

**AGENDA**

REGULAR MEETING, THURSDAY, MARCH 24, 2011 AT 7:00 P.M. OR AS SOON THEREAFTER AT BOROUGH HALL

**OPEN PUBLIC MEETINGS ACT.**

BOROUGH CLERK: this meeting is being held in accordance with the rules and regulations of the Open Public Meetings Act of the State of New Jersey. Adequate notice of this meeting was provided by forwarding a Sunshine notice which included the time, date and location of this public meeting of the Mayor and Council.

**ROLL CALL:**

COUNCIL MEMBERS: Councilman Yampaglia, Councilman Bianchi, Councilman Hughes, Councilman Johnson, Councilman Tanelli, and Councilman Kearney

ALSO PRESENT: Mayor Peter C. Massa, Borough Clerk, Terence M. Wall, Borough Attorney, Randy Pearce

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

**APPROVAL OF MINUTES**

December 9, 2010  
Sine Die January 3, 2011  
January 20, 2011

INTRODUCED BY: Councilman Hughes  
SECONDED BY: Councilman Kearney  
ROLL CALL: all council present vote in the affirmative

**RESOLUTIONS ON CONSENT**

- R-101-11 RESO RE: AUTHORIZATION TO PAY CLAIMS
- R-102-11 RESO RE: NORTH ARLINGTON 2010 RECYCLING TONNAGE GRANT
- R-103-11 RESO RE: INTERLOCAL SERVICE AGREEMENT PISTOL RANGE
- R-104-11 RESO RE: APPROVAL OF 2011 BUSINESS LICENSES
- R-105-11 RESO RE: AUTHORIZATION TO EXECUTE A DEED FOR THE TRANSFER OF PROPERTY FROM THE NEW JERSEY MEADOWLANDS COMMISSION TO THE BOROUGH OF NORTH ARLINGTON
- R-106-11 RESO RE: AUTHORIZATION TO EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF PROPERTY TAXES BY THE NEW JERSEY MEADOWLANDS COMMISSION
- R-107-11 RESO RE: THE MATTER OF THE APPLICATION OF MID-STATE CONSTRUCTION IN CONNECTION WITH DEVELOPMENT APPROVAL RELATING TO BLOCK 170, LOT 3 (76 PORETE AVENUE) BOROUGH OF NORTH ARLINGTON
- R-108-11 RESO RE: TEMPORARY BUDGET AMENDMENT
- R-109-11 RESO RE: TRANSFER OF 2010 APPROPRIATION RESERVES

INTRODUCED BY: Councilman Hughes  
SECONDED BY: Councilman Tanelli  
ROLL CALL: all council present vote in the affirmative  
\*Councilman Hughes abstains from all fire department purchases on claims reso  
\*\*Councilman Tanelli votes no on purchase order #257797, 257524

R-110-11 EXECUTIVE SESSION

INTRODUCED BY: Councilman Bianchi  
SECONDED BY: Councilman Kearney  
ROLL CALL: all council present vote in the affirmative

MOTION TO RETURN TO THE REGULAR ORDER OF BUSINESS

INTRODUCED BY: Councilman Johnson  
SECONDED BY: Councilman Yampaglia  
ROLL CALL: all council present vote in the affirmative

R-111-11 EXECUTIVE SESSION

INTRODUCED BY: Councilman Kearney  
SECONDED BY: Councilman Tanelli  
ROLL CALL: all council present vote in the affirmative

MOTION TO RETURN TO THE REGULAR ORDER OF BUSINESS

INTRODUCED BY: Councilman Tanelli  
SECONDED BY: Councilman Kearney  
ROLL CALL: all council present vote in the affirmative

**ADJOURNMENT:**

MOTION TO ADJOURN

INTRODUCED BY: Councilman Tanelli  
SECONDED BY: Councilman Bianchi  
ROLL CALL: all council present vote in the affirmative

