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Director

June 26, 2024

Hon. George Hoff, Mayor
Borough of Keansburg
George E. Kauffmann Municipal Building
29 Church Street
Keansburg, NJ 07734

Re: Follow-Up Report – A Performance Audit of the Borough of Keansburg

Dear Mayor Hoff:

On May 5, 2021, we issued an audit report, *A Performance Audit of Selected Fiscal and Operating Practices of the Borough of Keansburg (2021 Audit)*,¹ in which we made recommendations to address identified weaknesses. Pursuant to N.J.S.A. 52:15C-11, we have conducted a follow-up review of the corrective action plan of the Borough of Keansburg (Borough) to assess the implementation of the recommendations contained in the 2021 Audit. Our findings and conclusions are set forth below.

Background, Scope, and Objective

Our audit of the Borough identified internal control weaknesses that resulted in noncompliance with statutory requirements and internal policies and procedures related to the administration of health insurance benefits, employee payroll, and personnel matters. These internal control deficiencies resulted in the improper use of Borough assets and improper payments totaling approximately \$125,000. Additionally, our audit identified excessive employee benefits, including 55 annual vacation days for one employee and untaxed employee fringe benefits.

The objective of our follow-up review was to determine if the Borough implemented the 13 recommendations contained in our 2021 Audit report.

¹ Available at: https://www.nj.gov/comptroller/news/docs/keansburg_audit_report.pdf.

Summary Conclusion

We found that the Borough has made limited progress in implementing the recommendations set forth in our 2021 Audit and that substantial work remains. Of the 13 audit recommendations, 2 were implemented, 3 were partially implemented, and 8 were not implemented. We urge the Borough to continue its efforts to comply with the recommendations not yet fully implemented.

Status of Initial Audit Recommendations

Recommendation 1

Develop policies and procedures for the administration of health benefit opt-out payments that include controls that verify employee eligibility, ensure payment calculations are accurate and in compliance with state law limitations, and require supporting documentation of an employee's alternate health insurance coverage that complies with the appropriate records retention requirement for such documentation.

Status: Partially Implemented

Our 2021 Audit found that the Borough issued health benefit opt-out (waiver) payments to five employees totaling \$21,333 in 2017 and to seven employees totaling \$31,250 in 2018. We also found that the Borough did not have adequate controls in place to ensure that its processing of waiver payments complied with state law. These deficiencies resulted in improper payments of approximately \$22,000. Our 2021 Audit also found that the Borough did not obtain proof of alternate health coverage as required by the Division of Pensions and Benefits. The Borough advised in its corrective action plan that employees would be required to submit proof of existing health insurance prior to being considered eligible for a waiver payment. In addition, the Borough stated that each waiver payment would be reviewed and signed-off on by the Chief Financial Officer (CFO) prior to approval and payment being made.

During our review, we found that the Borough had not established formal written policies and procedures for the administration of waiver payments. However, we note that the Borough drafted a memorandum establishing its policies and procedures for the administration of waiver payments during the course of our follow-up review. We determined that the Borough issued waiver payments to four employees totaling approximately \$8,200 in 2022 and to five employees totaling approximately \$11,700 in 2023. We found that the Borough obtained employees' proof of alternate health insurance coverage prior to being considered eligible for a waiver payment. Testing also confirmed the Borough considered the lesser of \$5,000 or 25 percent of the amount saved by the Borough in its calculation of waiver payments. We found that the Borough made inaccurate payments for seven of the nine employees tested. We found that five of the inaccurate payments were due to miscalculations, which resulted in \$48 in overpayments and \$2,748 in underpayments. The remaining inaccurate payments were due to improper payments of \$1,069 made to two employees who were not eligible for waiver payments.

We consider this recommendation partially implemented due to the actions taken. We urge the Borough to finalize the memorandum establishing its policies and procedures for the administration of waiver payments and to ensure the newly adopted policies and procedures are applied appropriately in the future administration of waiver payments. We further recommend that the Borough review improper payments, issue leave payments owed to underpaid employees, and recover the excess leave payments made.

In its response to a draft of this report, the Borough wrote that it has corrected minor clerical errors and implemented improved controls, warranting a status of "Implemented" rather than "Partially Implemented." We disagree that this recommendation was fully implemented in view of the lack of formal policies and procedures and the multiple errors identified above.

