



City of Lambertville

WORK SESSION

Thursday, May 18, 2023 7:00pm

Phillip L Pittore Justice Center, 25 S Union Street Lambertville, NJ
MEETING MINUTES

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

Mayor Nowick called the meeting to order at 7:00 p.m. and he asked the City Clerk to read the statement of compliance with the Open Public Meetings Act into the record.

The City Clerk read the following statement into the record: This meeting is being held in compliance with the Open Public Meetings with the annual notice provided to the Hunterdon County Democrat and the Trenton Times, the meeting notice was sent to the members on the listserv, department heads, the City Engineer. The meeting agenda was posted on the City's website and on the bulletin board at City Hall. The meeting agenda offers planned action items known at the time of publication and is subject to change. This meeting is being streamed live and recorded using the Zoom Meeting Platform.

ROLL CALL

The City Clerk called the roll as follows:

Present: Councilwoman Kominsky, Councilwoman Lambert, Councilman Lide, Council President Stegman, and Mayor Nowick.

Also Present: William Opel – City Attorney, Michael Drulis – Budget Consultant, Cynthia Ege – City Clerk, and Lindsay Hansche – Deputy Clerk.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE

Mayor Nowick asked everyone to stand for the Pledge of Allegiance and to continue standing for a moment of silence in honor of those serving in the United States Armed Forces in Country and Abroad.

APPROVAL OF MINUTES

Mayor Nowick asked for a motion to approve the following sets of minutes: April 20, 2023 Meeting Minutes, and the April 20, 2023 Closed Session Minutes. He noted that the May 4 and the May 11, 2023 Minutes will be on the June 15th meeting agenda for approval.

Council President Stegman made the motion to approve the minutes and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ADMINISTRATIVE REPORTS

Mayor Nowick asked for a motion to approve the following Administrative Reports: Clerk's Report, Construction Office (Lambertville and Frenchtown), Court Report, Fire Official, Police Department, Public Works Department, and Tax Collector. Councilwoman Lambert made the motion and Councilwoman Kominsky seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

PUBLIC PARTICIPATION

Mayor Nowick opened the meeting for public participation.

John Hencheck of Lambertville: Mr. Hencheck informed the Governing Body that he brought information regarding the 1973 Historical Society, 501c3. He commented that in 1977-78 volunteers did the research necessary for the National Historic Registry and he said he had the names and they became friends and family. He also had records of the National Registry Preservation Zone that included the structures on the hill. We not

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only have the rating from Gibson and Bowers, but he also brought the Lambertville Design Guidelines completed by Linda Weber and adopted by the City's Planning Board. It's very important that we are on top of our history and are giving as much as we can to the folks in town in the way of education.

Jeff Tittel of Lambertville: Mr. Tittel asked if there was an update on Village Apartments? He also commented about the budget and thanked the Mayor and the staff for all of the work that has been done, and said it was difficult in this time of inflation. He also said he was disappointed that there haven't been many changes. We are in a time when people have been hurting with high rents, and revenues are down. He asked that the Governing Body take a second look at the budget and to see if there is a little here and there to not spend, or to wait to spend, little things. Anywhere there are discretionary funds, maybe trim the salaries back a little. It's not just this year, it's the future years. We need to slow that rate of increase.

Jeff Apoian of Lambertville: Mr. Apoian commented about the 2023 Budget and said that he and his wife have been renting out to tenants in town for years and all of our tenants left to go to New Hope for lower prices - I would like you to keep that in mind if you choose to raise the taxes.

Margaret Carmelli, representing Maxwell Assets: Ms. Carmelli thanked everyone for their work on the Flood Prevention Ordinance. She offered to help and said that Flood Prevention has competing interests. She said one key effort is the cleaning of the stream. The City had the foresight to get that done. DEP did not approve the permit. She is happy to work to advance this project, even file for an emergency permit, because they would like to see the project completed. She asked about the status of the flow chart, and said the City is approaching another storm season. We ask for leadership so employees can prioritize getting this done and they think it would save the City employees a lot of effort because property owners would have this guide to go with the process laid out. The committee that has been proposed, I would like to get that started, to work on certifying the local government status for the historic structure definition.

Zoom:

Judy Gleason, of Lambertville: Ms. Gleason commented that the Governing Body is under no absolute requirement to pass a budget tonight. Please give the time for people in town and others who are more knowledgeable than I to find a way to reduce the budget so we do not continue to go up in taxes.

Mayor Nowick asked for a motion to close the public participation section. Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Nowick thanked Mr. Hencheck for the information. He thanked Mr. Tittel for his question and said it was discussed at the May 4 work session and he appreciates both Mr. Tittel and Mr. Apoian's thoughts on the budget. Mayor Nowick responded to Ms. Carmelli's comments and said it was important to mitigate, but in order to mitigate, we will need to regulate. He is proposing an Ordinance for the Council's consideration to relieve people of permitting fees and application fees for mitigation work on their properties. It's a way for us to say if you are doing mitigation, we will cover permit and inspection fees and to encourage them to mitigate. The Alexauken Creek is very difficult to mitigate all of the things you want to. I will be talking about the creek soon. He also appreciates your offer to help form a committee. There will be a feasibility study for a Stormwater Utility which will need a lot of help, and is a great opportunity. He is meeting with the Historic Preservation Commission Chairperson, Lisa Easton, monthly to get an update on CLG. (Certified Local Government). Mayor Nowick also thanked Judy Gleason for her thoughts.

PUBLIC HEARING FOR THE 2023 BUDGET

CAP BANK ORDINANCE – PUBLIC HEARING AND SECOND READING

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Mayor Nowick read the Ordinance into the record by title.

ORDINANCE NUMBER 15-2023

CALENDAR YEAR 2023

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS

(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the City Council of the City of Lambertville City in the County of Hunterdon finds it advisable and necessary to increase its CY 2023 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the City Council hereby determines that a 3.5 % increase in the budget for said year, amounting to \$ 41,313.50 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Lambertville City, in the County of Hunterdon, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2023 budget year, the final appropriations of the City of Lambertville City shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$ 144,597.26 and that the CY 2023 municipal budget for the City of Lambertville City be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

INTRODUCTION AND FIRST READING: April 20, 2023

PUBLIC HEARING AND SECOND READING: May 18, 2023

Mayor Nowick opened the public hearing for Ordinance Number 15-2023 and he asked for questions or comments. There being no questions or comments, Mayor Nowick asked for a motion to close the public hearing for Ordinance Number 15-2023. Council President Stegman made the motion and Councilwoman Lambert seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. **MOTION CARRIED.**

Mayor Nowick asked for a motion to adopt on second reading, granting final approval of Ordinance Number 15-2023. Councilwoman Lambert made the motion and Councilwoman Kominsky seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. **MOTION CARRIED.**

PUBLIC HEARING AND ADOPTION OF THE 2023 BUDGET

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Mayor Nowick opened the public hearing for the 2023 budget and he noted that the City received approval from the Division of Local Government Services on Friday, May 12, 2023 to adopt the budget. He informed the members of the public that the Governing Body held a special session on May 11 to discuss the 2023 Budget. He reviewed a couple points with the public regarding capital improvement projects, appropriations, statutory and deferred charges. Regarding Appropriations (page 7) generally, the largest increases are in Salary & Wage and in some of the departments. This budget contains a 2% salary increase across the board for our staff. There are a couple places where we raised individuals more than 2% – the Fire Official and the Department of Public Works employees. The budget includes \$30,000 for tree maintenance. The biggest driver is our debt and debt service, \$1.6 million, almost 24% of the entire budget. That figure will decline a lot in the next couple of years. It's important to realize that life goes on outside the debt service and employees deserve a 2% raise.

Mayor Nowick asked for comments or questions.

Paul Stevens commented that capital debt service is projected to go down, assuming we don't add to it with the \$3.4 million to take care of our buildings. He echoed Ms. Gleason's point, and felt there wasn't a lot of time to dive into this and understand it from the public's point of view. He asked about the public and private revenue that offsets specific appropriations, and the \$180,000 for Hunterdon County Open Space Grant - I would like to know what that is, it sounds like it will lock us in with what we can and can't do with the property. General Capital Surplus \$175,000, what is that for? Cannabis Revenue, \$35,000 – didn't see that. On the Appropriations side, \$120,000 is excluded from caps, for things normally included in caps. Mayor Nowick responded that the \$180,000 is from the City's banked funds with the County of Hunterdon's Open Space and we added the possibility to include work on the trails at Holcombe Park (260 North Main Street). The Bids that came in are slated to be rejected. Mr. Drulis, the Budget Consultant, commented that the deferred charge is an ordinance that is about 20 years old, that is in the general capital that was never funded. This is to close that loop, so the capital surplus washes out, it's a paper transaction only, no spending. The Cannabis revenue of \$35,000 is listed in fees and permits. The \$120,000 was excluded from the caps by the Department of Local Government. This year we are permitted to take a portion and move them outside the cap, because we have very little control over them. It does move those items to a different page to the budget.

Jeff Apoian commented that we have a school to pay for and we are staring down the budget. Mayor Nowick commented that the decision about the school improvements was supported by the referendum. The Lambertville residents have a long history of increasing taxes for important issues. What we have to decide is what we can handle. I believe since our last year we have been able to increase our City services, get extra help in City Hall, and made sure Lambertville matters got printed and delivered to homes. We have added a lot of value, and we have to consider not just the voices in the room but the other 3900 residents. This isn't a political decision but what is best for our community. The history of the referendums back that up - good town, good schools, and people looked after.

Councilman Lide commented that the City purchased the Closson property without a referendum. Mayor Nowick commented that he was absolutely right and pointed out that he wasn't the Mayor then. This council has made it a mission to sell portions of the Closson property and we are working towards that.

Mayor Nowick asked for a motion to close the public hearing for the 2023 budget. Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. **MOTION CARRIED.**

Councilwoman Lambert commented that she appreciates the hard work that has been done on the budget, this is challenging. She felt it would be short changing the feedback from the public to move forward tonight, and

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supports holding off on adopting the budget because we just had the public hearing a week ago. She also said she wanted to take another look to see if we can shave off a few dollars and there, they would add up. She commented that she is happy to go offline and take a look and review it appropriately. When you talk about the people in the room, she said she feels that she represents everyone. She hears from others regularly, at church, at the gas station, at the gym, I hear about it and I am empathetic. This is an opportunity for us as a Council to demonstrate that we are trying to make an effort to take a second look and lessen the increases. She felt it was important to be aware of the feedback we get from our public.

Councilwoman Kominsky thanked everyone for the hard work and for trying to educate us. We received the budget and we try to decipher what it is, on a learning curve, and balance affordability of living here and the cumulative impact over the years. It has always increased a little from past years, and this is a lower increase than the past couple of years. We are getting in the right trend, but we need to sharpen the pencil. She said she hears you, can you look at it one more time, for us it's the first time. It's an opportunity to take a look and see what we can do. She said she still has questions from last week. We keep talking about our debt situation. Our old debt is going down, but the new debt we took under our belt for the Closson property and for Ida, for which we will be reimbursed. Transparency and truth is a great thing for everyone. It's not a horrible thing to look at it again. People don't come to council meetings, but they keep saying my taxes are going up.

Councilman Lide said he agreed with fellow Council members and he thinks that one of the things the Mayor has done is a transparent process and the fact that we have two public hearings shows that. We don't need to pass the budget tonight; we can move it to a few weeks which would make sense. He said the budget is a good one, but the increases are unsustainable for people in town. We are in a unique position. We are still suffering from the money we had to spend, not much we can do about that. There may not be much we can cut. But we owe it to the constituents to try.

Council President Stegman commented that if we have the opportunity to go through it again, we may find a way to lessen it. We will be able to make sure we are able to meet the expectations for service for the public. Let's see if we can roll back the increases in the budget. It may not help looking at it again but at least we could give it a closer look and see if there is a way to save.

Councilwoman Lambert commented that no one is saying we need to start over on the budget - instead they are asking for two more weeks, to kick it to the June 1st meeting for approval. Take the opportunity to look at it, look at operating expenses. If it has an impact on how we can deliver services, the public can decide and then they can push back. She felt it was noble to try to keep the level of service up. At some point, with the cost of inflation and what we have been hit with and Ida repairs, the interest on bond notes, it may be unrealistic to say we have to keep going at the level we are going at. She said she was just asking for two weeks to review - she would be happy to do it, and would enlist Councilwoman Kominsky to help her out. She said she knows how much work has gone into this. She noted that she receives a little stipend - if she gives it back, it's \$800 back in the budget. She is looking for those kinds of numbers, not draconian cuts.

