on February 8, 2020 and a Certificate of Compliance with the requirements of N.J.S.A. 48:16-14 and 16, through the period indicated on the proof of insurance as submitted with the application.

RESOLUTION NO. 2019-58

WHEREAS, Pegasus Transport Service, Inc. has made application to the Borough of Carlstadt for the renewal of five (5) limousine licenses; and

WHEREAS, the renewal application has been filed together with the requisite fee, and proof of insurance and Power of Attorney as required under N.J.S.A. 48:16-14 and 16 and vehicle and driver information as required by the ordinance to the satisfaction of the Borough Clerk.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Carlstadt, County of Bergen, State of New Jersey that the application of Pegasus Transport Service, Inc. to renew five (5) limousine licenses at 463 Barell Avenue, Carlstadt, NJ 07072 be and hereby is approved for Vin #40606, #05612, #20964, #06181 and #22114.

AND, BE IT FURTHER RESOLVED that the Borough Clerk is hereby authorized and directed to issue the renewal of the five (5) limousine licenses at the above referenced location for the period of one year, commencing February 8, 2019 and ending on February 8, 2020 and a Certificate of Compliance with the requirements of N.J.S.A. 48:16-14 and 16, through the period indicated on the proof of insurance as submitted with the application.

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Council President Bartlett asked did everybody read over Resolution No. 2019-54 for Shared Services Agreement between the Borough of Carlstadt, East Rutherford and Rutherford pertaining to Shared Construction Code Official Services. Councilman Roseman said he has not read it. He asked if we can remove the resolution. Council President Bartlett said we will hold off on Resolution No. 2019-54.

Council President Bartlett entertained a motion to approve the Consent Agenda and remove No. 2019-54. On motion by Emerson, seconded by Roseman, unanimous on call of roll of those present.

**CONSIDERATION OF ORDINANCES
FINAL READING**

ORDINANCE NO. 19-2

AN ORDINANCE AMENDING CHAPTER VI “LICENSING – GENERAL”, SECTION 6-8 “MUSIC PLAYING OR PERFORMANCE” OF REVISED GENERAL ORDINANCES OF THE BOROUGH OF CARLSTADT, 2002

Council President Bartlett entertained a motion to open this ordinance to a hearing of citizens. On motion by Emerson, seconded by Stoltz, unanimous on call of roll of those present. Council President Bartlett asked if any citizen wished to be heard on this ordinance. Council President Bartlett said to let the record show no one wished to be heard on this ordinance. Council President Bartlett entertained a motion to close this ordinance to a hearing of citizens. On motion by Lenoy, seconded by Roseman, unanimous on call of roll of those present.

RESOLUTION NO. 2019-58-A

BE IT RESOLVED that the ordinance entitled:

AN ORDINANCE AMENDING CHAPTER VI “LICENSING - GENERAL”, SECTION 6-8 “MUSIC PLAYING OR PERFORMANCE” OF REVISED GENERAL ORDINANCES OF THE BOROUGH OF CARLSTADT, 2002

heretofore introduced, does now pass on final reading and the Borough Clerk is hereby authorized and directed to publish said ordinance according to law.

On motion by Stoltz, seconded by Emerson, unanimous on call of roll of those present.

FINAL READING

ORDINANCE NO. 19-3

BOROUGH OF CARLSTADT
CALENDAR YEAR 2019

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

Council President Bartlett entertained a motion to open this ordinance to a hearing of citizens.
On motion by Lenoy, seconded by Emerson, unanimous on call of roll of those present.
Council President Bartlett asked if any citizen wished to be heard on this ordinance.
Council President Bartlett said to let the record show no one wished to be heard on this ordinance.
Council President Bartlett entertained a motion to close this ordinance to a hearing of citizens.

On motion by Emerson, seconded by Stoltz, unanimous on call of roll of those present.

RESOLUTION NO. 2019-58-B

BE IT RESOLVED that the ordinance entitled:

BOROUGH OF CARLSTADT
CALENDAR YEAR 2019

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMIT AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

heretofore introduced, does now pass on final reading and the Borough Clerk is hereby authorized and directed to publish said ordinance according to law.

On motion by Emerson, seconded by Lenoy, unanimous on call of roll of those present.

Council President Bartlett entertained a motion to ratify flowers for the family of Barbara Gumbman.
On motion by Stoltz, seconded by Lenoy, unanimous on call of roll of those present.