Recommendation 2

Eliminate the provisions for health benefit waiver payments from future collective bargaining agreements in accordance with N.J.S.A. 40A:10-17.1.

Status: Not Implemented

Our 2021 Audit found that waiver payment provisions were improperly included in collective bargaining agreements (CBAs). Such provisions are statutorily prohibited from being subject to the collective bargaining process. N.J.S.A 40A:10-17.1 provides that "[t]he decision of a county, municipality or contracting unit to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process." The Borough advised in its corrective action plan that the waiver payment provisions would be removed from future CBAs.

During our review, we found that the Borough did not eliminate the waiver payment provisions from three CBAs that were executed in January 2022. These contracts were executed after the release of our May 2021 Audit report and thus remained in violation of N.J.S.A 40A:10-17.1. At the time the CBAs were executed, the Borough had been on notice for eight months that its CBAs violated state law but proceeded to enter into them anyway. On March 11, 2024, we received an email indicating a tentative agreement for one collective bargaining unit to remove the waiver payment provisions from future agreements.

We consider this recommendation not implemented. We recognize the steps the Borough has taken but note further actions are required to address the recommendation. We urge the Borough to eliminate waiver payment provisions from the remaining CBAs to be in compliance with N.J.S.A 40A:10-17.1.

In its response to a draft of this report, the Borough wrote that its "recent labor agreements have excluded the waiver payment provision and reflect policies to ensure correct payments. . . . In the most recent collective negotiations agreements entered into with majority representatives of employees of the Borough, the waiver payment provision has been stricken with the unions' consent. Additionally, policies and procedures have been put in place to ensure that waiver payments are being made correctly." We determined that during the scope of our review no action

was taken to address this recommendation. Additionally, we requested the recently finalized agreements but the Borough to date has not provided them.

Recommendation 3

Implement procedures that enhance the administration and oversight of employee benefits, including appropriate approvals and authorization. At a minimum, the procedures should address the issues identified in this report, and ensure that employee benefits are clearly defined and administered in compliance with relevant policies and procedures, collective bargaining agreements, employment contracts, and state law.

Status: Not Implemented

Our 2021 Audit found that the Borough did not have formal policies or an employee manual that addressed employee benefits. Instead, the Borough relied on individual employment contracts and CBAs to dictate which benefits it provided. We also found that in some instances the Borough disregarded the terms of the CBAs and individual employment contracts. Additionally, we found that the Borough lacked oversight of the administration of unused vacation leave payments and did not provide evidence of its approval and authorization process for all of these payments. We also found internal control deficiencies and excessive benefits that appeared wasteful. The Borough advised in its corrective action plan that the payroll clerk would be required to review all contracts involving compensation for retiring employees to determine the amount of time/money lawfully and contractually owed. The amount would be verified with the department head and employee before being presented to the CFO for authorization. Upon authorization from the CFO, the expenditure would be reviewed by the Borough Manager and then presented for payment and approval by the governing body.

During our review, we found that the Borough issued a memorandum on May 7, 2021, regarding the administration and oversight of employee benefits. Specifically, the memorandum required the payroll clerk to review all contracts involving compensation for retiring employees and to confirm with the department head and the employee before presenting them to the CFO for authorization. We tested documentation for nine employees who received an accumulated leave payment for sick, vacation, personal, administrative leave, or compensatory time during calendar years (CYs) 2022 and 2023. Our review revealed improper payments for accumulated leave time. Additionally, we found that the Borough's policies and procedures for employee benefits administration and oversight were inadequate.

Specifically,

- One employee received a payment for accumulated sick leave in excess of what the CBA allowed. The employee was incorrectly paid for 100 percent of unused sick days instead of 50 percent of unused sick days, for an overpayment of approximately \$3,000. The same employee received improper payroll payments of approximately \$3,200 after separation of employment.

- Six of nine employees had improper accumulated leave payments for personal and vacation time totaling approximately \$16,000.
 - All six employees were improperly compensated for personal time valued at approximately \$13,300 regardless of the fact that their CBAs did not include any such provision allowing for unused personal hours to be payable at separation.
 - In addition, two employees were improperly compensated approximately \$2,600 for additional accumulated vacation time when such compensation was not required by the CBA.