The City Clerk commented that it looks as though the budget isn't going to pass tonight. However, we will have an obligation to pay our bills. We need to approve a Resolution for Estimated Tax Bills. The fee for this is approximately \$3,000.00 and we were unprepared for this so we don't have a resolution available. The City Attorney commented that it requires a calculation and without that, he didn't recommend the Governing Body taking the action.

Mayor Nowick informed the members of the public that until 3pm today, not a single Council person approached him about their concerns about passing the budget. He is frustrated. This Council has had ample opportunity to review the budget starting with the budget hearings in November. The Finance Team has been

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working on this budget month after month. Council was invited to attend finance meetings, and only two Council people attended one meeting. He has worked his tail off to be transparent, and added the special session to discuss only the budget. Not one informed him of their interest to have input on the budget. He said he is a reasonable person. Nobody called him to say, could we please talk about the budget, or have an additional meeting? I've been completely available to the Council and the public. You want to talk about the budget? The time to talk was three weeks ago. He said this feels political and it is deeply frustrating.

Councilwoman Lambert made the motion to table the adoption of the 2023 Budget until the June 1, 2023 Work Session. Councilman Lide seconded the motion. An affirmative roll call vote was taken with four in favor (Councilwoman Kominsky, Councilwoman Lambert, Councilman Lide, and Council President Stegman), and one opposing vote (Mayor Nowick). MOTION CARRIED.

PROCLAMATION - Building Safety Month

Mayor Nowick informed the members of the public that the Construction Official asked the City to adopt this proclamation designating May as Building Safety Month.

Proclamation

Building Safety Month -May, 2023

WHEREAS, the City of Lambertville is committed to recognizing that our growth and strength depends on the safety and essential role our homes, buildings and infrastructure play both in everyday life and when disasters strike; and

WHEREAS, our confidence in the resilience of these buildings that make up our community is achieved through the devotion of vigilant guardians-building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers and others in the construction industry-who work year-round to ensure the safe construction of buildings; and

WHEREAS, these guardians are dedicated members of the International Code Council, a nonprofit that brings together local, state and federal officials that are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work, play; and

WHEREAS, these modern building codes include safeguards to protect the public from natural disasters such as hurricanes, snowstorms, tornadoes, wildland fires, floods and earthquake; which, according to a FEMA commissioned study by the National Institute of Building Sciences, provide \$11 in future mitigation benefits for every dollar invested; and

WHEREAS, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown protectors of public safety-our local code officials-who assure us of safe, efficient and livable buildings that are essential to America's prosperity, and; and

WHEREAS, ""It Starts with You!,"" the theme for Building Safety Month 2023, encourages us all to raise awareness about building safety on a personal, local and global scale, and;

WHEREAS, each year, in observance of Building Safety Month, people all over the world are asked to consider the commitment to improve building safety, resilience and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, State of New Jersey, the month of May 2023 is hereby proclaimed as Building Safety Month.

BE IT FURTHER RESOLVED that citizens are encouraged to join with their communities in participation in Building Safety Month activities.

Date: May 18, 2023

Andrew J. Nowick, Mayor

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Mayor Nowick asked for a motion to adopt the proclamation in support of Building Safety Month. Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

RESOLUTIONS

CONSENT AGENDA: The following resolutions on a consent agenda are considered routine and shall be enacted by one motion. Should any member of City Council seek separate discussion of any item, that item shall be removed and discussed separately.

Mayor Nowick asked for a motion to adopt Resolution Numbers 73-2023 through 81-2023.

RESOLUTION NUMBER 73-2023: A Salary & Wage Resolution for the Shared Services Agreement with Borough of Frenchtown for Construction and Zoning Officer Services

RESOLUTION NUMBER 73-2023

A Salary & Wage Resolution for the Shared Services Agreement with the Borough of Frenchtown for Construction Services

WHEREAS, the City of Lambertville serves as the lead agency for Construction Services with the Borough of Frenchtown and salary & wage is due to Construction, Electric, Plumbing and Fire Subcode Officials for the work completed in 2023.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey that the following salary and wage payments is hereby authorized:

Keith Steele or TBD, Electric Subcode Official \$2,000

Robert Vanderburg, Electric Subcode Official \$8,000

Ken Rogers, Construction Official \$25,000

Ken Rogers, Building Subcode Official \$20,000

Ken Rogers, Fire Subcode Official \$10,000

BE IT FURTHER RESOLVED that the total salary amount for Frenchtown Construction Services will not exceed the \$65,000.00 appropriated in the 2023 budget.

ADOPTED: May 18, 2023

RESOLUTION NUMBER 74-2023: A Resolution to Authorize Refunds for Facility Use Deposits and Bulk Garbage Permits.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, State of New Jersey, that the following refunds are authorized:

Melissa Smith, Refund of a Deposit to Use Cavallo Park, \$250.00

Sue Begent, Refund of a Bulk Garbage Permit, \$55.00

RESOLUTION NUMBER 75-2023: A Resolution to Reject the Bids Received for the Nature Trail Project Because The Responders Were Not Compliant

WHEREAS, on March 22, 2023, the City of Lambertville release bid specifications for the Nature Trail Renovation and Construction Project, Phase 1; and

WHEREAS, on April 26, 2023, the City received two bids which were publicly opened and read aloud; and

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WHEREAS, the bids received are from the following contractors:

Avid Trails, LLC, in the amount of \$86,596.00;

Sunset Creations, Inc. in the amount of \$158,600.00

WHEREAS, after review of the bids, the following was determined:

Avid Trails, LLC did not include the bid guarantee or the Public Works Contractors Registration Certificate; and

Sunset Creations, Inc., while the project examples/references were received, the bid did not sufficiently demonstrate experience with constructing trails in a highly wooded area with significant side slope, which requirement was set forth in the request for bids and is an important component of the City's evaluation of bidders for this project.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the bids received for the Nature Trail Renovation and Construction Phase 1 are hereby rejected as they were not responsive.

BE IT FURTHER RESOLVED that the Parks and Recreation Commission and the City Clerk are hereby authorized to rebid the project.

RESOLUTION NUMBER 76-2023: A Resolution to Authorize the Closure of the Library Parking Lot and Portions of Lilly Street on Sunday, August 20, 2023 from 12 Noon to 8:00 p.m. for the Oaxaca Day.

WHEREAS, the Lambertville Free Public Library would like to celebrate Oaxaca Day on Sunday, August 20, 2023 with activities in the parking lot and in a portion of Lilly Street, and

WHEREAS, the City of Lambertville recognizes this as a community event.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey that the parking lot located to the western side of the building, and a portion of Lilly Street, will be closed on Sunday, August 20, 2023 from 12 noon to 8:00 p.m. for the Oaxaca Day Celebration.

RESOLUTION NUMBER 77-2023: A Resolution to Authorize the Storage of Two Containers for the South Hunterdon School District to Store Equipment, Furniture, Etc., During the Construction Project Between the Basketball Court and the School Beginning in May of 2023 and Ending Two Months After the Construction Project is Completed.

WHEREAS, the South Hunterdon Regional School District is embarking on a large renovation project of the Lambertville Public School; and

WHEREAS, they are in need of two large storage containers to store equipment, furniture, and more to be located on the City's property between the basketball court and the school, in a location that is as far away from the basketball court as possible; and

WHEREAS, the Parks and Recreation Commission has reviewed this request and has no issue with the placement of the storage containers at the location selected.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the Mayor is authorized to execute an agreement with the school board for the storage of containers on City owned property subject to the submittal of a Hold Harmless and Indemnification Agreement and a Certificate of Insurance that names the City of Lambertville as additional insured.

RESOLUTION NUMBER 78-2023: A Resolution to Authorize Change Order 1 and 2 for the Contract with CMS Construction, Inc., Reducing the Contract by \$-11,986.50, from \$282,140.00 to \$270,153.50

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WHEREAS, the City of Lambertville awarded a bid to CMS Construction, Inc. for the Swan Creek Tributary Stabilization & Restoration Project and Tropical Storm Ida Restoration Projects for Swan Creek and Quarry Street in an amount not to exceed \$282,140.00 on September 1, 2022, and

WHEREAS, the project was completed in December of 2022 and the former City Engineer advised of two change orders reducing the contract amount from \$282,140.00 to \$270,153.50 for the following items: Uniformed Traffic Director, Fuel Price Adjustment, Asphalt Price Adjustment and Traffic Stripes, in an amount of \$-11,946.00.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the Mayor, City Clerk and former City Engineer are hereby authorized to execute and sign Change Order 1 and Change Order 2 for the contract with CMS Construction, reducing the amount by \$-11,946.00, is hereby approved.

RESOLUTION NUMBER 79-2023: A Resolution to Authorize Change Order 2 for the Contract with Earle Asphalt Company, Reducing the Contract by \$-70,039.73, from \$650,867.13 to \$570,228.65, Noting Change Order 1 was Approved with Resolution Number 38-2023 on February 16, 2023.

WHEREAS, the City of Lambertville awarded a bid to Earle Asphalt Company in the amount of \$660,717.13 on September 1, 2022, and

WHEREAS, there was an error with the award amount and it should have been in the amount of \$650,867.13; and

WHEREAS, change order 1 in the amount of \$-10,598.75 was approved on February 16, 2023; and

WHEREAS, the former City Engineer is recommending a second reduction in change order 2 in the amount of \$-70,039.73, reducing the contract to \$570,228.65.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the contract amount awarded to Earle Asphalt for the Various Roads Project is being reduced to \$650,867.13, and

BE IT FURTHER RESOLVED that the following change orders are hereby authorized:

Change Order 1 in the amount of \$-10,598.75, approved by Resolution Number 38-2023; and

Change Order 2 in the amount of \$-70,039.73, recommended by the former City Engineer on May 2, 2023.

BE IT FURTHER RESOLVED that the Mayor, City Clerk and former City Engineer are hereby authorized to sign change order 2, reducing the contract total award to \$570,228.65

RESOLUTION NUMBER 80-2023: A Resolution to Authorize the Refunds to Corelogic for Overpayment of the Second Quarter Taxes for Block 1007, Lot 40, Block 1026, Lot 2, and Block 1050, Lot 9

NOW THEREFORE BE IT RESOLVED BY THE Governing Body of the City of Lambertville, in the County of Hunterdon, State of New Jersey, that the following refunds for overpayment of second quarter taxes by Corelogic are hereby authorized:

Block 1007, Lot 40, 55 Elm Street, in the amount of \$2365.55

Block 1026, Lot 2, 95 North Main Street, in the amount of \$2,287.42

Block 1050, Lot 9, 59 South Main Street, in the amount of \$2,025.07

RESOLUTION NUMBER 81-2023: A Resolution to Hire Kathryn McLaren as the Certified Municipal Court Administrator for the City of Lambertville, At an Annual Salary of \$65,000.00, Pro-Rated in Year 1.

WHEREAS, Patricia Wozniak is retiring from her position as the Certified Municipal Court Administrator effective June 5, 2023; and

WHEREAS, the Court advertised for the position and held interviews on Wednesday, May 10, 2023; and

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WHEREAS, Kathryn McLaren is qualified, has experience, and was the top candidate for the position.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the Kathryn McLaren is hereby hired to serve as the City's Certified Municipal Court Administrator, as a full-time employee, with an annual salary of \$65,000, which will be pro-rated in year one, with a start date of June 5, 2023.

ADOPTED: May 18, 2023

Councilwoman Lambert made the motion and Councilwoman Kominsky seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

End of Consent Agenda

APPROVAL OF THE BILLS LIST

Mayor Nowick asked for a motion to approve the Bills List and the Addendum to the Bills List. Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCES – FIRST READING

ORDINANCE NUMBER 16-2023: *An Ordinance to Amend the Lambertville City Code, 2014, Chapter 3, Municipal Officers; Procedures; Departments, Boards and Commission, Section 16, Shade Tree Commission*

Mayor Nowick read the Ordinance into the record by title. He asked for a motion to introduce on first reading Ordinance Number 16-2023.