(\*AGENDA IS SUBJECT TO CHANGE AS A RESULT OF THE MATTERS NOT KNOWN  
AT THE TIME OF PRINTING)

RESO RE: AUTHORIZATION TO PAY CLAIMS

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES*	X		X			
JOHNSON			X			
TANELLI**		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

WHEREAS, There has been presented to the Mayor and Council Members of the Borough of North Arlington, the attached list of invoices requesting payment for the work, labor, services and materials to the Borough; and

WHEREAS, said attached list specify the exact line item in the budget or Ordinance to be charged therewith: \$ 4,308,689.61

WHEREAS, each of the purchases by said invoices have been duly authorized by the purchasing department, agent or office in respect to the goods and services received, as well as the Chief Financial Officer in regard to availability of funds;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of North Arlington, that the CFO is hereby authorized to pay the claims.

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

\*Councilman Hughes abstains from any fire department purchases

\*\*Councilman Tanelli votes no on purchase order #257797 & 257524

RESO RE: NORTH ARLINGTON 2010  
RECYCLING TONNAGE GRANT

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source

Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants for calendar year 2010 will memorialize the commitment of the municipality to recycling and to indicate the assent of North Arlington to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual to ensure the application is properly completed and timely filed.

NOW THERE BE IT RESOLVED by the council of North Arlington that North Arlington hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Mark Cunningham as the Municipal Recycling Coordinator to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling fund to be used for the purposes of recycling.

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

R-103-11

RESO RE: INTERLOCAL SERVICE AGREEMENT  
PISTOL RAN

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

**WHEREAS**, the Mayor and Council of the Borough of North Arlington authorize Interlocal Services Agreement pursuant to the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq and;

**WHEREAS**, the need exists for North Arlington to enter into Interlocal Service Agreements with the following Police Departments so that they may have authorization to use the North Arlington Pistol Range:

- Kearny Police Department
- Lyndhurst Police Department
- Belleville Police Department
- Secaucus Police Department
- Bloomfield Police Department
- Nutley Police Department
- Hackensack Police Department
- Fort Lee Police Department
- U.S. Postal Inspector

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of North Arlington, that the Borough is hereby authorized to enter into Interlocal Service Agreements with the above referenced entities for a payment of \$300.00 per week or each week that it is used, Certification of Insurance in the amount of \$1,000,000.00, and Hold Harmless Agreement, which have been reviewed and approved by the Borough's Risk Management Consultant, Professional Insurance Associates and by the Borough Attorney.

**BE IT FURTHER RESOLVED**, that the Mayor and Borough Clerk are hereby authorized and directed to execute an agreement with each respective Police Department, in a form that is approved by the Borough Attorney.

APPROVED: \_\_\_\_\_

Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_

Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

R-104-11

RESO RE: APPROVAL OF 2011 BUSINESS LICENSES

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

BE IT RESOLVED by the Mayor and Council of the Borough of North Arlington hereby approve the business licenses listed for the year 2011.

**2011 BUSINESS/RESTAURANT LICENSES**

**Restaurant/Food Service Licenses - #0206 - \$50.00**

<u>Name</u>	<u>Address</u>	<u>Payment</u>	<u>Date</u>
Applegate Farms	619 Ridge Road	\$ 50.00	3/2/11
Sotto Zero	89 Ridge Road	\$ 50.00	3/3/11
Zio Pasquale	114 Ridge Road	\$ 50.00	3/16/11

**#0208 - \$500.00**

Hughes Auto Sales	600 Schuyler Ave,	\$500.00	2/18/11
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APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

R-105-11

RESO RE: AUTHORIZATION TO EXECUTE A DEED FOR THE TRANSFER OF PROPERTY FROM THE NEW JERSEY MEADOWLANDS COMMISSION TO THE BOROUGH OF NORTH ARLINGTON

**WHEREAS**, on November 5, 2010 the New Jersey Meadowlands Commission (“NJMC”) acquired ownership of certain real property located within the Borough of North Arlington; and