- Eight of nine employees had accumulated leave time that was not properly recorded, tracked, or supported.
 - There were seven instances in which the accumulated leave time recorded on the Attendance Calendar did not correspond to the accumulated leave time recorded in the Absence Information Log that the Borough used to track employees' accumulated leave time.
 - There were two instances when the employees' attendance records indicated they used more leave time than was earned, valued at approximately \$1,200.
 - Three individuals were paid for approximately 144 hours, or \$9,900, in unsupported compensatory time.

These errors indicate that the Borough has not meaningfully improved its administration and oversight of employee benefits, including appropriate approvals and authorization. Therefore, we find this recommendation not implemented.

In response to our findings the Borough issued an addendum on February 6, 2024 in an attempt to have additional controls put in place to ensure the accuracy of payments made at separation of employment. Specifically, the addendum requires a control sheet for each employee receiving payments at separation in which the Department Head, Human Resources Officer, Payroll Clerk, CFO, and Borough Manager must sign off on the calculated hours and payment the employee will receive. Although these added controls appear to be a step forward by the Borough, the timing of the issuance of the addendum prevented its timely review.

We urge the Borough to comply with this recommendation to ensure employee benefits are administered in compliance with relevant policies and procedures, CBAs, individual employment contracts, and state law.

In its response to a draft of this report, the Borough contended that its policies and procedures demonstrated an improved effort. Although the Borough provided a document supporting approvals of one recent payment of accumulated leave time, as required by the addendum issued on February 6, 2024, insufficient time had passed after the addendum to fully test the implementation of revised procedures. Additionally, during the scope of our review we identified improper payments and accounting of accumulated leave time as well as insufficient policies and procedures pertaining to the administration and oversight of employee benefits, similar to the results of our 2021 Audit.

Recommendation 4

Seek recoupment of the improper leave payments identified in this report.

Status: Partially Implemented

Our 2021 Audit found that the Borough paid a total of \$39,184 in 2017 and \$56,124 in 2018 to the Police Chief and the Municipal Clerk for unused vacation and unused sick days. These payments, totaling approximately \$95,000, were gratuitous and inconsistent with the terms of the individual employment contracts entered into by the Borough. The Borough advised in its corrective action plan that Legal Counsel opined that it may be “infeasible” to seek to recoup already paid monies because doing so would require “litigation that could be defended under breach of contract and estoppel theories.”

During our review, we confirmed that the Borough did not seek to recoup the \$95,000 mentioned above. We were provided a memorandum from the Borough’s Labor Counsel that stated, “As counsel for the Borough, I have advised my client that it is not feasible to seek recoupment of previously paid benefits. To do so would likely result in litigation against employees, which, of necessity, would result in the Borough’s expenditure of legal fees.”

We consider this recommendation partially implemented because the Borough sought advice from its Labor Counsel regarding the recoupment of the gratuitous payments. However, because the benefits in question were paid even though contractual provisions did not exist requiring such payments, we again recommend that the Borough recoup the improper payments identified in our 2021 Audit.

In its response to a draft of this report, the Borough reiterated its position, namely that it is not feasible to seek recoupment of previously paid benefits. We disagree with the guidance provided for multiple reasons. First, when the 2021 Audit was released the Clerk was employed by the Borough and remained employed by the Borough through our follow-up review testing. The Borough could have withheld other funds owed to the Clerk to recoup the full amount of funds improperly paid to the Clerk. Second, the Borough could have at least demanded recoupment which may have avoided the need for litigation, but did not do so. Issuing such a demand would have cost little to nothing. Third, the concern regarding the costs of litigation or any defenses do not preclude the Borough from accepting reduced recovery, as regularly happens prior to or during litigation. The Borough took none of these steps to recover taxpayer funds that were improperly paid to the Police Chief and Clerk, but instead simply allowed them to keep the money. Lastly, although the Borough contends that “litigation that could be defended under breach of contract and estoppel theories,” there are no facts we are aware of that would support those defenses.

Recommendation 5

Implement procedures that require employee benefit payments to be properly coded to enhance the transparency and Borough Council oversight of such payments.

Status: Implemented

Our 2021 Audit identified unused vacation leave payments and improper sick leave payments that were made part of regular payroll payments and coded as vacation payments. The Borough advised in its corrective action plan that the payroll clerk would identify any such payments and bring them to the attention of the purchasing clerk and CFO before being voted on by the governing body.