ORDINANCE NUMBER 16-2023

An Ordinance to Amend the Lambertville City Code, 2014, Chapter 3, Municipal Officers; Procedures; Departments, Boards and Commissions, Section 16, Shade Tree Commission

LEGEND:

*Insertions: Shown in *Red Italic* Font

*Deletions: Shown with ~~Strikeout~~ Font

Chapter 3. Municipal Officers; Procedures; Departments, Boards and Commissions

Article IV. Boards, Committees, Commissions

§ 3-16. SHADE TREE COMMISSION

§3-16.1. Members; Appointment

- a. The Mayor is hereby authorized to appoint seven persons to act and be known as the Shade Tree Commission for the City of Lambertville, New Jersey. In the event of a vacancy, the appointment of the new member shall be made to complete the unexpired term. All appointments, except to fill vacancies, shall take effect on January 1, and shall be for five years. *(No Change)*
- b. Ord. No. 10-2018 creates two additional positions on the Shade Tree Commission, changing the board from a five-member to a seven-member board. For the first year of the appointment, the first position shall be for five years, expiring on December 31, 2023, and the second position shall be for a four-year appointment expiring on December 31, 2022. *(No change)*

(New) c. The Mayor is hereby authorized to appoint two (2) persons to serve as Alternate Members on the Shade Tree Commission, to be designated at the time of appointment as "Alternate No. 1" and "Alternate No.

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2.” For the first year of appointment, the term of Alternate No. 1 shall commence on the date of appointment and shall expire on December 31, 2028, and the term of Alternate No. 2 shall commence on the date of appointment and shall expire on December 31, 2026. Thereafter all appointments, except to fill vacancies, shall take effect on January 1, and shall be for five (5) years.

(New) d. In the event of a Commissioner’s absence or an unfilled vacancy, Alternate No .1 shall serve as a Commissioner for the duration of the Commissioner’s absence or vacancy.

§3-16.2. Statutory Authorization

The provisions of N.J.S.A. 40:64-1 to 40:64-14 as amended wherein the amendments apply to a municipality shall be part of this section. *(No Change)*

§3-16.3. Purpose

(Amend) a. The Mayor and Council of the City of Lambertville have determined that the preservation of ~~Sshade Trees and shrubs~~ within the City is beneficially linked to the health, safety, and well-being of the City’s inhabitants, and enhances the aesthetic and historic character of the City. It is also recognized that ~~Trees~~ perform beneficial ecological functions related to air quality, temperature and noise modulation as well as control of stormwater runoff. This section provides for the protection of ~~Trees and shrubs~~ within the Shade Tree Commission’s Jurisdiction Zone from indiscriminate destruction, harm to, or removal as set forth below.

(Amend) b. The establishment of standards for the removal and maintenance of ~~Trees and shrubs~~ existing on private property, that also share space within the Commission’s Jurisdiction Zone, is in keeping with the recognition that actions undertaken on individual properties can have a significant impact on neighboring properties. Land use and zoning regulations provide the framework for establishment and preservation of beneficial standards of environmental, social, economic and aesthetic land use management, which benefit the maintenance of a healthy urban forest and ~~T~~tree canopy.

§3-16.4. Authority *Scope of Regulatory Powers and Advisory Authority*

(Amend) a. Regulatory Powers: The Shade Tree Commission shall have authority over policy, planning, management and maintenance of any and all ~~Trees, shrubs and vegetation~~ that exist wholly within, or whose ~~D~~ripline extends from private property into, the Shade Tree Commission’s Jurisdiction Zone. ~~These powers~~ *This authority shall will include, but shall not be limited to, approval and/or disapproval of maintenance, planting, and removal of Shade Trees, enforcement against violations pursuant to Lambertville City Code Section 1-5 General Penalty, and entering onto private property for the purpose of inspection, advising, planting, removal, bracing, shaping, trimming, watering, fertilizing and treatment for pests and disease, and assessment of Shade Tree Hazards.*

(Amend) a. 1. Private Property within the Jurisdiction Zone: ~~The~~ Property ~~O~~wner is responsible for all matters pertaining to ~~S~~shade ~~T~~ree planting, removal, disease control and maintenance subject to Commission review and approval pursuant to the terms and conditions set forth herein at the ~~P~~roperty ~~O~~wner’s sole expense.

(Amend) b. 2. City/Public-Owned Property: ~~The Shade Tree Commission is responsible for~~ *shall have authority over all Shade Trees on City-owned property and shall coordinate with the Chairperson of the City’s Parks and Recreation Commission and the Department of Public Works, as necessary and appropriate, regarding all matters pertaining to shade tree* planting, removal, disease *and pest* control and maintenance *of Shade Trees* at the City’s sole expense. *However, Tree maintenance work as might be necessary and appropriate within parks and other properties owned by the City shall not be subject to the Shade Tree Action Request Procedures set forth in Section 3-16.9.*

(New) b. Advisory Role to City Agencies: *The Shade Tree Commission may provide advice and consultation to the City Council, boards, commissions and personnel, and shall be given a period not to exceed ~~sixty~~ (~~60~~) sixty (60) calendar days to provide review, consultation and recommendations to the Planning Board, Parks and Recreation Commission, City Council, City Engineer, Construction Official and the Director of Public Works, as appropriate, regarding the following:*

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NOTE: the Shade Tree Commission would like to leave 60 days in the ordinance because they don't always have a quorum and may not be able to act.

- (New) 1. Tree planting, location, number, species and size or Tree removal as part of any City sidewalk and/or street construction projects;*
 - (New) 2. Tree planting in connection with the site plan approval process for private developments; and*
 - (New) 3. Tree pruning, trimming and other Tree maintenance work within parks and other properties owned by the City.*
- (New) c. Educational Role:*
- (New) 1. Tree Maintenance Information. The Shade Tree Commission shall provide information about Trees to the public. This information will include, but not be limited to, proper planting and trimming practices, fertilizing, treatment and prevention of diseases and pests and general maintenance of Trees.*
 - (New) 2. Recommended Shade Tree List: The Commission will also maintain a publicly available Recommended Shade Tree list. The list will identify native species and will recommend their use where, when or if the species is appropriate, available and best for a particular location.*
 - (New) 3. Interagency Coordination. The Commission may also participate in and coordinate with other agencies, Commissions, and organizations to raise awareness of the importance of supporting an ecologically balanced and biodiverse urban forest.*

§3-16.5 Definitions

(Amend) The following defined terms shall appear with first letter capitalized when used in §3-16.1 et seq., and As used in this section, the following terms shall have the meanings indicated:

*(Amend) **APPLICANT (ELIGIBLE)***

~~The person submitting shade tree action request form to the Commission.~~ *The eligible person who completes and submits the Shade Tree Action Request Form to the Commission. For the purposes of this Subsection, an Eligible Applicant shall be restricted to the entities listed below:*

- (New) a. The Property Owner - The owner of the property where the Shade Tree is located or where a proposed Shade Tree is to be planted; or*
- (New) b. The Adjoining Property Owner - In the event the branches of a Shade Tree encroach across the property boundary to an adjoining property, the adjoining Property Owner suffering said encroachment shall be an eligible Applicant; or*
- (New) c. The Authorized Agent of a Business Property Owner - In the event the Shade Tree is located or proposed to be located on property that is owned by a business entity (e.g. A corporation, LP or LLC), the business entity's Authorized Agent shall be the eligible Applicant and documentation of the Authorized Agent's authority to represent the business entity shall be provided; or*
- (New) d. The Authorized Agent of an Individual Property Owner - In the event the owner of the property where the Shade Tree is located is unable to complete the Shade Tree Action Request Form, the Property Owner may submit a signed statement which names an Authorized Agent and states the scope of the Agent's authority to act on behalf of the Property Owner.*

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(New) *e. Property Owner in a Home Owners' Association - In the event an Applicant wishes to request approval to take an action related to a Shade Tree within a Home Owners' Association's property boundaries, the governing body of the Home Owners' Association must furnish written authorization for the Applicant to make such a request.*

(New) **AUTHORIZED AGENT OF THE PROPERTY OWNER**

A person having the written authorization to act on behalf of the person who is the deed holder on a property, or who has the written authorization to act on behalf of the governing body of the business entity that is the deed holder on the property.

(Amend) **AUTHORIZED REPRESENTATIVE OF THE CITY**

Any ~~employee of City law enforcement, streets department~~ *employee of the City's Department of Public Works, as designated by the Mayor,* or any member of the Shade Tree Commission.

(Amend) **CALIPER**

The measurement of the diameter of a ~~Shade T~~tree at *twelve (12)* inches above ground. This measurement is used to determine the ~~S~~shade ~~T~~tree size for planting.

COMMISSION

The Lambertville Shade Tree Commission (*No change*)

(Amend) **DIAMETER AT BREAST HEIGHT (DBH)**

The diameter of the main stem of a ~~T~~tree, or the combined diameters of a multi stemmed ~~T~~tree, measured *four and a half (4.5)* feet above the surface of the uphill side of the ~~S~~shade ~~T~~tree. Where the roots have girdled upward, the measurement shall be taken from the beginning of the clearest uphill vertical trunk line. The top diameter of a ~~S~~stump less than *four and a half (4.5)* feet tall shall be considered the "DBH" of an illegally destroyed ~~S~~shade ~~T~~tree for the purpose of calculating recompense.

(Amend) **DRIPLINE**

~~The radius of the tree or shrub extending from the trunk to the outermost branch.~~ *The area directly under the outer perimeter of a Tree's branches.*

(Amend) **JURISDICTION ZONE**

The area or space ~~required or used for~~ *bordering* any public street, sidewalk or pedestrian walkway *which is reserved for public purposes inclusive of Shade Tree growth and protection.* The Jurisdiction Zone shall extend from the outer edge of the sidewalk or walkway to the outer edge of the opposite sidewalk or walkway. Where no opposite sidewalk or walkway exists, the Jurisdiction Zone shall extend eight (8) feet beyond the edge of the street.

(Amend) ~~LETTER OF APPROVAL~~ **DETERMINATION**

An official letter from the Commission which grants *or denies* approval and/or sets conditions for actions applied to a specific Shade Tree *Action Request.*

(Amend) **ROOT BARRIER**

A physical barrier that is designed *and installed* to redirect root growth down and away from sidewalks and other infrastructure.

(New) **NOTICE OF SHADE TREE HAZARD**

A letter from the Commission which notifies a Property Owner that a Shade Tree on the Property Owner's property presents a Shade Tree Hazard as defined herein and which directs appropriate measures to mitigate said Shade Tree Hazard as may be appropriate.

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(New) **NOTICE OF VIOLATION**

A letter from the Commission which notifies a Property Owner regarding the specifics of a violation of Article IV § 3-16. of the City Code for which the Property Owner is liable and sets forth the Property Owner's obligations with respect to said violation.

(Amend) **SHADE TREE**

Any ~~T~~tree located wholly or in part within the Jurisdiction Zone, or on private property, which has a ~~D~~ripline or roots extending into the Jurisdiction Zone.

(Amend) **SHADE TREE ACTION REQUEST FORM**

A standardized form available from the Commission *and on the City's website* that ~~Shade Tree owners~~ *Applicants* must submit *to the Commission* to request approval for any Commission-regulated action within the Jurisdiction Zone.

(New) **SHADE TREE EMERGENCY**

A sudden and unexpected event in which a fallen Shade Tree(s) or Shade Tree branches result in pedestrian or traffic obstruction(s), damage or injury to persons or property or damage to utilities.

(Amend) **SHADE TREE SAFETY HAZARD**

A shade tree that requires immediate removal or other mitigating actions to reduce the level of risk posed to persons or property that could potentially be damaged or ~~injured should failure occur.~~ *A condition involving a Tree within the Jurisdiction Zone that requires immediate action to reduce a risk of a falling branch(es) or structural failure which poses a danger of injury or damage to persons or property, or obstructs the movement of pedestrian or vehicular traffic, or obstructs the line of vision in such a manner that drivers and/or pedestrians are blinded to on-coming traffic.*

(Delete) **SHRUB**

A woody plant of relatively low height, having several stems arising from the base and lacking a defined single trunk which has a dripline or roots extending into the ~~Jurisdiction Zone.~~

(Amend) **STUMP**

The part of the ~~T~~tree and its surface roots ~~remaining after felling-~~ *which remains fixed in the ground after the Tree is felled.*

TREE

A woody perennial plant having a singular usually elongated main stem usually with few or no branches on its lower part. *(No Change)*

(New) **TREE CONTRACTOR** *A Certified Tree Operator or Licensed Tree Expert pursuant to N.J.S.A. 45:15C-11 et seq.*

(New) TREE (LIVING) A tree that exhibits any leaves or healthy cambium at a height six (6) feet or greater above the ground.