**WHEREAS**, the properties acquired by the NJMC included a property with a street address of 290-500 Schuyler Avenue and which is currently misidentified on the Borough tax records as Block 174, Lots 1, 2 and 3 and Block 154, Lot 1 and which will be identified as Block 174, Lot 1.02 and Block 154, Lot 2.02 upon the completion of revisions to the tax records of the Borough; and

**WHEREAS**, the property described herein contains a recreational field which is being used by the Borough; and

**WHEREAS**, the NJMC has agreed to transfer the ownership of said property to the Borough for a nominal fee; and

**WHEREAS**, a Deed from the NJMC to the Borough, along with other transfer documents, have been prepared and have been reviewed and approved by the Borough Attorney; and

**WHEREAS**, in order to effectuate the transfer of the property described herein the aforesaid Deed must be executed by the Mayor and recorded with the Bergen County Records office; and

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of North Arlington that the Mayor is hereby authorized and directed to execute the Deed described herein and the Borough Attorney, upon execution by the Mayor, is directed to submit the deed for recording.

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

**RESO RE: AUTHORIZATION TO EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF PROPERTY TAXES BY THE NEW JERSEY MEADOWLANDS COMMISSION**

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

**WHEREAS**, on November 5, 2010 the New Jersey Meadowlands Commission (“NJMC”) acquired ownership of certain real property located within the Borough of North Arlington; and

**WHEREAS**, the properties acquired by the NJMC are currently identified on the Borough tax records as follows: Block 169, Lot 2.02; Block 172, Lots 1, 3.01, 4 (5&6), 7, 8 and 9.02; Block 154, Lot 1

(2); Block 174, Lot 1 (2,3&4) and Block 300, Lots 11,12,13,14,15, part of 1 and part of 16; and

**WHEREAS**, pursuant to N.J.S.A. 13:17-38, the NJMC is authorized, empowered and directed to enter into an agreement with any municipality, whereby the NJMC will undertake to pay a fair and reasonable sum to compensate the said municipality for a loss of revenue in connection with any property acquired and owned by the NJMC; and

**WHEREAS**, an Agreement for Payments in Lieu of Taxes (“Agreement”) for the aforesaid properties owned by the NJMC has been memorialized in writing and reviewed and approved by the Borough Attorney and is attached hereto; and

**WHEREAS**, the Agreement states that a payment by the NJMC in lieu of taxes for the first six (6) months of 2011 will be made to the Borough in the amount \$200,000.00 immediately upon the execution of the Agreement and that a second payment in lieu of taxes for the second six (6) months of 2011 in the amount of \$200,000.00 will be made on July 1, 2011 in the event that the NJMC retains ownership of the aforesaid property on that date; and

**WHEREAS**, the total amount to be paid by the NJMC in lieu of taxes under the Agreement represents an amount which is not less than the amount of taxes on the property when last assessed prior to its acquisition by the NJMC; and

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of North Arlington that the Mayor is hereby authorized and directed to execute the Agreement described herein and attached hereto.

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

R-107 -11

RESO RE: THE MATTER OF THE APPLICATION OF MID-STATE CONSTRUCTION IN CONNECTION WITH DEVELOPMENT APPROVAL WITH VARIANCES RELATING TO BLOCK 170, LOT 3 (76 PORETE AVENUE) BOROUGH OF NORTH ARLINGTON

**INTRODUCTION**

**WHEREAS, Mid-State Construction** (hereinafter, the “Applicant”), having an address at 76 Porete Avenue, North Arlington, New Jersey, made an application, on or about May 21, 2010, to the Borough of North Arlington’s Zoning Board of Adjustment for variance relief as to certain real property identified as Block 170 Lot 3 on the official tax map of the Borough of North Arlington, County of Bergen (hereinafter “the Property”); and

**WHEREAS,** the real property is owned by the Applicant and is commonly known as 76 Porete Avenue, North Arlington, New Jersey; and