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After a lengthy discussion, Council President Bartlett entertained a motion to award the Graycliff Restaurant in Moonachie, NJ the 2020 Fire Department Dinner. On motion by Emerson, seconded by Lenoy, unanimous on call of roll of those present.

COUNCILMAN RICHARD BARTLETT

He brought up the Fire Department cars. He spoke to Ken Schwarz, Fire Department Mechanic and he spoke to the Police Chief. One of the vehicles that is being removed from the Police Department is a Crown Victoria and it has been up on a lift in the garage for a period of time now. The other car is what Detective Sanzari is using. Ken says the Detective vehicle has over 100,000.00 miles on it and the transmission is slipping. To replace a transmission would be three or four thousand dollars. Plus the Fire Department would have it striped to say Carlstadt Fire Department. It would not have to be painted and could stay black. We would just put a radio in it. He doesn't know if they want to do that. If they scrap it, it would cost \$1,000.00. Do we want to put all that money into this car or put a Jasper motor in the Suburban. That car has 124,000.00 miles on it. This car would be used for the men going back and forth to school. Councilman Bartlett said he talked to Fire Chief Riveros last night and he is looking at the next size up from a minivan. The State contract price is about \$22,000.00. He doesn't know how everyone feels about purchasing a new vehicle.

COUNCILMAN WILLIAM ROSEMAN

He had nothing to discuss at this time.

COUNCILMAN JAMES LENOY

He had nothing to discuss at this time.

COUNCILMAN JOSEPH EMERSON

He had nothing to discuss at this time.

COUNCILMAN DAVID STOLTZ

He had nothing to discuss at this time.

**EXECUTIVE SESSION MEETING ACT
RECESS INTO CLOSED SESSION**

WHEREAS, it is necessary for the Governing Body of the Borough of Carlstadt, to conduct an executive session closed to the public in order to discuss one or more of the following subjects: property and personnel.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Carlstadt hereby moves to go into executive session in accordance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et. Seq. for the purpose of discussing one or more of the following subjects: property and personnel.

AND, BE IT FURTHER RESOLVED that the public will be informed either later this evening after reconvening the public meeting or at a future public meeting, said date is not predictable at the present time.

AND, BE IT FURTHER RESOLVED that the matters discussed in and minutes of the closed session shall be disclosed to the public when the reason for confidentiality no longer exists.

Council President Bartlett entertained a motion to go into closed session at 8:00 P.M. On motion by Roseman, seconded by Lenoy, unanimous on call of roll of those present.

The meeting went back into open session at 10:50 P.M. with the following members in attendance: Councilmen Zimmermann, Stoltz, Bartlett, Lenoy, Emerson and Roseman.

Council President Bartlett entertained a motion to approve the senior bus for March 20, 2019 for the Carlstadt Senior Friendship Club anniversary party at Al Di La in East Rutherford, NJ. On motion by Stoltz, seconded by Emerson, unanimous on call of roll.

Council President Bartlett said we have correspondence from David Cabri to remove him from the LOSAP Program. On motion by Stoltz, seconded by Emerson, unanimous on call of roll.

**CONSIDERATION OF ORDINANCES
FINAL READING**

ORDINANCE NO. 19-1

AN ORDINANCE AMENDING CHAPTER II "ADMINISTRATION," OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF CARLSTADT, 2002, CREATING AND ESTABLISHING THE POSITION OF OPERATIONS MANAGER IN AND FOR THE DEPARTMENT OF PUBLIC WORKS OF THE BOROUGH OF CARLSTADT.

Council President Bartlett entertained a motion to open this ordinance to a hearing of citizens. On motion by Roseman, seconded by Emerson, unanimous on call of roll.

Council President Bartlett asked if any citizen wished to be heard on this ordinance. Council President Bartlett said to let the record show no one wished to be heard on this ordinance. Council President Bartlett entertained a motion to close this ordinance to a hearing of citizens. On motion by Zimmermann, seconded by Lenoy, unanimous on call of roll.