§3-16.6 ~~Tree Maintenance Regulations~~ Shade Tree Maintenance in Jurisdiction Zone

(Amend) a. *Property Owners:* The maintenance, care or removal of any existing or newly planted ~~S~~shade ~~T~~tree or ~~shrub~~ *within the Jurisdiction Zone* as defined herein, which requires compliance with any provision of this section shall be the responsibility of the ~~P~~property ~~O~~owner on whose property the ~~S~~shade ~~T~~tree or ~~shrub~~ is located or whose property abuts the Jurisdiction Zone in which the shade tree is located. When a ~~S~~shade ~~T~~tree trunk is on a property line, the responsibility for compliance Shade Tree maintenance shall be with the ~~person whose property contains~~ *owner of the property containing the largest percentage of Sshade Ttree trunk circumference. In cases where the Property Owner's lot line does not extend to the edge of the street bordering Property Owner's lot, the Property Owner shall be responsible for maintenance of Shade Trees within the Jurisdiction Zone bordering said Property Owner's property just as if the Property Owner's lot lines extended to the edge of the street.*

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- (Amend) ~~b.~~ *1. Trimming: Property Owners shall keep ~~All~~ branches of mature ~~S~~shade ~~T~~rees shall be kept trimmed to a ~~minimum~~ branching height of ~~ten~~ (10) feet over streets and seven (7) feet over sidewalks, except where the Commission may require greater height clearances to eliminate ~~obstacles and other hazards to vehicular and pedestrian~~ traffic and other hazards. Shrubbery and any vegetation shall be trimmed back to the edge of the sidewalk.*
- (New) *2. Fallen Leaves and Tree Litter: Fallen leaves, twigs, and branches shall not be raked into the street or into storm drains.*
- (Amend) ~~e.~~ *3. Shade Tree Hazards: Wherever, in the opinion of the Commission, ~~a~~ safety hazard is caused by a ~~S~~shade ~~T~~ree ~~or shrub~~, whether dead or alive, the Commission may issue a ~~written order~~ *Notice of Shade Tree Hazard and directive* to the responsible ~~P~~roperty ~~O~~wner to take action to correct the condition. If, after *thirty* (30) *calendar* days from the date of receipt of ~~written notification~~ *a Notice of Shade Tree Hazard* from the Commission, the responsible ~~P~~roperty ~~O~~wner fails to take corrective action *as required and directed by the Commission*, the City may have the ~~recommended~~ *required* work accomplished to address the safety hazard and may ~~bill~~ *assess* the responsible ~~P~~roperty ~~O~~wner for the completed work. *In the event title to the property is transferred before completion of the hazard remediation measures directed by a Notice of Shade Tree Hazard, the Property Owner's obligation to complete the directed hazard remediation shall not be vacated and shall run with the title to the property.**
- (New) *4. Care and Protection: Property Owners shall be responsible for care and protection of their Trees within the Jurisdiction Zone. Unauthorized removal, trimming, chemical treatment, physical or other damage to Trees in the Jurisdiction Zone shall be deemed to be caused by the Property Owner and subject to penalties therefor unless the Property Owner can prove otherwise.*
- (New) *b. Adjoining Property Owners: Whenever Shade Trees in the Jurisdiction Zone grow across property boundaries and encroach upon adjoining properties, the owner of the adjoining property may exercise rights and authority as an eligible Applicant and submit a Shade Tree Action Request to the Commission to remove the encroaching condition.*
- (New) *c. City of Lambertville: Notwithstanding the Property Owner's responsibilities for Shade Tree maintenance as set forth above, upon good faith efforts to provide notice to the Property Owner, the City's Shade Tree Commission and Department of Public Works retain the right to perform such routine trimming of low branches as may be necessary from time to time in the interest of providing clear passage for pedestrian and vehicular traffic.*

§3-16.7 Acts Requiring Permission from the Commission

(Amend) *Except in the case when the Property Owner has been required to take the action pursuant to a written notice or directive issued by the Commission, ~~No~~ person or Tree Contractor shall do, or cause to be done, any of the following acts within the Jurisdiction Zone without the written approval of the Commission pursuant to the ~~S~~shade ~~T~~ree ~~A~~ction ~~R~~request procedures detailed in Subsection 3-16.9 below.:*

(Amend) a. Plant any ~~T~~ree ~~or shrubbery~~.

(Amend) b. Remove any ~~T~~ree ~~or shrubbery~~.

(Amend) c. Cut or trim branches greater than ~~seven~~ *eight* (8) feet above a walkway or greater than ~~10~~ *eleven* (11) feet above a street., *or cut or trim back encroaching branches more than three (3) feet away from a structure's siding or more than eight (8) feet above the roof of a structure;*

(Amend) d. Install or repair a sidewalk within four (4) feet of an existing ~~S~~shade ~~T~~ree ~~or shrub~~ (Ord. 9/21/53, §3);

(Amend) e. Install plants, or place planting containers edging borders, structures, brick, stone, concrete, or any other hard material or surface about the base of ~~S~~shade ~~T~~rees or anywhere within the Jurisdiction Zone.;

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(Amend) f. Fasten or attach any sign notice, rope, wire, electric attachment or any item to a ~~Sshade Ttree.~~ .

(Amend) g. Close or obstruct any open space provided about the base or within the ~~D~~ripline of a ~~Sshade Ttree.~~;

(Amend) h. Engage in any actions which, in the opinion of the Commission, might cause harm or death to a ~~Sshade Ttree or shrub.~~ .

(New) i. *Apply chemical treatments or pesticides to a Shade Tree; or*

(New) j. *Engage in any actions that could limit or impair the use of the Jurisdiction Zone for the growth and protection of Shade Trees.*

§3-16.8 Conditions Applicable to Shade Tree or Shrub Removal

(Amend) The removal of a ~~Sshade Ttree or shrub~~, if approved by the Commission, shall be conditioned upon the following:

(Amend) a. Planting of Replacement Shade Trees or Shrubs. *Upon the Commission's determination to approve a request to remove a Living Shade Tree, the size and number of replacement Sshade Ttrees shall be consistent with the approved Shade Tree Replacement Schedule per Subsection 3-16.10 and planted at the direction of the Commission, within one (1) year of ~~Ttree~~ removal of a Living Shade Tree. The Commission may waive the requirement for Shade Tree replacement where it determines that a Shade Tree must be removed owing to its death by natural causes.*

(Amend) b. Contribution in Lieu of Tree Replacement. Alternatively, upon approval of the Commission, a contribution shall be made to the Shade Tree *Planting* Trust Fund, *as established in § 3-16.11 hereof*, within *thirty (30) calendar* days of the approval date, the amount being based upon the Shade Tree Replacement Schedule in Section 3-16.10. Failure to submit the contribution will constitute a violation of this section and shall be subject to the same penalty as if the *Living Sshade Ttree* in question had been removed without approval.

(Amend) c. Stump Removal. *Except where the Commission makes a written determination that the process of Stump removal would adversely impact the health and/or survival of neighboring Trees, the Sstump of any Sshade Ttree or shrub shall be removed or ground down to twenty (20) inches below grade. Failure to remove the Sstump within one (1) year of Sshade Ttree or shrub removal may result in the City's undertaking the Sstump removal process with the Pproperty Oowner's being responsible for reimbursement to the City for any and all associated costs incurred.*

, and the Property Owner may be subject to monetary penalty for noncompliance.

§3-16.9 Shade Tree Action Request Procedures for Property Owners

(Amend) a. Submission of Shade Tree Action Request Form. ~~Persons~~ *Applicants* wishing to ~~undergo~~ *perform* any of the above regulated activities must first submit a ~~Sshade Ttree Aaction Rrequest Fform~~ via the City's website or by hard copy *to with* the Commission. No request will be considered without a *fully completed Sshade Ttree Aaction Rrequest Fform*. All requests will be reviewed and considered at the first regularly scheduled meeting of the Commission occurring at least seven (7) *business* days after the submission of the ~~Sshade Ttree Aaction Rrequest Fform~~.

b. Applicant Attendance at Commission Meeting. Applicants are encouraged to attend the Commission Meeting to present supporting documentation for their requests and to provide clarification where necessary, but attendance is not mandatory. *(No Change)*

c. Commission Determination

(Amend)1. The Commission shall review each ~~Sshade Ttree Aaction Rrequest Fform~~ and shall grant or deny said request within ninety (90) *business* days of first review. If the request is granted, *the Commission* ~~it~~ shall state in a *Letter of Determination approval* the type of species of ~~Sshade Ttree~~ to be planted or removed, cut, trimmed or

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pruned or other action involving a ~~Shade Tree~~ and may set forth specifications ~~and conditions~~ for doing the same. It shall then be unlawful to take any action contrary to any and all specifications set forth in the ~~Letter of Determination approval~~. Applicants will be notified in writing by ~~regular hand delivery or United States Postal Service~~ mail of the Commission's ~~determination decision~~.

(Amend) 2. The Commission may determine to waive or modify the requirements ~~set forth herein for Tree replacement as set forth in 3-16.10.a below~~ where ~~the Commission~~ finds that the site constraints impose significant limitations to the chances of survival or the long-term health of the replacement ~~Shade Tree~~ or ~~of interference would interfere~~ with utilities or pedestrian ~~or vehicular traffic~~ accessibility ~~to the sidewalk~~.

(Amend) d. Duty to Post Authorization During Approved Shade Tree Work. ~~Applicants~~ Persons issued a ~~letter of approval Letter of Determination~~ by the Commission are required to post a copy of said letter in a visible location or present it upon request to any ~~Authorized Representative~~ of the City while work is done by a ~~Tree Contractor~~ or by the ~~Property Owner~~. Failure to produce a ~~Letter of Determination approval~~ upon request ~~will shall~~ be cause for the ~~Authorized Representative of the City~~ to direct that all work being performed on the ~~Shade Tree~~ is to immediately cease. ~~The cease work directive shall remain in effect~~ Until such time that a ~~Letter of Determination approval~~ is presented ~~which authorizes the work~~, ~~this directive shall remain in effect~~.

(Amend) e. Duty to Comply with Commission Conditions and Requirements. Failure to comply with any or all conditions set forth in the ~~Letter of Determination approval~~ by the Commission may result in enforcement action by the Commission as if none of the conditions were met and the ~~Shade Tree~~ action had taken place without any prior approval.

(New) f. ~~Sunset of Determinations. The Commission's Letter of Determination for Tree actions shall expire after eighteen (18) months of the issuance of the Commission's Letter of Determination except that approvals to remove a Shade Tree and/or Stump shall have no expiration date and shall transfer to subsequent Property Owner(s).~~

§3-16.10. New and Replacement Shade Tree Requirements

(Amend) a. Replacement Shade Tree Size and Number. ~~Unless the Commission determines that site conditions necessitate otherwise to better assure establishment of a healthy Tree, the~~ Shade Tree Commission shall require that all new and replacement ~~Shade Trees be of a size of~~ a minimum ~~size~~ of 2 ½ inch caliper and be planted in accordance with accepted planting practices as directed by the Commission. ~~In the event the Commission issues a Letter of Determination approving the removal of a Living Shade Tree, a~~ Any replacement ~~Shade Tree~~ must be provided ~~and planted by the Property Owner~~ in accordance with the following Shade Tree Replacement Schedule:

Shade Tree Replacement Schedule

Size of Living Live-Regulated Shade Tree(s) Removed/destroyed	Required No. of Replacement Trees(s) (-2½ inch caliper) per for Each Living Shade Tree(s) Removed/Destroyed	Replacement Fee per Replacement Shade Tree in Lieu of Planting
1 to 4.99 in. DBH	1	\$500
5 to 10.99 in. DBH	2	\$1,000
11 to 16.99 in. DBH	3	\$1,500
17 or greater in. DBH	4	\$2,000

(Amend) b. Annual Adjustment of Replacement Fees. The ~~Shade Tree~~ replacement fees contained in the Shade Tree Replacement Schedule may be reviewed annually and adjusted to reflect current pricing.