Our review found that the Borough properly coded employee leave payments within its payroll software for CYs 2022 and 2023. In addition, the Borough created a new stipend code to identify health benefit waiver payments to employees during our review.

We consider this recommendation to be implemented because the Borough properly coded leave payments and created a code to track stipends.

Recommendation 6

Develop standard employment contract templates with consistent and relevant contract terms and conditions, and details of employee benefits.

Status: Not Implemented

Our 2021 Audit found that the Borough used multiple employment contract templates that did not include consistent terms and conditions or details of the employee benefit provisions. The Borough's use of multiple templates without consistent terms and details regarding employee benefits makes it difficult for Borough officials to ensure that they are properly administering and complying with all of the provisions of CBAs and individual employment contracts. These inconsistencies also limit transparency with regard to employee benefits. The Borough advised in its corrective action plan that the Borough Manager would review individual employment contract templates for uniformity of contractual provisions.

During our review, we found that the Borough had not adopted standard contract templates with consistent terms and conditions or provisions. Inconsistent terms and conditions and a lack of detail defining employee benefits can lead to confusion and mistakes when, for example, establishing and accounting for accumulated leave time benefits or making payments for leave time at separation of employment. As stated in Recommendation 3, we noted similar errors pertaining to accumulated leave time in our follow-up audit as we did in the 2021 Audit.

Our review confirmed that the Borough addressed the provision involving a payment for sick leave at retirement for one individual employment contract to align it with all other individual employment contracts. We also found that the two individual employment contracts with the Police Chief, both of which were executed after the release of the 2021 Audit, contained provisions allowing for unlawful accrual of vacation time beyond the two-year cap imposed by N.J.S.A. 11A:6-3, which permits employees of the Borough to accrue no more than two years' worth of vacation.² We note that the accrual provision was not present in the Police Chief contract during the initial audit. None of the other individual employment contracts executed after the

² https://www.nj.gov/comptroller/news/docs/sick_leave_report.pdf#page=6.

release of our 2021 Audit included this provision. We further note that the Borough's Labor Counsel asserted in a February 13, 2024 memorandum to us that "the nature of collective negotiations with union employees and individual negotiations with non-aligned employees, especially ones of high value in the municipal marketplace, inherently result in different benefits afforded to distinguishable classes of employees."

Nothing we recommended prevents the Borough from negotiating lawful terms with its employees. However, standard templates can assist with implementing consistent terms and identifying when the Borough is being asked to agree to or is proposing unlawful and otherwise inappropriate terms.

We consider this recommendation not implemented based on the lack of development of standard contract templates, unlawful changes to a contract that failed to limit the accrual of vacation leave, and the continued errors pertaining to the administration and oversight of employee benefits.

In its response to a draft of this report, the Borough reiterated its position that "in order to retain high level employees who have individual contracts, the Borough would be hard pressed to compel such employees to enter into 'contract templates' which differ from the previously negotiated contracts." As noted above, the status of this recommendation considers the actions taken by the Borough. The Borough did not create standard contract templates, aligned one individual employment contract with others to permit sick leave payments at retirement, and improperly included provisions allowing for unlawful accrual of vacation time in two individual employment contracts. The lack of substantial progress in standardization combined with unlawful provisions resulted in a "Not Implemented" status for this recommendation. Additionally, we note that contract *templates* are different from executed contracts and that our recommendation did not require uniformity for all benefits included in all contracts. A standard template that includes details of employee benefits can assist in contract negotiations and improve transparency.

It is also noteworthy that the Borough's approach to case-by-case contract negotiation appears to have contributed to further waste. The Borough has both continued its prior wasteful practice of providing up to 55 days of vacation to the Police Chief, which we had previously criticized in our 2021 Audit. In new contracts awarded in June 2021 and June 2022, the Borough again provided a new Police Chief with 55 days of vacation each year, which in combination with the accrual provision, means that the Police Chief could be owed a payment amounting to his full salary for approximately four years of work as Police Chief at the rate of pay he is earning when the payment is requested. This exposes the Borough to excessive payments which is precisely what state law prohibits.³ The Borough may have still chosen to violate state law in its contract with the Police Chief, but a template would have assisted the Borough in complying with the law by making it clear when it has deviated and has been asked to agree to unlawful terms.