The Borough Clerk received Ordinance No. 19-1 on January 28, 2019 unsigned along with a letter from Mayor Lahullier which stated:

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It is my desire to veto this Ordinance for the following reasons:

1. It includes an amendment which appears at Subparagraph 2-20.4 b. that is contrary to past practice, contrary to the benefit of having an independent, neutral department to serve the needs of several departments, serves to undermine the ability of other department heads to have their needs met, may offend the existing bargaining unit contract with the CDPWBA, imposes requirements on a single employee different than other similarly situated employees, is generally unnecessary, duplicative, imprudent and ill-advised.
2. The Mechanic has always been a separate, stand-alone department with its own budget and it is my desire as Mayor to have it remain as such under my administration.
3. The Mechanic is also Borough's Fleet Coordinator and has not only the obligation, but also the expertise, training and technical ability to evaluate the needs of the borough as related to motor vehicles as well as other apparatus and equipment.
4. It is the duty of the Mechanic to assess the needs of all Borough departments independently with neutrality and to prioritize those needs based on necessity of continuous operations within our emergency services departments, Police, Fire, EMS and DPW receiving the highest priority in that order over the needs of other borough vehicles or equipment. Accordingly, it would be inappropriate to put any other department head in charge of the Mechanic to avoid preference being given to that individual's department, or alternatively, in order to avoid scrutiny in that regard, put other department needs before their own department.
5. The Mechanic necessarily needs to consider the availability of parts, length of time to complete a repair, complexity of the job, available budget, and other pending competing needs in scheduling the order in which work can be completed. He is the best person to coordinate the work load to be accomplished since he alone will be performing the work. He should do so without oversight or interference by anyone not possessing the equivalent expertise, training or technical ability.
6. To include the position of Mechanic under the jurisdiction of the DPW Director may require that the position be included in the Carlstadt Department of Public Works contract as are all other Divisions under similar supervision. That would require negotiation and approval from the membership of the CDPWBA to add a Division of Mechanic to the contract. The current contract term is through December 31, 2020 so to do that at this time would require re-opening the contract, which is not recommended. If at the next negotiation there is a desire to explore such an amendment, and should it be accepted and approved, the Mechanic would then be entitled to all rights and benefits afforded to all other members of that negotiating unit. However, it would be reasonable to believe that the position of Mechanic has intentionally not been included so as to avoid preferential treatment to the Department of Public Works vehicle needs over any other Borough department.

The position of Mechanic needs to be independent and neutral and exercise his duties without undue influence or interference by any department head and it should remain that way.

7. The Mechanic has routinely contributed more than the required hours of service then required by any particular set hours of operation, including weekend work so as to avoid interruptions that occur during regular hours of operation of other departments. The workload as mentioned in the preceding paragraph is dependent on a number of variables and he is wholly capable of setting the order of his workload. As a non-exempt salaried employee, the Mechanic is entitled to the overtime premium as set forth in the Borough Policy Manual at section I-8.4 for all hours in excess of forty (40) hours in a workweek for the first 12 hours, with hours Beyond 12 hours compensated at straight time. Shifting work to weekend hours may correspondingly reduce the number of hours worked during the week to remain within the 40 hours per week required of the position.
8. The proposed amendment is unnecessary, duplicative and could potentially create conflict with the individual serving as Personnel Officer who is charged with the duty to insure that borough personnel are in compliance with work schedules, timekeeping, and adherence to vacation/sick time allowances as set for in the Borough's Policy Manual. And, to identify and document deviations and/or violation of those policies and procedures and forward them to the Mayor and Council through the Chairman of the Personnel Committee for review and action, if necessary and warranted. See Code Section 2-41.2 (c) and (d).
9. All employees of the Borough receive an annual allotment of paid time off that they have available as they see fit. No other employee, hourly and part-time, is restricted in their use thereof. Accordingly, it would be most inappropriate to impose any oversight over this employee's use of paid time off. As with every other employee, it is their time to use as they see fit. As a stand-alone, single person operation, it is not as if there is available any other personnel to coordinate with.
10. Singling out and treating an individual employee differently than every other employee is contrary to the intent of my administration. The Borough Policy Manual sets forth the paid time off benefits for employees and use thereof and it is to be adhered to an applied consistently for all employees. As an employee with more than 10, but less than 20, years of service the Borough Mechanic is entitled pursuant to section I-10.1 to 20 vacation days, 10 sick days, 1 Birthday Floater and the borough observes 13 holidays on an annual basis. Under the recent Paid Time off (PTO) requirement, the purpose of PTO is to provide employees with flexible paid time off from work that can be used for such needs as vacation, personal or family illness, doctor appointment, school, volunteerism, and other activities of the employee's choice. Accordingly, as do all employees with similar year of service, the Mechanic has thirty-one (31) days available to use as he deems appropriate without regard to the reason for exercising them nor any obligation to disclose same.