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- (Amend) c. Shade Tree Selection and Placement. The Shade Tree Commission's approval is required for determining the species, size and planting location of any new or replacement ~~Shade Tree or shrub~~ within the Jurisdiction Zone.
- (Amend) d. Shade Tree Replacement Deadline. *When the Commission determines that replacement of a Living Shade Tree is required, the Property Owner shall be required to replace and supply and plant the replacement Shade Tree(s) or shrub within one (1) year from the date of notification of approval the Commission's Letter of Determination regarding removal of a Living Shade Tree and replacement.* Any replacement ~~Shade Tree or shrub~~ must survive in good health for a period of two (2) years from the date of planting. If, in the opinion of the Commission, ~~the a replacement Shade Tree or shrub~~ dies or fails to thrive ~~before~~ for two (2) years *following the date of planting*, that ~~Shade Tree or shrub~~ must be replaced by the ~~Property Owner~~. Any *subsequent* replacement ~~Shade Tree or shrub~~ *will shall* be subject to the same conditions as ~~contained~~ *stipulated* in the ~~Commission's original approval~~ *Letter of Determination* for a period of two (2) years from the date of planting.
- (Amend) e. Payment in Lieu of Shade Tree Planting. ~~When tree removal permission is granted and the space on the property is inadequate for planting any or all of the new or replacement trees required, the~~ *In the event the Commission approves removal of a Living Shade Tree(s), and the Commission determines that the location of said Shade Tree(s) would not be conducive to the health of a required replacement Shade Tree(s), the Commission may direct the Property Owner/Applicant shall to* make a monetary contribution to the City's Shade Tree Planting Trust Fund in lieu of planting *a replacement Shade Tree(s)*. This contribution *in lieu of planting a replacement Shade Tree shall* ~~must~~ be made within *thirty (30) business* days of receiving ~~permission for removal in the Commission's Letter of Determination regarding the Shade Tree removal. The amount of said contribution shall be~~ as defined under this section and pursuant to the Shade Tree Replacement Schedule in Subsection 3-16.10.a. *and as specified in the Commission's Letter of Determination.*
- (Amend) f. Installation of Root Barrier. Whenever a new ~~Shade Tree~~ is planted ~~within five feet of the Jurisdiction Zone~~, a root barrier of a type and size approved by the Commission may be required.

§3-16.11. Shade Tree Planting Trust Fund

There is hereby established a "trust fund" account, which shall be known and designated as the "Shade Tree Planting Trust Fund." (No Change)

- (Amend) a. Funds from ~~this~~ *the Shade Tree Planting Trust Fund* account shall be separate and distinct from the Commission's annual budget and shall only be used for the purchase and planting of *Shade Trees or shrubs for planting* within the Jurisdiction Zone.
- b. Contributions or donations from individuals, groups or businesses, for memorial purposes or any other reason, may be made directly to the Shade Tree Planting Trust Fund. (No Change)
- (New) c. *Withdrawals and transfers from the Shade Tree Planting Trust Fund shall require the signed authorization of the Shade Tree Commission.*

§3-16.12. Protection of Shade Trees and Shrubs

(New) *Property Owners shall cause no actions within the Jurisdiction Zone which could impair the viability of existing or future Shade Trees, and Property Owners shall nurture existing Shade Trees within the Jurisdiction Zone and protect them from actions and conditions that could impair their health or threaten their survival including, but not limited to the following:*

(Amend) a. ~~From~~ *Wires and Utility Work.*

- (Amend) 1. ~~Duty to Protect Shade Trees.~~ *Utility Wires.* Any person, having control over any wire for the transmission of electric current, telephone *or other communications or media* cable, or any other utility service along a public street, highway, *pedestrian way*, or Commission

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Phillip L Pittore Justice Center, 25 S Union Street Lambertville, NJ

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Jurisdiction Zone, shall at all times *protect* ~~guard~~ all *Shade Trees and shrubs* ~~from harm~~ caused by wires or from the current carried by them.

- (New) 2. *Wiring for Decorative Lighting. In order to protect against girdling, Shade Trees shall not be wrapped with wires for any period in excess of forty-five (45) calendar days.*

- (Amend) 3. Duty to Provide Notice. Prior to undertaking any work on the utility *wires, cables or appurtenances in contact with or* affecting any ~~such~~ *Shade Tree or shrub*, the utility company shall provide at least *ten (10) business* days prior written notice to the *City Clerk Zoning Officer, Shade Tree Commission, and the abutting Property Owner and shall detail the nature of the work and the necessity therefor upon which notice the Shade Tree*

Commission and Property Owner shall be provided with an opportunity to request measures to protect the impacted Shade Tree(s) and recommend appropriate mitigating measures. The device or means used shall be subject to the approval of the Zoning Officer and/or Shade Tree Commission.

- (Amend) b. ~~From Injurious Chemicals.~~ *Except as approved by the Commission for treatment of disease or for pest control by a New Jersey Certified Pesticide Applicator, or for feeding as determined necessary and appropriate by a Certified Tree Operator or Licensed Tree Expert pursuant to N.J.S.A. 45:15C-11 et seq., Property Owners shall protect Shade Trees from chemicals. No persons shall cause or permit any brine, gas or injurious chemicals to come in contact with the stem, trunk, canopy, or roots of any Shade Tree or shrub within the Jurisdiction Zone including but not limited to: brine, gas, gasoline, motor oil, diesel fuel, solvents, or other toxic substances. (Ord. 9/21/53§5)*

- (Delete) e. ~~Actions Likely to Cause Tree Harm or Death. No person shall perform and intentional or negligent act that will more likely than not cause a shade tree or shrub harm or death. Negligent damage shall include, but not be limited to, damage inflicted to the root system by machinery or cutting tools, storage of materials and soil compaction, change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; pruning, which is so excessive that it threatens the health of the tree or thinning leading to failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the shade tree; or application of any toxic substance, including solvents, oils, gasoline and diesel fuel; trenching of roots; cutting, girdling or inflicting other severe mechanical injury to the trunk, roots or other vital sections of the shade tree; removing in excess of 20% of the live crown of the shade tree; causing damage by operation of heavy machinery or vehicles; causing damage by storage of materials; and/or deliberately or negligently setting fire to a shade tree. In addition, topping, tipping, or any similar improper pruning practices will automatically be deemed as harmful to, or destruction of, a shade tree.~~

- (New) c. *Actions Likely to Cause Tree Harm or Death. No person shall perform or permit any intentional or negligent act that will cause harm or death to a Shade Tree. Negligent or intentional damage shall include, but shall not be limited to:*

1. *Damage inflicted to the root system by machinery or cutting tools;*
2. *Storage or operation of heavy equipment, or storage of heavy materials, or other practices which cause soil compaction within the Dripline of a Shade Tree;*
3. *Change of natural grade of soil above or below the root system or around the trunk;*
4. *Damage inflicted on a Shade Tree which exposes the cambium of a Shade Tree and creates an opportunity for decay organisms, fungus, pests, bacteria or other infestations to infect a Shade Tree;*
5. *Improper pruning, flush cutting, or thinning of a Shade Tree including removing in excess of 20% of the living crown, and/or topping, tipping, trimming or pruning which is so*

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excessive that it threatens the health of the tree, or excessive thinning of the crown leading to the failure to thrive;

6. *Paving over the root system of a Shade Tree with any impervious materials within such proximity as to be fatally harmful to the Shade Tree;*
7. *Application of toxic substances except as set forth in subsection 3-16.12.b above;*
8. *Trenching of roots, cutting, girdling or inflicting other severe mechanical injury to the trunk, roots or other vital sections of a Shade Tree;*
9. *Deliberately or negligently setting fire to a Shade Tree;*
10. *Except in the case of Shade Tree removal as approved by the Commission, Tree climbing practices that expose the cambium such as spiking, trimming, or use of climbing spurs or gaffs. ; and*
11. *Attachment of any item to a Shade Tree by means of mechanical fasteners such as nails, screws, spikes, or staples which penetrate the bark and enter the cambium.*

(Delete) d. From Tree Climbing and Trimming Practices. No person shall perform any intentional or negligent act causing damage to a shade tree, including various tree climbing practices, spiking, trimming, flush cutting, incursion into a designated root save area, and the use of climbing spurs or gaffs on trees not subject to removal that exposes the cambium of the shade tree to insects, decay organisms or damages the tree bark.

(Delete) §3-16.13. Advisory Role of Shade Tree Commission

The Shade Tree Commission shall be given a minimum of 90 days to make timely review and determination to the Planning Board, City Council, City Engineer, and the Director of Public Works, as appropriate, regarding the following:

- a. *The shade tree planting, location, number, species and size or shade tree removal as part of any City sidewalk and/or street construction projects.*
- b. *Shade Tree planting in connection with the site plan approval process for private developments.*
- e. *It shall not be necessary for the City to obtain approval to do any shade tree work on public areas owned in fee simple or rented by it, but no such work shall be done without consultation with the Commission.*

(Delete) §3-16.14. Educational Role of Shade Tree Commission

- a. *Shade Tree Maintenance Information. The Shade Tree Commission shall provide information about trees to the public. This information will include, but not be limited to, proper planting and trimming practices, fertilizing, treatment and prevention of diseases and general maintenance of shade trees and shrubs.*
- b. *Recommended Shade Tree List: The Commission will also maintain a publicly available recommended shade tree and shrub list. The list will identify native species and will recommend their use where, when or if the species is appropriate, available and best for a particular location.*
- e. *Interagency Coordination. The Commission may also participate in and coordinate with other agencies, Commissions, and organizations regarding the raising awareness of the importance of supporting an ecologically sensitive and biodiverse community.*

(Rename) §3-16.135. Interference with Shade Tree Commission Prohibited

*(Amend) No person shall prevent, delay or interfere with any lawful work undertaken by the Commission or ~~an~~ its ~~a~~ Authorized *Representative of the City* agent.*

(Rename) §3-16.146. Penalty

- a. Any person who shall violate any of the provisions of this section shall be liable to the penalty in Chapter 1, § 1-5, for each and every such violation to be recovered as provided by law (N.J.S.A. 40:49-5). The ordinances shall be enforced by like proceedings and processes. Enforcement thereof shall be the same as that provided by law for the enforcement of the ordinances of the City. *(No*

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Change)

(Amend)b. Any public utility or cable television company that clears, moves, cuts, or destroys any ~~Shade Trees, shrubs, or plants~~ *Shade Trees,* for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures, necessary for the supply of electric light, heat, power, communication, or cable television services upon any lands in which it has acquired an easement or right-of-way, shall not be subject to any penalty. This section shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent or injurious actions as determined by the Commission.

(Renumber) **§3-16.156. No Liability for Death or Injury**

Nothing in this section contained shall be construed to make the Shade Tree Commission or any member thereof, or any volunteer participating in a community forestry program as provided for by Section 4 of P.L. 1996, c. 135 (N.J.S.A. 13:1L-17.4), responsible for the death or injury of any person, or for an injury to any property or highway tree or shrub. Liability for any such death or injury shall be governed by the provisions of Section 16 of P.L. 1996, c. 135 (N.J.S.A. 59:4-10) and any other relevant provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. *(No Change)*

(New) **§ 3-16.16 Emergencies**

All matters related to a Shade Tree Emergency as defined in Section 3-16.5 hereof fall under the jurisdiction of the City's Emergency Management Coordinator, and are outside the scope of Section 3-16.1 et seq.

(Renumber) **§3-16.18 17. Severability**

(Amend) If any sentence, clause, section, or part of this section is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this section.