³ https://www.nj.gov/comptroller/news/docs/sick_leave_report.pdf#page=16.

Recommendation 7

Conduct an analysis of employee stipends, including the stipends for the superintendent's license renewals, to ensure that stipend payments are reasonable in relation to the action or activities compensated by the stipend. As appropriate based on the analysis, terminate the practice of providing stipend payments and utilize a practice of reimbursing employees for actual costs incurred and only when such costs cannot be expensed by the Borough directly.

Status: Not Implemented

Our 2021 Audit identified an individual employment contract with provisions allowing for a stipend of \$1,000 per year for each of the four Department of Environmental Protection licenses required to perform the employee's duties. The employee received a \$4,000 annual stipend for licenses that had total annual renewal fees of \$200. Our audit found these stipends to be excessive compared to the cost of renewal. The Borough advised in its corrective action plan that an analysis of the identified stipends would be conducted to ensure that stipends are commensurate with job responsibilities and requirements.

During our review, we were informed that the Borough Manager performed an informal analysis of the surrounding towns and deemed the stipends commensurate with the job responsibilities and requirements of the employee's position. Additionally, during our review we were provided with a memorandum from the Borough's Labor Counsel explaining that the stipends are necessary to entice employees to remain employed with the Borough and are frequently provided to employees as an incentive to obtain and maintain a certain level of education and certification that is worth more to the Borough and its taxpayers than the cost of the stipend.

Although the Borough indicated that an informal analysis of surrounding towns was conducted, the analysis did not sufficiently address the recommendation. Specifically, the analysis was not documented and did not consider whether the stipends were reasonable in relation to the action or activities compensated by the stipend. We also contend that the purpose of salary is to compensate employees for work performed. Salary should consider and compensate for the requirements of a position including but not limited to experience, education, and certifications. Supplementing an employee's salary by means of a stipend removes a layer of transparency and public accountability.

We urge the Borough to conduct a formal analysis of its stipends to ensure the payments are reasonable in relation to the action or activities compensated by the stipend.

In its response to a draft of this report, the Borough maintained its position that "the demand for licensed water professionals, and other qualified municipal officials, is at a premium." The Borough included another municipality's CBA to justify its own stipends. However, the recommendation did not call for a comparison to another municipality; it requested an analysis of the Borough's stipends in relation to the cost of the licenses to ensure that stipend payments were reasonable, which the Borough still has not done.

Recommendation 8

Seek to negotiate future collective bargaining agreements that align employee benefits with those of state employees, including the reduction or elimination of longevity payments.

Status: Implemented

Our 2021 Audit identified CBAs that allowed for employee benefits in excess of state employee levels, including vacation, personal, and bereavement days and paid holidays. Specifically, the audit identified Borough contracts that allowed for excessive vacation day allowance limits between 28 to 50 days. We also identified that CBAs allowed for longevity payments ranging between \$500 and \$3,000 for non-police employees and between two and ten percent of base pay for police officers depending on the years of service with the Borough. In 2017 and 2018, the Borough paid approximately \$451,000 in longevity payments to 62 employees. Approximately \$341,000, or almost 76 percent, was paid to police officers including four police officers who received more than \$10,000 each in 2017. Three of these officers received more than \$10,000 in both 2017 and 2018. Non-police employees were paid a total of approximately \$110,000 in 2017 and 2018. The Borough advised in its corrective action plan that it would propose with "new/successor labor contracts the elimination and/or reduction of longevity payments" and that implementation must "be effectuated through collective negotiations and cannot be unilaterally imposed."

During our review, the Borough provided documentation showing negotiations took place between the Borough and labor unions. There is evidence of negotiations related to longevity payments, vacation days, and paid holidays. However, the Borough was unsuccessful in negotiating these benefits down to the state employee level. Furthermore, a legal memorandum provided by the Borough's Labor Counsel confirms that employee benefits currently afforded by contracts are subject to negotiation and further insisted that employee benefits also serve as a recruitment tool for the Borough.

As stated in our 2021 Audit, we have criticized longevity payments in prior reports as being wasteful. State employees do not receive longevity payments. We recognize the efforts made by the Borough, however the excessive and wasteful benefits pointed out in the 2021 Audit still exist. We again recommend the Borough continue to negotiate said benefits in future CBAs and individual employment contracts.