**WHEREAS,** the Property currently consists of a principal building in the front of the property used for office purposes and an ancillary storage building at the rear of the property for the operations of Mid-State Construction;

**WHEREAS,** the Property is located in the Porete Avenue Redevelopment Area; and

**WHEREAS,** the Applicant has made application to the Borough of North Arlington Zoning Board of Adjustment for variance approval to permit the recently constructed rear ancillary storage building to be used as a second principal building on the site; and

**WHEREAS,** in connection with the development application, the Applicant requires bulk variances related to a second principal structure and rear and side yard set back requirements as a result of the following conditions: the existing side yard set back is 1.5 ft for one side yard and 4.0 ft for both side yards and the existing rear yard set back is 2.5 ft

while the Porete Avenue Redevelopment Ordinance requires a minimum 20 ft set back on all sides; and

**WHEREAS**, all planning, development, redevelopment, rehabilitation and all other land use applications with regard to any properties in the Porete Avenue Redevelopment Area are governed by the Porete Avenue Redevelopment Ordinance which was amended by Ordinance adopted December 9, 2010 which incorporated and adopted the Amended Porete Avenue Redevelopment Plan dated June 2010 by reference; and

**WHEREAS**, the Porete Avenue Redevelopment Ordinance supersedes all use, bulk and design standard provisions of the Borough Land Development Regulations with regard to all properties located in the Porete Avenue Redevelopment Area; and

**WHEREAS**, the provisions of the Porete Avenue Redevelopment Ordinance change the process by which approvals for the development of land are typically granted whereby a property owner submits plans and an application to the Planning Board or Zoning Board of Adjustment and the appropriate Board schedules a hearing on the application in order to ensure maximum compliance with the redevelopment plan; and

**WHEREAS**, in accordance with Section 3(B) of the Porete Avenue Redevelopment Ordinance, the Borough Council, acting as the redevelopment entity, shall review all proposed redevelopment projects within the Redevelopment Area brought before it to ensure that such project(s) is consistent with the redevelopment plan; and

**WHEREAS**, in addition to determining whether the proposal is consistent with this redevelopment plan and relevant redeveloper agreement(s), Section 3(B) of the Porete Avenue Redevelopment Ordinance provides that the Borough Council may address the site and building design elements of the project to ensure that the project adequately addresses the goals and objectives of the redevelopment plan and make recommendations for improvement to the proposed development; and

**WHEREAS**, the application was made to the Zoning Board of Adjustment prior to the final passage of the Porete Avenue Redevelopment Ordinance on December 9, 2010 and the Amended Porete Avenue Redevelopment Plan dated June 2010 which was adopted therewith; and

**WHEREAS**, the application became subject to the provisions of the newly amended Porete Avenue Redevelopment Ordinance which were not in existence at the time the application was made; and

**WHEREAS**, pursuant to the above referenced provisions of the Porete Avenue Redevelopment Ordinance and in light of the special circumstances arising as a result of the timing of the filing of the application and the final passage of the amendment to the Porete Avenue Redevelopment Ordinance and in order to ensure that the proposed project adhered to the requirements of the redevelopment plan in all aspects and was consistent with the goals and objectives of the redevelopment plan, the Council elected to hold a public hearing and to render a decision with regard to all aspects of the application; and

**WHEREAS**, the public hearing was held on February 24, 2011; and

#### **COUNSEL AND PROFESSIONALS**

**WHEREAS**, the Applicant was represented by Robert A. Gaccione, Esq. of Gaccione Pomaco, Belleville, New Jersey; and

**WHEREAS**, the Applicant's professional engineer was Guzzo and Guzzo Architects, L.L.C.; and

**WHEREAS**, the Applicant's professional planner was Anthony Marucci.

#### **EXHIBITS**

The following exhibits were introduced by way of testimony:

1. Application, dated May 21, 2010.
2. Engineering Plans consisting of three sheets including Photo Exhibit, Site Plan and Zoning Information and Floor Plan and Exterior Elevations, prepared by Guzzo and Guzzo Architects, L.L.C., dated September 8, 2010.
3. Construction Permit for the rear accessory storage shed issued by the Borough of North Arlington, dated July 27, 2009.
4. Construction Permit Notice issued by the Borough of North Arlington, dated July 27, 2009.
5. Application for Construction Permit.
6. Five (5) Photographs of site, dated February 23, 2011.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of North Arlington that it does hereby make the following findings of fact and conclusions based thereon:

1. All of the recitals hereinabove set forth are incorporated by reference and all of the exhibits and documents produced by the Applicant and the Applicant's professionals are herein incorporated by reference.
2. The Applicant has submitted a complete application pursuant to the Borough's Zoning Ordinance and the Porete Avenue Redevelopment Ordinance.
3. The Property is located within the Porete Avenue Redevelopment Area, which is governed by the Porete Avenue Redevelopment Ordinance which supersedes all use, bulk and design standard provisions of the Borough Land Development Regulations with regard to all properties located in the Porete Avenue Redevelopment Area. The Borough Council, acting as the redevelopment entity, reviewed the proposed redevelopment project within the Redevelopment Area brought before it to ensure that such project is consistent with the redevelopment plan.
4. In accordance with the Porete Avenue Redevelopment Ordinance, the Borough Council may address the site and building design elements of the project to ensure that the project adequately addresses the goals and objectives of the redevelopment plan.
5. The Borough Council has jurisdiction pursuant to the Municipal Land Use Law and the Porete Avenue Redevelopment Ordinance, and in light of the exceptional circumstances surrounding the application, to hear the matter and grant variances pursuant to the said Ordinance and applicable case law as may be deemed applicable in the judgment of the Council upon the presentation of evidence and the testimony of the Applicant, Applicant's witness and objectors, if any.
6. The Council's members formed a quorum at the time the Application was heard.

**WHEREAS**, the Council of the Borough of North Arlington considered the following statements and testimony in connection with the application:

1. Attorney Gaccione provided an overview of the proposed development and advised that the Applicant received a construction permit from the Borough of North

- Arlington and erected a pre-fabricated storage structure in the rear of the property in 2009. The Applicant now seeks to utilize this ancillary storage structure to conduct portions of its business operations (along with storage and office operations) thus converting the existing ancillary structure to a second principal structure on the property.
2. The primary variance requested by the Applicant was to permit two principal uses on one lot, while the Borough Zoning Ordinance and the Porete Avenue Redevelopment Ordinance permits only one principal structure on this property.
  3. The application also requires variances for the existing rear and side yard rear set backs as a result of erection of the pre-fabricated structure at the rear of the property which has created the following conditions: the existing side yard set back is 1.5 ft for one side yard and 4.0 ft for both side yards and the existing rear yard set back is 2.5 ft while the Porete Avenue Redevelopment Ordinance requires a minimum 20 ft set back on all sides.
  4. Anthony Guzzo of Guzzo and Guzzo Architects, L.L.C. testified as to the engineering plans submitted with the application and the required variances.
  5. Testimony was submitted by Mr. Guzzo that, as part of the proposed development, there will be: (i) no signage proposed; (ii) sufficient parking in the front and rear of the property provided and (iii) two storage trailers will remain on the site.
  6. Testimony was provided by the owner's agent, Nader Naderi, that the rear building will be used for minor welding operations, material fabrication and storage. These minor operations are currently conducted by Mid-State on adjacent property at 74 Porete Avenue which is rented. The current operations will be relocated from 74 Porete Avenue to 76 Porete Avenue and will continue in the same manner and will not expand. The hours of operation will continue to be 7:00 AM to 5:00 PM, the rear building will include minor fabricating/welding operations with a maximum of three employees, there will be minimal truck traffic of approximately three trucks on site per day, and the site is and will be used only for Mid-State Construction operations.
  7. Testimony was also provided by Mr. Naderi that no new electrical, water, sewer or plumbing services would need to be provided to the property, that the rear structure

would not include its own bathroom facilities and that the lighting on the property will not be changed.