(Renumber) **§3-16.19 18. Conflicting Ordinances**

In the event this section conflicts with or overlaps with any other ordinance, the provisions of this section shall take precedence rendering inapplicable any conflicting or overlapping ordinance provisions. *(No Change)*

(Renumber) **§3-16.20 19. Effective Date**

The terms and conditions of this section shall take effect upon adoption by the Lambertville City Council. *(No Change)*

INTRODUCTION AND FIRST READING: May 18, 2023

PUBLIC HEARING AND SECOND READING: June 15, 2023

Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCE NUMBER 17-2023: An Ordinance to Amend the Ranges in the Salary & Wage Ordinance.

Mayor Nowick read the Ordinance into the record by title. He asked for a motion to introduce on first reading Ordinance Number 17-2023.

ORDINANCE NUMBER 17-2023

“AN ORDINANCE TO AMEND THE SALARY RANGE FOR THE OFFICIALS AND EMPLOYEES OF THE CITY OF LAMBERTVILLE, COUNTY OF HUNTERDON, STATE OF NEW JERSEY”

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BE IT ORDAINED by the Mayor and Council of the City of Lambertville, County of Hunterdon, State of New Jersey as follows:

SECTION ONE: The following shall be the range of compensation for the officials and employees of the City of Lambertville not covered by separate bargaining units:

Accounts Receivable Clerk	\$18.00/hour – Part Time (12 hrs/week)
Court Administrator	\$26,000 - \$70,000
Construction Code Official	\$17,000 - \$102,800
Public Works Director	\$25.00 - \$55.00 per hour – Part Time \$55,000 - \$74,805 – Full Time
Public Works Class C: Operator (less than 5 years' experience) (with CDL license)	\$15.00 - \$30.00 per hour – Part Time \$27,000.00 - \$37,100 – Full Time \$27,000.00 - \$40,000 – Full Time

This ordinance shall be retroactive to January 1, 2023.

Councilman Lide made the motion and Council President Stegman seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. **MOTION CARRIED.**

ORDINANCE NUMBER 18-2023: *An Ordinance Of The City Of Lambertville, In The County Of Hunterdon, New Jersey, Providing For Various Capital Improvements Of And For The City, Appropriating \$1,020,113 Therefor, And Authorizing The Issuance Of \$1,004,120 In General Improvement Bonds Or Notes Of The City To Finance The Same.*

Mayor Nowick read the Ordinance into the record by title. He informed the members of the public that this ordinance is to fund the DOT projects for 2022 and 2023, purchase a new vehicle for the police department, repairs to municipal owned property, and purchase new holiday lights for the Central Business District. He asked for a motion to introduce Ordinance Number 18-2023.

ORDINANCE 18-2023

An Ordinance Of The City Of Lambertville, In The County Of Hunterdon, New Jersey, Providing For Various Capital Improvements Of And For The City, Appropriating \$1,020,113 Therefor, And Authorizing The Issuance Of \$1,004,120 In General Improvement Bonds Or Notes Of The City To Finance The Same.

BE IT ORDAINED BY THE CITY COMMITTEE OF THE CITY OF LAMBERTVILLE, IN THE COUNTY OF HUNTERDON, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

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Section 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the City as a general improvement. For the improvement or purpose described in Section 3 hereof, there is hereby appropriated the sum of \$1,020,113, including the sum of \$437,240 in state grants, consisting of a \$365,240.00 New Jersey Department of Transportation Municipal Assistance Grant and a NJDEP grant in the amount of \$72,000 and further including the sum of \$15,993 as the down payment for several purposes as required by the Local Bond Law. The down payment has been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$1,004,120, pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvements hereby authorized and the purposes for which the bonds or notes are to be issued are as follows:

I. **Purpose.** Improvements to City Owned Property including but not limited to a new roof at City Hall, upgrades and repairs to the elevator at City Hall and interior and exterior repairs to the Library Building, and further including all work and related materials necessary therefor and incidental thereto.

<u>Appropriated and Estimated Cost:</u>	\$170,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$161,500
<u>Period or Average Period of Usefulness:</u>	13.52 years
<u>Amount of Down Payment:</u>	\$8,500

II. **Purpose.** Upgrades to technology infrastructure and equipment, including but not limited to acquisition of new tablets or laptops Surface Pro for fire inspection and Clerk's Office, electronic Planning table, computer display screen, storage cabinets, records management and digitization of official City records and servers, including all work and related materials necessary thereof or incidental thereto.

<u>Appropriated and Estimated Cost:</u>	\$39,850
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$37,857
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$1,993

III. **Purpose.** Acquisition of vehicles and equipment for City Police Department, including but not limited to one Police SUV, including customization and related equipment to allow the vehicle to be used for its intended use, and security equipment, including all work and related materials necessary thereof or incidental thereto.

<u>Appropriated and Estimated Cost:</u>	\$70,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$66,500

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Period or Average Period of Usefulness: 5.71 years

Amount of Down Payment: \$3,500

IV. Purpose. Acquisition and installation of Charging Stations for electric vehicles, including all work and related materials necessary thereof or incidental thereto.

Appropriated and Estimated Cost: \$72,000

Estimated Maximum Amount of Bonds or Notes: \$72,000

Period or Average Period of Usefulness: 15 years

NJDEP GRANT (Reimbursement based): \$72,000

IV. Purpose. Improvements to City roads, including but not limited to North Franklin Street, Studdiford Street, Coryell Street and Swan Street, including related work to curbing, grading, drainage and storm water management, including expenses incurred in the planning, design and bidding thereof, and including all work and related materials necessary thereof or incidental thereto.

Appropriated and Estimated Cost: \$628,263

Estimated Maximum Amount of Bonds or Notes: \$628,263

Period or Average Period of Usefulness: 20 years

NJDOT MAP GRANT (Reimbursement based): \$185,940.00

VI. Purpose. Replacement, repair and updating of sidewalks on various locations in City right of way, including all work and related materials necessary thereof or incidental thereto.

Appropriated and Estimated Cost: \$25,000

Estimated Maximum Amount of Bonds or Notes: \$23,750

Period or Average Period of Usefulness: 10 years

Amount of Down Payment: \$1,250

VII. Purpose. Acquisition of holiday lights, decorations and banners for City streets, including all work and related materials necessary thereof or incidental thereto.

Appropriated and Estimated Cost: \$15,000

Estimated Maximum Amount of Bonds or Notes: \$14,250

Period or Average Period of Usefulness: 5 years

Amount of Down Payment: \$750

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

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(c) The estimated cost of the improvement or purpose authorized herein is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The chief financial officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes the City may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose, within the limitations of the Local Bond Law, is 8.91 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,004,120, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$150,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the improvement or purpose.

(e) The City reasonably expects to commence the acquisition of the improvement or purpose described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the City further reasonably expects to reimburse such expenditures from the proceeds of

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the bonds or notes authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 1 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof, exclusive of the State Grant already appropriated herein, shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the City is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy ad valorem taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation as to rate or amount.

Section 9. The City Committee hereby covenants on behalf of the City to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Councilwoman Lambert made the motion and Council President Stegman seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCES – SECOND READING

ORDINANCE NUMBER 07-2023: An Ordinance By The City Council Of The City Of Lambertville Amending The City Of Lambertville Code Of Ordinances To Repeal Chapter 19; To Adopt A New Chapter 19; To Adopt Flood Hazard Maps; To Designate A Floodplain Administrator; And Providing For Severability And An Effective Date.

Mayor Nowick read the ordinance into the record by title. When we last met, there were two questions the Council wanted answered. Clarification about the D&R Canal historic list to see if that was sufficient to use as the historic structure definition. The May 10th email was sent, and we have not heard back. That will factor in. The second thing, we contacted DEP who then contacted NFIP. Since one of the areas of concern was availability and ease for the variance process, perhaps we could include language to permit the City Council to authorize variances. Short answer is no. We can/could create a standalone ordinance to designate which board, but it's complicated and not worth the time. There's no work around for the variance process. Just down to one question on whether SHPO and DEP will accept our use of the D&R Historic Structure list. He suggested that the Governing Body carry this Ordinance to the June 15th meeting.

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Mayor Nowick asked for a motion to carry Ordinance Number 07-2023 to the June 15, 2023 session. Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCE NUMBER 09-2023: *An Ordinance to Amend the Lambertville City Code, 2014, Chapter 4 Police Regulations, Section 4-1 Littering Prohibited*

Mayor Nowick read the Ordinance into the record by title. He informed the members of the public that this ordinance is currently on the books but is being amended to include language suggested by the State of New Jersey's Department of Environmental Protection.

ORDINANCE NUMBER 09-2023

An Ordinance to Amend the Lambertville City Code, 2014, Chapter 4, Littering Prohibited

§ 4-1. LITTERING PROHIBITED.

§ 4-1.1 Purpose: An ordinance to establish requirements to control littering in City of Lambertville, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

4.2. Definitions: For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

AUTHORIZED PRIVATE RECEPTACLE — Shall mean a litter storage and collection receptacle provided by the owner or occupier of private premises.

COMMERCIAL HANDBILL — Shall mean any printed or written matter, sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copy of any matter of literature:

Which advertises for sale any merchandise, product, commodity or thing; or

Which directs attention to any business or mercantile or commercial establishment or any activity for the purpose of either directly or indirectly promoting the interest thereof by sale, or

Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit, but the terms of the clause shall not apply where an admission fee is charged or a collection is taken for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by a law of this State or under any ordinance of this City; or

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Which, while containing reading matter other than advertising matter is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the profit, benefit or gain of any person so engaged as advertiser or distributor.

LITTER —any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

LITTER RECEPTACLE – a container suitable for the depositing of litter.

NEWSPAPER — Shall mean any newspaper of general circulation as defined by general law. Any newspaper duly entered with the post office department of the United States in accordance with Federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

NONCOMMERCIAL HANDBILL — Shall mean any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definition of a commercial handbill or newspaper.

PARK — Shall mean a park, reservation, playground, recreation center or any other public area of the City or other public entity devoted to active or passive recreation by the public.

PERSON — any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

PLURAL — Shall mean and include the singular number and words used in the singular number shall include the plural number.

PRIVATE PREMISES — Shall mean any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, ground, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE — Shall mean any and all streets, roads, sidewalks, alleys or other public ways and any and all public parks, squares, spaces, grounds and building.

VEHICLE — Shall mean every device in and upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

§ 4-2.1. Litter in Public Places. [1990 Code § 4-1.2] No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City, except in public receptacles for collection.

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§ 4-2.2. Placing Litter in Receptacles to Prevent Scattering. [1990 Code § 4-1.3] Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, alley, or other public place or upon private property.

§ 4-2.3. Sweeping Litter into Streets Prohibited; Sidewalks to Be Free of Litter. [1990 Code § 4-1.4] No person shall sweep into or deposit in any gutter, street or public place within the City the accumulation of litter from any building or lawn or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep any sidewalk in front of their premises free of litter.

Litter in Public Places Prohibited. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

§ 4-2.4. Throwing Litter from Vehicles. [1990 Code § 4-1.5] No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the City or upon private property.

§ 4-2.5. Distribution of Handbills. [1990 Code § 4-1.6] No person shall throw or deposit any commercial or noncommercial handbill or newspaper in or upon any sidewalk, street, or other public place within the City. Nor shall any person distribute or sell any commercial handbill or newspaper in any public place, provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the City for any person to hand out or distribute without charge to the receiver thereof any noncommercial handbill or newspaper to any person willing to accept it.

Placing on Vehicles. No person shall throw or deposit any commercial or noncommercial handbill or newspaper in or upon any vehicle, provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill or newspaper to any occupant of a vehicle who is willing to accept it.

Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or noncommercial handbill or newspaper in or upon any private premises which are temporarily or continuously uninhabited or vacant. Subsection 4-1.7 shall apply hereto.

Posted Property. No person shall throw, deposit or distribute any commercial or noncommercial handbill or newspaper upon any private premises if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisements" or any similar notice indicating in any manner that the occupant of the premises does not desire to have their right of privacy disturbed or to have any such handbills or newspapers left upon such premises. Subsection 4-1.7 shall apply hereto.

Inhabited Private Premises. No person shall throw, deposit or distribute any commercial or noncommercial handbill or newspaper in or upon private premises which are inhabited, except by handing or transmitting the same directly to the owner, occupant or other person then present in or upon such private premises. Provided, however, that in the case of inhabited private premises which are not posted as provided in this section such person, unless requested by anyone upon the premises not to do so, may place or deposit any such handbill or newspaper in or upon such inhabited private premises if the same is so placed or deposited as to secure or prevent the same from being blown about such premises or sidewalks, streets or other public

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places, and the same is not placed upon the surface of the ground. Mailboxes may not be used when so prohibited by Federal postal law or regulations, but private boxes may be used when so provided.