Recommendation 9

Implement a procedure to document employee salary records, including modifications and pay rate adjustments using an automated process to ensure accuracy in the wage calculation and to reduce the potential for human error that could result in improper payments.

Status: Not Implemented

Our 2021 Audit found that the Borough's manual recordkeeping process did not ensure the accuracy of wage history and pay rate calculations. The Borough advised in its corrective action

plan that it would engage in consultations with third-party providers to obtain the specified services “relative to enhanced technological/automated documentation and elimination of human error.”

During our review, we found that the Borough continues to utilize index cards to maintain employee wage history and calculate rates of pay. We also received a memorandum from the Borough’s Labor Counsel stating that the Finance Office has tried to retain IT services to better document employee records, but initial requests led to quotes that the Borough found to be too expensive. The Borough, however, provided no evidence showing it consulted with third-party providers or obtained any quotes of the cost of a computerized system. In response to this review, the Borough has requested funding through the County Improvement Authority to modernize its payroll and personnel record keeping.

We continue to urge the Borough to modernize its record keeping for employee wage history and pay rate calculations. The current manual system is inefficient and lacks automatic controls, such as user permissions and change history, which increase the potential risk of fraud, waste, and abuse.

In its response to a draft of this report, the Borough stated that it “utilizes a payroll system and timekeeping methods that are dependable and designed to circumvent human error.” The Borough continues manual tracking of wage history via index cards. The Borough failed to implement a process to minimize human error and did not provide documentation for consultations with third-party providers or quotes for the cost of a computerized system. The fact that the Borough is currently seeking funds to modernize its payroll system demonstrates that it has yet to meet this requirement.

Recommendation 10

Develop policies and procedures to document the management and administration of the Length of Service Award Program. The policies and procedures should include the necessary corrective actions to address the audit findings and to ensure compliance with state law and the Borough’s ordinance. At a minimum, the procedures should establish the required supporting documentation, records retention process, and the appropriate controls to verify evidence that volunteers have earned allowable points for completed activities.

Status: Not Implemented

Our 2021 Audit found weaknesses in internal controls that resulted in miscalculated Length of Service Award Program (LOSAP) contributions in 2018 for 12 volunteers, including 10 volunteers whose contributions were overfunded by \$7,650 and 2 volunteers whose contributions were underfunded by \$500. The Borough advised in its corrective action plan that it would adopt policies and procedures set forth in a Borough ordinance that requires compliance with state law, record retention, and appropriate controls. The Borough committed that the Borough Manager, in consultation with affected parties, would codify a policy and procedure consistent with the Borough’s ordinance.

During our review, we were provided with the Borough's LOSAP ordinance. We also received a document containing the responsibilities and actions of the LOSAP Coordinator, including addressing when reports must be signed and submitted and by whom, and the appeal process for individual LOSAP points. These documents, however, were not formal policies and procedures and did not provide sufficient guidance for record retention, appropriate controls, monitoring activities, and other LOSAP point-reporting procedures.

We urge the Borough to draft and implement policies and procedures pertaining to the Borough oversight of the LOSAP and verification of the points reported.

In its response to a draft of this report, the Borough contended that this recommendation should be fully implemented. During our review, we made multiple requests for policies and procedures for the management and administration of the LOSAP but nothing was provided. We note that the Borough explained the LOSAP procedures *verbally* during our preliminary findings meeting but failed to provide a *written* policy.

Recommendation 11

Implement timely and appropriate monitoring activities to ensure oversight of the Length of Service Award Program, including the retention of supporting documentation of completed activities and verification that points are awarded based on completed and approved activities in compliance with state law and the Borough's ordinance.

Status: Partially Implemented

Our 2021 Audit found that the Borough did not verify the data received from the emergency services organization (ESO) coordinators by, for instance, tracking and reporting the lists of active volunteer members, completed activities, earned points, and annual LOSAP contributions before the report was submitted to the Borough Council. The Borough advised in its corrective action plan that it would schedule a meeting between the Borough Manager, Board of Fire Commissioners, and financial advisor to discuss mandatory compliance and procedures. In addition, the Borough would ensure point schedules were posted in each firehouse and would provide quarterly reports to the governing body to ensure transparency and compliance.