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With respect to the Mayor's statement of the reasons for which he was constrained to withhold his approval of this ordinance, Councilman Roseman read the following comments regarding the veto:

1. Past practice shows that in in 2012, the position of Borough Mechanic was supervised by the individual charged with overseeing the DPW.
2. There are no changes being made to the budget of the Borough Mechanic.
3. The Mechanic does not have his CDL, a requirement by the Governing Body, nor has he submitted his qualifications. Subsequently, we do not know if he has the qualifications as listed in the veto.
4. It is still the Borough Mechanic's obligation to assess the needs of his department. Nothing has changed in that regard.
5. The ordinance change merely requires coordination - nothing else.
6. There is no basis for which the coordination of the overseer of the DPW that would require the Borough Mechanic's position to be included in the DPW contract.
7. It has not been established that the Borough Mechanic would require overtime, or incur overtime.
8. There is no duplicative conflicts with the Borough Personnel Officer. The Borough Mechanic will simply report or coordinate with the overseer of the DPW.
9. It is imperative that the Borough Mechanic coordinate time off, particularly during times of emergency. The Governing Body is merely requiring coordination within the Borough Mechanic's Department and the DPW.
10. See 9 above.

RESOLUTION NO. 2019-58-C

BE IT RESOLVED that the ordinance entitled:

AN ORDINANCE AMENDING CHAPTER II "ADMINISTRATION," OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF CARLSTADT, 2002, CREATING AND ESTABLISHING THE POSITION OF OPERATIONS MANAGER IN AND FOR THE DEPARTMENT OF PUBLIC WORKS OF THE BOROUGH OF CARLSTADT.

heretofore introduced, does now pass on final reading and the Borough Clerk is hereby authorized and directed to publish said ordinance according to law.

I hereby certify that the above ordinance adopted by the Council on the 7th day of February 2019, was delivered to the Mayor on the 23rd day of January 2019, and was returned to me on the 28th day of January 2019, together with the Mayor's statement of the reasons for which he was constrained to withhold his approval of such ordinance, item or part thereof. On reconsideration thereof on the 7th day of February, 2019, the Council duly resolved by the affirmative vote of two-thirds or more of its members to enact such ordinance notwithstanding the Mayor's veto.

On motion by Roseman, seconded by Zimmermann. Councilmen Zimmermann, Stoltz, Lenoy, Emerson and Roseman voted yes. Councilman Bartlett abstained.

FIRST READING

ORDINANCE NO. 19-4

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER V "POLICE REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF CARLSTADT, 2002 TO ADD SECTION 5-24 ENTITLED "SHORT TERM RENTALS"

WHEREAS, the Governing Body finds that the rental of residential dwellings for short-term occupancy has been identified as a community concern due to the potential for increased traffic, noise, high occupant turnover, and increased density in residential neighborhoods; and

WHEREAS, the number of individuals occupying such short-term rentals has the potential to exceed standards for the design capacity of such structures and to cause health and safety risks for the occupants, neighbors and nearby properties; and

WHEREAS, the short-term rental market nationwide has expanded with the use of professional brokers and internet listing services. This increase requires an expansion of enforcement mechanisms to deter parties who facilitate and solicit short-term rentals. Because there are numerous homeowners, real estate offices, brokers, and other agencies that actively promote short-term rentals to potential Borough visitors through the internet and other forms of advertisement, it is necessary to prohibit the promotion and advertisement of short-term rentals.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Carlstadt that Chapter V "Police Regulations" shall be and hereby is amended and supplemented with the addition of Subchapter 5-24 entitled "Short-Term Rentals" which shall hereafter read as follows:

5-24. Short-Term Rentals.

5-24.1 Purpose.

The purpose of this Chapter is to safeguard the peace, safety and general welfare of the residents of the Borough and their visitors and guests by eliminating noise, traffic and parking congestion, vandalism, overcrowding, neighborhood uncertainty, high occupant turnover, diminution of neighborhood character, and other secondary effects that have been associated with the short-term rental of residential properties.