§ 4-2.6. Mail. [1990 Code § 4-1.7] The provisions of this section shall not apply to the distribution of mail by the United States or its agents or legally authorized deliverers.

§ 4-2.7. Litter on Occupied Private Property. [1990 Code § 4-1.8] No person shall throw or deposit litter on any occupied private property within the City whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried, or deposited by the elements upon any street, sidewalk, or other public place, or upon any private property.

§ 4-2.8. Owner to Maintain Premises Free of Litter. [1990 Code § 4-9.3] Person in control of any private property shall at all times maintain the premises free of litter. Provided, however that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 4-2.9. Litter on Vacant Lots. [1990 Code § 4-1.10] No person shall throw or deposit litter on any open or vacant private property within the City, whether owned by such person or not.

~~§ 4-2.10. Violations; Penalties. [1990 Code § 4-1.11] Any person who violates this section shall, upon conviction, be liable to the penalty set forth in Chapter 1, Section 1-5.~~

§4.3. Enforcement: This ordinance shall be enforced by the Police Department or Public Works Department of the City of Lambertville.

SECTION V. Penalties: Any person(s) who is found to be in violation of the provisions of this ordinance upon conviction, shall be liable to the penalty stated in Chapter 1 Section 1-5.

SECTION VI. Severability: Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION VII. Effective date: This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

INTRODUCTION AND FIRST READING: April 20, 2023

PUBLIC HEARING AND SECOND READING: May 18, 2023

Note: new language is highlighted in yellow. Some of the definitions were modified to include State of NJ DEP language for the MS4 Tier A permit

Mayor Nowick opened the public hearing for Ordinance Number 09-2023 and he asked for public comment. There being no public comment, Mayor Nowick asked for a motion to close the public hearing for Ordinance Number 09-2023. Councilman Lide made the motion and Councilwoman Lambert seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Nowick asked for a motion to adopt on second reading, granting final approval of Ordinance Number 09-2023. Councilman Lide made the motion and Council President Stegman

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seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCE NUMBER 10-2023: *An Ordinance to Amend the Lambertville City Code, 2014, Chapter 4, Section 11, Wildlife Feeding Ordinance*

Mayor Nowick read the Ordinance into the record by title. He informed the members of the public that this Ordinance amends the Lambertville City Code and adds language required by the State of New Jersey, Department of Environmental Protection for the MS4 Tier A Permit.

Ordinance Number 10-2023

An Ordinance to Amend the Lambertville City Code, 2014, Chapter 4, Section 11, Wildlife Feeding Ordinance

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey that Chapter 4-11.4 through 4-11.5 is hereby repealed and replaced with the following language:

4-11.4. Purpose:

An ordinance to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by **the City of Lambertville** so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

4-11.5. Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Feed – to give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.
- b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Wildlife – all animals that are neither human nor domesticated.

4-11.6. Prohibited Conduct:

- a. No person shall feed, in any public park or on any other property owned or operated by **the City of Lambertville**, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers, or feral cats as part of an approved Trap-Neuter-Release program).

4-11.7. Enforcement:

- a. This ordinance shall be enforced by the **Police Department of the City of Lambertville**.
- b. Any person found to be in violation of this ordinance shall be ordered to cease the feeding immediately.

4-11.8. Violations and Penalties:

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Any person(s) who is found to be in violation of the provisions of this ordinance upon conviction, shall be liable to the penalty stated in Chapter 1 Section 1-5.

4-11.9. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

INTRODUCTION AND FIRST READING: April 20, 2023

PUBLIC HEARING AND SECOND READING: May 18, 2023

NOTE: The current language from the City's ordinance book is as follows:

§ 4-11.4. Unlawful Feeding of Nondomesticated Animals on Certain Public Lands.

[1990 Code § 4-11.4]

It shall be unlawful for any person to feed nondomesticated animals on any public lands owned or controlled by the City of Lambertville.

§ 4-11.5. Unlawful Feeding of Nondomesticated Animals on Certain Private Lands. [1990 Code § 4-11.5]

It shall be unlawful for any person to feed nondomesticated animals on any private land which has public access upon the written request of the owner.

Mayor Nowick opened the public hearing for Ordinance Number 10-2023 and he asked for public comments. There being no public comments, Mayor Nowick asked for a motion to close the public hearing for Ordinance Number 10-2023. Council President Stegman made the motion and Councilwoman Lambert seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Nowick asked for a motion to adopt on second reading, granting final approval of Ordinance Number 10-2023. Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCE NUMBER 11-2023: *An Ordinance to Amend the Lambertville City Code, 2014, Chapter XII, Sanitation, Section 3, Dumpsters, Refuse Containers, Dumpsters & Pods*

Mayor Nowick read the Ordinance into the record by title. He informed the members of the public that this Ordinance amends the Lambertville City Code and adds language as required by the State of New Jersey Department of Environmental Protection for the MS4 Tier A Permit.

Ordinance Number 11-2023

An Ordinance to Amend the Lambertville City Code, 2014, Chapter XII, Sanitation, Section 3, Dumpsters, Refuse Containers, Dumpsters & Pods

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NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that Chapter XII: Sanitation; Recycling, Section 3, Dumpsters is hereby repealed and replaced with the following language:

SECTION 3. REFUSE CONTAINERS, DUMPSTERS AND PODS

3.1 Purpose:

An ordinance requiring dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the **City of Lambertville** and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

3.2 Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

City shall mean the City of Lambertville.

Municipal separate storm sewer system (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by [insert name of municipality] or other public body, and is designed and used for collecting and conveying stormwater.

Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

Refuse container – any waste container that a person controls whether owned, leased, or operated, including dumpsters, bagsters, trash cans, garbage pails, and plastic trash bags.

Dumpster shall mean a container or debris-transfer body commonly used for the placing and/or collection of debris and building materials during building construction and/or renovations which, for the purposes of this section, shall include movable storage units containing refuse or debris.

POD shall mean a container for the purpose of storing items used for the placing and/or collection of household items, furniture, and or supplies.

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

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

3.3 Prohibited Conduct:

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

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Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the City of Lambertville.

3.4 Exceptions to Prohibition:

- Permitted temporary demolition containers
- Litter receptacles (other than dumpsters or other bulk containers)
- Individual homeowner trash and recycling containers
- Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit
- Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup)

3.5 DUMPSTERS

Permit Required.

No person shall encumber or obstruct any street or other public place in the City by placing therein or thereon any dumpster or other similar container commonly used for the collection of building materials, except in compliance with the provisions of this section and with a permit issued in accordance herewith.

3.6 Permit Application:

Any person desiring a permit shall make written application therefor to the City Clerk specifying the exact proposed location of such dumpster, contain or other receptacle, the size and capacity thereof, the name and owner of the abutting property, the length of time that the use is required, and such other information as may be required by the City Clerk.

All such dumpsters or similar containers shall bear an identification number assigned by the State, and the name, address and telephone number of the person responsible therefor.

All such dumpsters, containers or other receptacles that remain on the public streets or sidewalks during the hours between sunset of one day and sunrise of the next day shall be equipped with suitable reflectors, or such other warning devices, as may be required by the City Clerk. Such reflectors shall be capable of reflecting motor vehicle headlights at a distance of 500 feet.

Unless the length of time on the subject permit is specified, any permit issued pursuant to this section shall only be valid for 48 hours.

3.7 Permit Term; Expiration, Additional fees is amended as follows:

No permit shall be granted by the City Clerk for a term longer than seven (7) days.

3.8 Fees and Deposits

The application for a permit shall be accompanied by a fee as outlined below. In addition, the City Clerk may in her discretion require an indemnity deposit not to exceed \$500.00 to reimburse the City for the cost of any extraordinary cleanup or repairs which may be incurred by the City as a result of the use permitted. This deposit, or any unused portion thereof, shall be refunded in the event that there are no extraordinary cleanups or repairs.

Permits issued within a six-month time frame shall pay the following fees:

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- a. Permit 1, initial application, seven (7) day period: \$50.00
- b. Permit 2, second application, seven (7) day period: \$100.00
- c. Permit 3, third application, seven (7) day period: \$125.00
- d. Permit 4, fourth application, seven (7) day period: \$150.00
- e. Permits issued beyond four weeks within a six-month time frame shall only be granted for special circumstances which shall be outlined in a letter to the City Clerk. The fee shall be \$175.00 per week beyond the initial four-week time frame and must receive approval from the following departments: Public Works, Police Department, and the Clerk.

Upon the expiration of the permit, the permit holder shall remove or cause to be removed the dumpster, POD or similar container from the sidewalk, street, or public place.

There shall be a limit of one unit (dumpster or POD) for each occurrence.

Failure to remove the dumpster, POD, or container after the expiration of the permit shall result in a fine of \$500.00 per occurrence.

Applicants can submit a letter outlining their hardship and requesting relief from the limitations to the Governing Body. The Governing Body will hear such requests at the next session and will make a determination to waive based on the hardship.

3.9 Refusal or Revocation Permit

The City Clerk may in her discretion refuse to issue a permit if she deems same to constitute a danger to public safety, or an unwarranted interference with the efficient movement of traffic.

The City Clerk may revoke a permit for the same reasons, and if the dumpster or similar container is not removed within 24 hours after notification, may arrange to have the same removed by the company at the property owner's cost and expense.

If the City Clerk shall determine that an emergency situation exists with regard to the dumpster or other similar container, she may remove same without notice, at owner's expense.

3.10 Restriction on Location and Placement

No dumpster or other similar container shall be placed within 10 feet of a fire hydrant.

No dumpster or similar container shall be placed within five feet of an adjacent property owner's driveway.

No dumpster or other similar container shall be placed closer than 25 feet from an intersection or further than six inches from the curb.

The area beneath and surrounding the dumpster or other similar container shall be kept cleaned, and upon removal of same, the street or roadway shall be swept clean of all loose debris and restored to its former condition.

The dumpster or other similar container shall not be filled higher than four inches from the top edge to prevent debris or materials from fall or being blown onto the streets.

All dumpsters or containers placed at the curb or in the street must have covers.

3.11 Insurance

Each application for a permit authorized under this section shall be accompanied by a policy or

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certificate of insurance, including the applicant and the City as named additional insured's and evidencing general liability coverage to protect the public from bodily injury or property damage sustained as a result of the use of such dumpster or other similar container. Such policy or certificate shall contain limits of at least \$100,000/\$300,000 for bodily injury and \$50,000 for property damage and shall provide at least 30 days' notice of cancellation to be afforded to the City Clerk.

3.12 Enforcement:

This ordinance shall be enforced by the Department of Public Works and/or the Police Department of the City of Lambertville.

3.13 Violations and Penalties:

Any dumpster or similar container in violation of this section shall be removed by the permit holder after 12 hours oral notice given to the owner thereof by the City Clerk.

Notwithstanding paragraph a above, any dumpster or other similar container situated in such a manner as to obstruct an adjacent owner's driveway or create traffic or road hazard shall be moved immediately upon notice given to the owner thereof by the Police Department.

Any person(s) who is found to be in violation of the provisions of this ordinance shall, upon conviction, be liable to the penalty stated in Chapter 1, Section 1-5 General Penalty.

3.14 Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

3.15 Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

INTRODUCTION AND FIRST READING: April 20, 2023

PUBLIC HEARING AND SECOND READING: May 18, 2023

Note: new language is highlighted in yellow.

Mayor Nowick opened the public hearing for Ordinance Number 11-2023 and he asked for public comment or questions. There being no public comment or questions, Mayor Nowick asked for a motion to close the public hearing for Ordinance Number 11-2023. Council President Stegman made the motion and Councilwoman Lambert seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Nowick asked for a motion to adopt on second reading, granting final approval of Ordinance Number 11-2023. Council President Stegman made the motion and Councilman Lide seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCE NUMBER 12-2023: *An Ordinance to Amend the Lambertville City Code, 2014, Chapter 12 Sanitation; Recycling, Section 2.9 Weeds, Shrubbery Clippings, Limbs, Branches and other Garden Waste; Collection to be Made by Public Works: Yard Waste Collection Program*

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Mayor Nowick informed the members of the Governing Body and the public that this Ordinance is being amended to remove older sections that limited the months the yard was open, and add yard waste to the things that can be placed to the curb and will need a motion to amend with a public hearing on June 15, 2023.