During our review, the Borough provided LOSAP member and emergency activity point lists for CYs 2022 and 2023. In CY 2023, the Borough transitioned to a computerized system to report and track LOSAP activities and points. The system contains appropriate controls on user access and permissions as well as mandatory electronic certifications by senior level staff prior to approving and reporting on an incident or call. We note that Borough staff does not have access to the new system and therefore cannot easily verify the data received from the ESOs. In addition, the Borough did not provide any documentation for monitoring of the LOSAP.

We urge the Borough to provide staff with access to the newly implemented computer program and leverage its capabilities to perform monitoring activities and oversight of the LOSAP.

In its response to a draft of this report, the Borough stated that the implementation status of this recommendation should be "Implemented" despite it being only partially implemented. The Borough also stated that "Since approximately 2019, the Borough has had in place an extremely reliable and state-of-the-art electronic system" for monitoring LOSAP contributions on behalf of volunteer firefighters. In both our initial audit and our review, we determined that the referenced system was not accessible to the Borough itself. Only the Fire Department and EMS had access to the system. We were also informed by a LOSAP coordinator that no one verifies the final LOSAP report for accuracy and that it is based on the honor system. Without such oversight, the Borough failed to fully implement monitoring activities for the LOSAP.

Recommendation 12

Develop policies and procedures to require employees to account for their actual vehicle mileage, including details of all trips, such as the date, start and end time, trip location, purpose, and actual mileage. The procedures should include appropriate Borough review and monitoring of the employee mileage reports to identify any personal or commuting use. Any unusual or inappropriate vehicle use should be documented and addressed appropriately, including, but not limited to, through employee discipline.

Status: Not Implemented

Our 2021 Audit found that the Borough did not maintain any policies and procedures addressing vehicle use, reporting of mileage, oversight of usage, or the Borough's responsibilities to report the taxable fringe benefits. In its corrective action plan, the Borough advised that it would provide civilian employees with the option of terminating use of Borough-owned vehicles or paying taxes at the established rate and that affected employees would be provided a consultation with the Borough Manager and/or CFO to discuss the options in order to make an informed decision.

During our review, the Borough provided a copy of its Directive 41 and 41(A) (Directive) for vehicle usage that only contains some of the elements we had recommended. Specifically, the Borough's Directive does not require employees to account for the trip's start and end times, location, or purpose. The Directive also fails to address appropriate Borough review and monitoring of employee mileage reports to identify any personal or commuting use. Furthermore, the Directive does not address personal use of assigned vehicles. Overall, the Borough failed to provide a sufficient vehicle usage policy designed in coordination with the CFO as well as documentation of employees signing off on the policy.

We found documentation for each employee assigned a vehicle for CYs 2022 and 2023 was insufficient. Specifically, one vehicle's log book did not list the name of the employee assigned the vehicle and the vehicle number. Furthermore, the log books did not contain information regarding the start and end time, location, and purpose of trips. We were advised that employees are to submit their log books monthly to the Borough Manager for review. However, the limited information within the log books does not allow the Borough to sufficiently track and monitor vehicle usage.

We urge the Borough to draft formal policies and procedures pertaining to the use of Borough vehicles as well as expand the requirements of the log books to include pertinent information including but not limited to the start and end time, location, and purpose of vehicle trips.

In its response to a draft of this report, the Borough considered our recommendation as a “suggestion to micromanage top-level staff by forcing them to account for each trip in their vehicle [which] undermines their status as managerial officials.” We disagree. The use of Borough vehicles for private use such as commutation constitutes a taxable fringe benefit to its employees that requires policies and procedures. We again note the Borough failed to develop such policies and procedures requiring employees to account for daily vehicle usage, thus preventing the Borough from being able to identify personal and commuting use of assigned vehicles.

Recommendation 13

Implement a process to assess taxable fringe benefits for employees’ personal and commutation use of the Borough-owned vehicles pursuant to Internal Revenue Service regulations.

Status: Not Implemented

Our 2021 Audit found that the Borough did not have a process to assess taxable fringe benefits for employees’ personal and commutation use of Borough-owned vehicles pursuant to Internal Revenue Service (IRS) regulations. 26 C.F.R. § 1.61-21(f). In its corrective action plan, the Borough advised that employees who elected to continue use of Borough-owned vehicles would be required to sign off on a policy regulating the use of said vehicle and the policy for continued use of these vehicles would be designed in coordination with the CFO to ensure legal compliance and transparency.