5-24.2 Definitions.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ADVERTISE OR ADVERTISEMENT

Any written, electronic or oral publication, dissemination, solicitation or circulation which is intended to directly or indirectly induce any person to enter into an agreement for the short-term rental of a dwelling. This definition includes but is not limited to mailings, print advertisements, internet listings, e-mail publications or other oral, printed or electronic media.

DWELLING

Any single or multi-family residential building or structure in the Borough, or any part thereof, which is occupied in whole or in part, or intended to be occupied in whole or in part, as a home residence or sleeping place for one or more individuals.

FACILITATE

A person facilitates if, acting with knowledge that an operator managing agency or rental agent is renting a dwelling on a short-term basis, the person knowingly provides the operator managing agency or rental agent with means or opportunity for the commission of said offense.

PERSON

An individual, corporation, association, firm, partnership, limited liability company, or other legal entity.

RENT

The consideration or remuneration charged, whether or not received, for the occupancy or use of a dwelling, whether to be received in money, goods, services, labor, other use of other dwelling(s), or otherwise.

RENTAL

An Agreement between persons whereby money or other consideration is charged in exchange for the right to occupy or use all or part of a dwelling.

SHORT TERM RENTAL

Any rental of a dwelling or part thereof for less than 30 consecutive days.

SOLICIT

A person "solicits" if, with the intent to promote or facilitate the short-term rental of a dwelling, such person commands, encourages, requests or solicits another person to engage in a short-term rental agreement.

5-24.3 Prohibited Conduct.

A. No person shall use, possess or occupy a dwelling on a short-term rental basis. No person shall enter a short-term rental agreement for a dwelling.

B. No person owning, leasing, or having control of a dwelling shall allow it to be used, occupied or possessed as a short-term rental.

C. No person shall advertise, solicit or facilitate a short-term rental agreement for a dwelling.

5-24.4 Violations and Penalties.

A. Any person who violates any provision of this Chapter Ordinance shall be subject to the following penalties:

1. For a first violation – a fine of \$750 per day for each violation for each dwelling unit and/or ten (10) days in jail at the discretion of the Municipal Court Judge, or both
2. For a second violation – a fine of not less than \$750 nor more than \$1,200 per day for each violation for each dwelling unit and/or twenty (20) days in jail at the discretion of the Municipal Court Judge, or both;

3. For a third and subsequent violation – a fine of not less than \$1,200 nor more than \$2,000 per day for each violation for each dwelling unit and/or thirty (30) days in jail at the discretion of the Municipal Court Judge, or both;

B. Each day that a person violates a provision of this Ordinance shall be considered as a separate and distinct violation.

5-24.5 Enforcement.

This Ordinance may be enforced by the Carlstadt Police Department, Building Department Inspectors, Carlstadt Fire Prevention Inspectors, and Carlstadt Housing Inspector together with any other municipal officials authorized to enforce Borough Ordinances.

In all other respects, Chapter V entitled “Police Regulations,” shall remain in full force and effect.

Repealer: All Ordinances and parts thereof are repealed to the extent that they are in conflict or inconsistent.

Severability: If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed to be valid and effective.

Effective Date: This Ordinance shall take effect immediately upon passage and publication as required by law.

RESOLUTION NO. 2019-58-D

BE IT RESOLVED that the ordinance entitled:

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER V “POLICE REGULATIONS” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF CARLSTADT, 2002, TO ADD SECTION 5-24 ENTITLED “SHORT TERM RENTALS”

heretofore introduced, does now pass on first reading, and that said ordinance be further considered for final passage at a meeting to be held on the 7th day of March, 2019 at 7:00 o’clock P.M. or as soon thereafter as the matter can be reached, at the regular meeting place of the Carlstadt Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said ordinance, and that the Borough Clerk be, and she hereby is, authorized and directed to publish said ordinance according to law with a notice of its introduction and passage on first reading and of the time and place when and where said ordinance will be further considered for final passage.

On motion by Roseman, seconded by Zimmermann, unanimous on call of roll.

Council President Bartlett entertained a motion to adjourn the meeting at 11:15 P.M. On motion by Zimmermann, seconded by Emerson, unanimous on call of roll.

APPROVED: _____
RICHARD BARTLETT, COUNCIL PRESIDENT

ATTEST: _____
CLAIRE FOY, BOROUGH CLERK