Ordinance Number 12-2023

An Ordinance to Amend the Lambertville City Code, 2014, Chapter 12 Sanitation; Recycling, Section 2.9 Weeds, Shrubbery Clippings, Limbs, Branches and other Garden Waste; Collection to be Made by Public Works: Yard Waste Collection Program

NOW THEREFORE BE IT RESOLVED BY the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that section 2.9 Weeds, Shrubbery Clippings, Limbs, Branches and other Garden Waste; Collection to be Made by Public Works, changing the title to read "Yard Waste Collection Program" and replacing the section with the following information:

2.9 Purpose:

An ordinance to establish a yard waste collection and disposal program in City of Lambertville, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

2.10 Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Containerized – means the placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.
- b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Street – means any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing State, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.
- d. Yard Waste – means leaves and shrubbery clippings.

2.11 Yard Waste Collection

Sweeping, raking, blowing or otherwise placing yard waste that is not containerized at the curb or along the street is only allowed during the seven (7) days prior to a scheduled and announced collection, and shall not be placed closer than 10 feet from any storm drain inlet. Placement of such yard waste at the curb or along the street at any other time or in any other manner is a violation of this ordinance. If such placement of yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this ordinance.

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~~Beginning October 1 and ending December 31 of each year, Leaves shall be placed in compostable/biodegradable bags. and shall provide the public with notice of such requirement.~~

All weeds and similar growth clippings shall be placed in a container so that they may be easily emptied in the collector's vehicle.

Hedge and shrubbery clippings, tree trimmings and garden waste will be collected if tied in bundles not to exceed four feet in length and not to exceed two feet in diameter. The total volume placed at the curb for one day's pick up with not exceed 10 bundles and must be placed so that they will not spill out in the gutter, street or sidewalks.

All items placed to the curb for pick-up shall not be closer than 10 feet from any storm drain inlet. Placement of such yard waste at the curb or along the street ~~at any other time or~~ in any other manner is a violation of this ordinance. If such placement of yard waste occurs, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this ordinance.

Grass Clippings: The City does not take grass clippings.

The City will not remove and/or chip trees.

The Convenience Center is located within the Department of Public Works and will be open on a scheduled basis for residents of Lambertville to drop off leaves, shrubbery clippings, tree trimmings and garden waste. The schedule will be updated annually and posted to the City's website and bulletin board at City Hall.

2.12 Enforcement:

The provisions of this ordinance shall be enforced by **Police Department.**

2.13. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance upon conviction, shall be liable to the penalty stated in Chapter 1 Section 1-5.

2.14. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

2.15. Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

INTRODUCTION AND FIRST READING: April 20, 2023

PUBLIC HEARING AND SECOND READING: May 18, 2023

Mayor Nowick asked for a motion to amend Ordinance Number 12-2023 with the second reading and public hearing on June 15, 2023. Councilman Lide made the motion and Councilwoman Kominsky seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

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Note: Yellow Highlights represent new language as recommended by NJDEP for the MS4 Tier A Permit. The gray is the rearranged or updated language.

ORDINANCE NUMBER 13-2023: *An Ordinance to Amend the Lambertville City Code, 2014, Chapter 9, Animal Control, Section 3.3 Pet Waste, Owner Responsibilities for Removal; Penalties*

Mayor Nowick read the Ordinance into the record by title. He informed the members of the public that this Ordinance is to amend the Lambertville City Code to include language required by the State of NJ DEP for the city's MS4 Tier A permit.

Ordinance Number 13-2023

An Ordinance to Amend the Lambertville City Code, 2014, Chapter 9, Animal Control, Section 3.3 Pet Waste, Owner Responsibilities for Removal; Penalties

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that Chapter 9, Section 3.3 is hereby repealed and replaced with the following:

9.3. Purpose:

An ordinance to establish requirements for the proper disposal of pet solid waste in **the City of Lambertville**, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

9.3-1. Definitions:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Immediate – shall mean that the pet solid waste is removed at once, without delay.
- b. Owner/Keeper – any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.
- c. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- d. Pet - a domesticated animal (other than a disability assistance animal) kept for amusement or companionship.
- e. Pet solid waste – waste matter expelled from the bowels of the pet; excrement
- f. Proper disposal – placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

9.3-2. Pet Waste; Owner Responsibilities for Removal; Penalties.

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- a. This subsection shall apply to the owner or other person having custody or control of any dog within the City.
- b. It is unlawful for the owner or custodian of any dog to permit, suffer or allow such dog to discharge its excreta upon any public or private property other than the property of the owner or custodian. Failure to remove and clean up such animal's excreta from public or private property as provided in paragraph d is also unlawful and shall constitute a separate and distinct violation.
- c. In addition to the property of the owner or custodian, it shall be permissible to permit, suffer or allow a dog to discharge its excreta on public streets from curb to curb (not upon any sidewalk or walkway) or within the confines of public alleys provided that the owner or custodian removes and cleans up such animal's feces as provided in paragraph d.
- d. The owner or custodian of any dog shall immediately clean up and remove any dog excreta. Such excreta shall be disposed of in the sanitary sewer system or by placing same in a closed container and depositing such in a covered trash receptacle. No other form of disposal including depositing of excreta in storm sewers shall be permitted.
- e. Violations of this subsection shall, upon conviction, be punishable as follows:
 1. First Offense — a fine of not less than \$25 or more than \$100.
 2. Second Offense — a fine of not less than \$75 nor more than \$150.
 3. Third or Subsequent Offenses — a fine of not less than \$150 nor more than \$500. In addition, the sentencing judge may impose a term of imprisonment not to exceed 90 days.

§ 9-3.3. Owner of Dog Responsible for Conduct. [1990 Code § 9-2.2]

The conduct of a dog shall be attributed to the owner thereof and the owner shall be deemed to have permitted any dog who acts contrary to the requirement of this chapter to act so and such owner shall be guilty of the violation thereof.

9.3-4. Exemptions:

Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

9.3-5. Enforcement:

The provisions of this Article shall be enforced by the **Police Department of the City of Lambertville.**

9.3-6. Violations and Penalty:

Any person(s) who is found to be in violation of the provisions of this ordinance upon conviction, shall be liable to the penalty stated in Chapter 1 Section 1-5.

9.3-7. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

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**Phillip L Pittore Justice Center, 25 S Union Street Lambertville, NJ
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INTRODUCTION AND FIRST READING: April 20, 2023

PUBLIC HEARING AND SECOND READING: May 18, 2023

Note: Yellow highlights: new language

Mayor Nowick opened the public hearing for Ordinance Number 13-2023 and he asked for public comments. There being no public comments or questions, Mayor Nowick asked for a motion to close the public hearing. Councilman Lide made the motion and Council President Stegman seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Nowick asked for a motion to approve on second reading Ordinance Number 13-2023. Council President Stegman made the motion and Councilwoman Lambert seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCE NUMBER 14-2023: *An Ordinance to Amend the Lambertville Zoning Ordinances, Section Z-1500 to Include Private Storm Drain Inlet Retrofitting*

This Ordinance is a recommendation of NJDEP as part of the City's Stormwater Management Plan and will update the Zoning Ordinances. After review by the LMUA, it was sent to the Planning Board for review and comments at their June 7, 2023 session.

The Governing Body will need to continue the public hearing to the June 15, 2023 session to give the Planning Board time to review and make a recommendation to the Governing Body.

ORDINANCE NUMBER 14-2023

An Ordinance to Amend the Lambertville Zoning Ordinances, Chapter Z-1500 to Add Section .16, Private Storm Drain Inlet Retrofitting

Ordinance # [Z-1500.16] – Private Storm Drain Inlet Retrofitting Ordinance

A. Purpose:

1. An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the City of Lambertville so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

B. Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular

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number include the plural number. The word “shall” is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the City of Lambertville or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

STORM DRAIN INLET

An opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

WATERS OF THE STATE

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

C. Prohibited Conduct:

1. No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:
 - a. Already meets the design standard below to control passage of solid and floatable materials; or
 - b. Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.

D. Design Standard:

Storm drain inlets identified in Section C above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section E.3 below.

1. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways

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Planning and Design Guidelines (April 1996); or

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

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

2. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
3. This standard does not apply:
 - a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
 - b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - i. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
 - ii. A bar screen having a bar spacing of 0.5 inches.
 - c. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or
 - d. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

E. Enforcement:

1. This ordinance shall be enforced by the Police Department and/or other Municipal Officials of the City of Lambertville.

F. Penalties:

1. Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed **[insert amount]** for each storm drain inlet that is not retrofitted to meet the design standard.

G. Severability:

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1. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

H. Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

INTRODUCTION AND FIRST READING: April 20, 2023

PUBLIC HEARING AND SECOND READING: June 15, 2023

Mayor Nowick asked for a motion to continue the public hearing to the June 15, 2023 session. Councilman Lide made the motion and Councilwoman Lambert seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

CORRESPONDENCE

Mayor Nowick gave an overview of the correspondence.

STATE OF NEW JERSEY, DOT: Notice of applications for fiscal year 2023 State Aid Programs.

JCP&L: BPU Docket No. ER23020060: Notice of a Public Hearing for JCP&L seeking BPU review and approval of the deferred balances accumulated with respect to Solar Renewable Energy Certificate Financing Component.

TOWNSHIP OF READINGTON: Resolution of Support of S2186/A3677, Invasive Species

BOROUGH OF LEBANON: Resolution of Support of Bill 861, permitting municipalities to conduct an annual event for the burning of trees.

ONGOING PROJECTS

Mayor Nowick informed the members of the public that there are no updates on the following projects: Church Street Traffic Pattern Update and USDA/NRCS Music Mountain.

ANNOUNCEMENTS

Mayor Nowick read the announcements into the record.

CONVENIENCE CENTER HOURS

Saturday, June 3, 2023, and June 17 from 9 am to 12 noon

Wednesday, June 21, 2023 from 3 – 5 pm.

SPARKLE WEEK is over. Please remember to pay for Bulk Trash Items. Visit the Clerk's Office or the city's website www.lambertvillenj.org.

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MEMORIAL DAY PARADE will be held on Monday, May 29, 2023 with Step off at 9 a.m. at the Corner of North Union and Cherry Streets. Robert Miller of the Township of West Amwell will serve as this year's Grand Marshall.

PRIDE WEEKEND

STORMWATER UTILITY FEASIBILITY STUDY GRANT: in the fall the NJ League of Conservation Voters, and NJ Future gave a presentation on stormwater utilities. There are currently 0 in the state. We worked with NJ Futures and the NJLCV; they will come to the June 1 meeting to do another presentation on Stormwater Utilities. NJLCV has offered the City a \$70,000 grant to fund a feasibility study. If the feasibility study costs more than the grant the city can either make up the difference or return the grant. Mayor Nowick committed to taking the matter of a stormwater utility to a referendum.

PUBLIC PARTICIPATION

Mayor Nowick opened the second public participation session.

Cindy Sternfeld of Lambertville: Ms. Sternfeld commented that she is confused - the delay on the budget will cost approximately \$3,000.00? Did anybody know that before the vote? Didn't we just vote to delay so we can find money? The City Attorney responded that estimated tax bills are calculated by finance using 2023 assessed values. The bills need to be prepared. A rough estimate, if we subcontract out, it could be \$3,000 plus postage.

John Hencheck asked if he made it clear that we are on the State and National register? The City composition meets every standard. He said he doesn't know why there is a question about this matter – it is laid out in the Department of the Interior. It's very important we keep our eye on how important our heritage is.

Paul Stevens thanked Cindy and Lindsay for posting the Ordinances with the edits that show what is being changed.

Mayor Nowick asked for a motion to close the public participation session. Council President Stegman made the motion and Councilwoman Lambert seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ADJOURNMENT

The meeting adjourned at 8:47 p.m. with a motion made by Councilwoman Kominsky and seconded by Councilman Lide. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Respectfully submitted,

Cynthia L. Ege
CMR, RMC, City Clerk