8. The Applicant stipulated that they would fully comply with all recommendations contained in the Engineering Review Letter provided by Borough Engineer Neglia Engineering, including, but not limited to, the following:
  - a. Installation of greenery and landscaping adjacent to building.
  - b. Providing drainage calculations to Neglia Engineering for all drainage on the property including trench drains associated with new construction and existing drainage into rear stream and implementing all directions received from Neglia Engineering to bring these drainage issues into full compliance with State, local and Federal requirements.
  - c. Installation of ventilation and exhaust system in new structure.

9. The Council opened the hearing to the public. Joseph Cerrone spoke in favor of the application and noted that the applicant's operations are consistent with other operations in the area and that he is unaware of any noise complaints as a result of the applicant's current operations at 74 Porete Avenue and that the applicant is an asset to the community and has invested in the Borough. Richard Glennon spoke in opposition to the application and noted that the building is not designed for welding operations, did not have motorized venting and is much larger than the principal building in the front of the property.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of North Arlington that it does hereby make the following findings of fact and conclusions of law:

1. The application is governed by the Porete Avenue Redevelopment Ordinance for the reasons and findings set forth hereinabove.
2. In accordance with the fact that a permitted use under the Porete Avenue Redevelopment Ordinance for the applicant's property is light industry which is defined in the Ordinance as production, processing, assembly or fabrication of goods, materials or products, including any incidental cleaning, servicing, testing, repair or storage of those same goods, materials or products, but not including the storage of flammable or combustible materials as a principal use, the Council

finds that the proposed development includes a permitted use. Accordingly, a use variance is not required.

3. The Council finds that the proposed development constitutes an unauthorized accessory use under the Porete Avenue Redevelopment Ordinance and that the Applicant requires a bulk variance for two principal structures on one lot.
4. The Council finds that there are pre-existing bulk variance conditions (i.e., rear and side yard set backs), which are not being intensified by the proposed development.
5. The Council finds the proposed development represents a positive economic investment in the Borough of North Arlington and that it allows for the continuation of a permitted use which has minimal negative impact on the surrounding properties and which represents efficient and effective use of land within the Borough and includes on-site organization of materials and general overall and aesthetic improvements of the site as a whole. As such, the Council finds that the proposed development is consistent with the redevelopment plan and furthers the goals and objectives of the Porete Avenue Redevelopment Plan and Redevelopment Ordinance to promote the commercial investment in the Porete Avenue Area while adhering to design specifications which ensure minimal negative impact on surrounding properties and promote clean, safe, attractive and productive commercial enterprise in the Borough. The proposed development is consistent with the vision of the redevelopment plan to create a regional light industrial center and encourage development and rehabilitation of the existing industrial buildings and lots on Porete Avenue.
6. The Council finds that the granting of bulk variances are appropriate for the proposed use as a result of the minimal negative impact such a use would have on the Borough and surrounding properties due to the fact that the proposed second principal structure in the rear of the property requires no additional electrical, water or sewer services to the property and due to the fact that the proposed new operations, consisting of minor welding and material fabrication for off-site construction work, will not intensify the traffic impact or the environmental impact on the property. In addition, the proposed accessory use will positively

impact the Borough and surrounding properties by furthering the goals of the redevelopment plan which include the stimulation of economic investment in the Area and the promotion of effective non-residential use of all the Redevelopment Area property and to increase the property tax base.

7. The Council finds that variances are appropriate for the pre-existing rear and side yard set backs which violate the requirements of the Porete Avenue Redevelopment Ordinance as a result of the fact that the construction which created the violations was approved by the Borough before the Porete Avenue Redevelopment Ordinance was amended and the Amended Porete Avenue Redevelopment Plan was created and adopted by the Borough. In addition, the construction which created the violations furthers the goals of the redevelopment plan including the stimulation of economic investment in the Area and the promotion of effective non-residential use of all the Redevelopment Area property and to increase the property tax base.
8. The Council finds that the applicant shall be considered a redeveloper and shall enter into a redeveloper's agreement in accordance with Section 8(D) of the Porete Avenue Redevelopment Ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of North Arlington that the variance to permit two principal structures on one lot and pre-existing bulk variances for rear and side yard set-backs for Block 170 Lot 3 on the official tax map of the Borough of North Arlington be and hereby are **GRANTED** for the reasons set forth hereinabove.

**BE IT FURTHER RESOLVED**, that the granting of the within variances are specifically made subject to the following additional conditions:

- a. Subject to compliance with the Neglia Engineering Review Letter, dated February 17, 2011, including, but not limited to the following:
  - i. Installation of greenery and landscaping adjacent to building.
  - ii. Approval by the Borough Construction Code Official of all drainage measures included on the property including trench drains associated with new construction and drainage into rear stream.

- iii. Subject to approval by the Borough Engineer of the ventilation and exhaust system to be installed in new structure.
- b. Applicant shall clean up and maintain all outdoor storage areas.
- c. Subject to the implementation of the following deed restrictions on the property which shall run with the land in perpetuity:
  - i. The property can not be sub-divided.
  - ii. The property will not, at any time, be used by two separate entities.All operations on the property shall be conducted by one entity.
- d. A copy of this Resolution shall be forwarded to the Applicant, the Borough Engineer and the Construction Department of the Borough of North Arlington. The Borough Engineer and the Construction Department shall make note of conditions stated above.
- e. The Borough Clerk shall publish the required notice.
- f. The Applicant shall post sufficient escrow monies as determined by the Construction Department of the Borough of North Arlington to ensure payment of the Borough's professionals in connection with the review, hearing and follow-up of the application prior to the issuance of a certificate of occupancy.
- g. The Applicant shall be required to enter into a Redeveloper's Agreement as described in the Porete Avenue Redevelopment Ordinance the terms of which shall be acceptable to the Borough.

**BE IT RESOLVED**, that a certificate of occupancy shall not be issued until the Applicant complies with the conditions set forth hereinabove, as applicable.

**BE IT FURTHER RESOLVED**, that the variance relief considerations granted herein are specifically made subject to any conditions referred to herein and the testimony provided at the public hearings by the Applicant. In the event that any conditions are held to be invalid, unenforceable, or unlawful, the entire approval granted herein shall be unenforceable. It is the intent of the Council that the approval granted herein shall not be approved if any condition is invalid, and that the conditions are not severable from approvals granted herein.

I hereby certify the foregoing to be a true and accurate copy of the Resolution adopted by the Mayor and Council of the Borough of North Arlington **APPROVING** of the noted variances to Mid-State Construction relating to Block 170 Lot 3 on the tax map of the Borough of North Arlington at a public meeting held on the 24<sup>th</sup> day of March, 2011.

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

R-108-11

RESO RE: TEMPORARY BUDGET AMENDMENT

**WHEREAS**, NJSA 40A:4-20 of the Local Budget Law provides that in addition to temporary appropriations necessary for the period prior to the adoption of the budget, the governing body may, by resolution adopted by 2/3 vote of the full membership thereof, make emergency temporary appropriations for any purposes for which appropriations may lawfully be made for the period between the beginning of the

current fiscal year and the adoption of the budget.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of North Arlington that, based on the recommendation of the Chief Financial Officer, that the following emergency temporary appropriations be made and that a certified copy of this resolution be filed with the Director of the Division of Local Government Services:

<u>Budget Account</u>	<u>Number</u>	<u>New Appropriation</u>
Admin & Exec OE	10-11-1-1020	\$17,700
Collection of Taxes OE	10-11-1-1060	\$20,000
Legal S&W	10-11-1-1070	\$25,500
Public Defender S&W	10-11-1-1100	\$3,000
EMT's S&W	10-11-1-1311	\$60,000
Crossing Guards S&W	10-11-1-1315	\$75,000
Road Repairs & Maint S&W	10-11-1-1500	\$190,000
Street Lighting	10-11-1-2040	\$60,000
Social Security	10-11-1-2210	\$80,000
Interest on Loans	10-11-2-5550	\$12,000

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

RESO RE: TRANSFER OF 2010 APPROPRIATION RESERVES

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES	X		X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY			X			
MASSA						
TOTAL						
ON CONSENT AGENDA <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO						

**WHEREAS,** it has become necessary to expend funds to pay claims incurred in the previous year in excess of the amounts approved in the Fiscal 2010 budget of the Borough of North Arlington; and

**WHEREAS,** there exist certain budget expenditures with funds available in excess of the amounts approved in the Fiscal 2010 budget of the Borough of North Arlington; and

**WHEREAS,** N.J.S.A. 40A:4-59 permits the transfer of appropriation reserves during the first three months of the fiscal year;

**NOW, THEREFORE, BE IT RESOLVED,** by the Mayor and Council of the Borough of North Arlington that based on the recommendation of the Chief Financial Officer, that the following transfers be made to the Fiscal 2010 Current Fund budget:

**Inside Cap**

<b><u>Budget Account</u></b>	<b><u>Number</u></b>	<b><u>From</u></b>	<b><u>To</u></b>
Assessment of Taxes S&W	10-10-1-1050	\$900	
Fire Official – OE	10-10-1-1290	\$3,000	
Police – S&W	10-10-1-1310	\$3,000	
Dispatchers S&W	10-10-1-1312	\$6,000	
Construction S&W	10-10-1-1400	\$2,000	
Youth Center S&W	10-10-1-1760	\$4,000	
Admin & Exec OE	10-10-1-1020		\$200
Finance OE	10-10-1-1040		\$8,700
Legal OE	10-10-1-1070		\$2,600
Public Bldngs & Gr OE	10-10-1-1120		\$4,400
Juvenile Conf. OE	10-10-1-1340		\$1,000
Recreation OE	10-10-1-1700		\$2,000
<b>Total</b>		<b>\$18,900</b>	<b>\$18,900</b>

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI	X		X			
HUGHES			X			
JOHNSON			X			
TANELLI			X			
KEARNEY		X	X			
MASSA						
TOTAL						
ON CONSENT AGENDA ____ YES ___X___ NO						

R-110-11

RESO RE: EXECUTIVE SESSION

WHEREAS, the Open Public Meeting Act, Chapter 231 permits the exclusion of the public from a meeting in

certain circumstances, and

WHEREAS, the Mayor and Council is of the opinion that such circumstances presently exist; and

WHEREAS, the Mayor and Council wish to discuss:

Personnel  
Collective Bargaining

“Public release of the discussion will only occur after counsel approval. Action may or may not occur after discussion”.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council are now in executive session.

APPROVED: \_\_\_\_\_

Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_

Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011

COUNCIL/ MAYOR	INTRODUCED	SECONDED	YES	NO	ABSTAIN	ABSENT
YAMPAGLLIA			X			
BIANCHI			X			
HUGHES			X			
JOHNSON			X			
TANELLI		X	X			
KEARNEY	X		X			
MASSA						
TOTAL						
ON CONSENT AGENDA ____ YES ___X___ NO						

R-111-11  
RESO RE: EXECUTIVE SESSION

WHEREAS, the Open Public Meeting Act, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances, and

WHEREAS, the Mayor and Council is of the opinion that such circumstances presently exist; and

WHEREAS, the Mayor and Council wish to discuss:

Personnel  
Collective Bargaining

“Public release of the discussion will only occur after counsel approval. Action may or may not occur after discussion”.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council are now in executive session.

APPROVED: \_\_\_\_\_  
Peter C. Massa, Mayor

ATTEST: \_\_\_\_\_  
Terence M. Wall, RMC  
Borough Clerk

DATED: March 24, 2011