During our review, we found that the Borough did not implement a process to assess taxable fringe benefits for employees’ personal and commutation use of Borough-owned vehicles pursuant to IRS regulations. As mentioned above, our review found that the Borough did not prohibit personal use of vehicles by means of a formal written policy and also did not adequately monitor the employees’ vehicle usage to ensure compliance with IRS regulations.

We urge the Borough to develop a process to assess taxable fringe benefits for employees’ personal and commutation use of Borough-owned vehicles pursuant to IRS regulations.

In its response to a draft of this report, the Borough contended that “OSC has overstepped its authority with regard to take-home vehicles and entered into a field in which it lacks particularized knowledge or authority – the taxability of fringe benefits and IRS regulations.” We disagree. GAO Government Auditing Standard 9.35 requires that “auditors report a matter as a finding when they conclude, based on sufficient, appropriate evidence, that noncompliance with provisions of laws, [and] regulations . . . either has occurred or is likely to have occurred that is significant within the context of the audit objectives.” We again reiterate that the Borough failed to implement a process to assess taxable fringe benefits for employees’ personal and commutation use of Borough-owned vehicles pursuant to IRS regulations.

Reporting Requirements

We provided a draft copy of this report to the Borough for its review and comment. The Borough's Labor Counsel drafted and signed the response to our report. The response disagreed with many of our conclusions and the manner in which they were made, improperly deemed a discussion draft of the report as the final report, and incorrectly stated that Recommendation 11 was changed from "Partially Implemented" to "Not Implemented." The Borough was provided an opportunity to discuss the draft report and address any questions prior to finalization, but turned down that chance. The Borough's response was considered in preparing our final report and is attached as Appendix A. We have addressed disagreements with the Borough's responses throughout the report.

By statute, we are required to monitor the implementation of our recommendations. To meet this requirement, within 90 days, the Borough shall report to our office regarding the actions that have been or will be taken to address the unresolved issues in this report.

We thank the management and staff of the Borough for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

KEVIN D. WALSH
ACTING STATE COMPTROLLER



By: _____
Christopher Jensen, CPA
Director, Audit Division

Attachment

- c: Thomas Foley, Deputy Mayor
- Raymond O'Hare, Borough Manager
- Jacquelyn A. Suárez, Commissioner, Department of Community Affairs
- Michele Meade, Deputy Director, Department of Community Affairs, Division of Local Government Services
- Tina Zapicchi, Assistant Director, Financial Regulations, Department of Community Affairs, Division of Local Government Services
- Jorge Carmona, Bureau Chief, Department of Community Affairs, Division of Local Government Services



Mail to:

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May 20, 2024

Via email

Christopher Jensen, Audit Director
[REDACTED], Auditor
[REDACTED], Auditor
Office of the State Comptroller
20 W. State Street, 12th Floor
Trenton, New Jersey 08625

Re: Borough of Keansburg Response to 2024 Follow-Up Report

Dear Director Jensen:

I represent the Borough of Keansburg (“Borough”) as labor counsel and with regard to the Office of the State Comptroller’s (“OSC”) performance audit and audit report concerning the Borough. The Borough submits this response as permitted by the OSC’s transmittal letter and the May 6, 2024 follow-up email correspondence of [REDACTED], Auditor-in-Charge. The Borough disagrees with many of the Report’s conclusions as to the thirteen (13) “Recommendations” and takes exception to the manner in which they were made. The OSC’s final report is disappointing and raises many of the issues brought to the public’s attention by the New Jersey Association of Counties’ April 23, 2024 letter the New Jersey Senate President Scutari. See Exhibit 1 (attached). Recent news articles, attached as Exhibit 2, demonstrate widespread agreement by State and local leaders that the OSC has lost sight of its purpose.

The NJAC Executive Director’s observations relative to the OSC’s reports concerning Essex, Union and Hudson Counties, ring true with respect to the OSC’s Final Report as to Keansburg. The Final Report regarding the Borough demonstrates “no regard for contested legal matters or disputed facts and circumstances,” and that the OSC has “evolve[d] into an agency that operates as prosecutor, judge and jury.” The OSC previously provided to the Borough “Follow-Up Preliminary Findings” with regard to the 13 Recommendations, in which only *two* of the recommendations were found to be “not implemented.” These results inexplicably differ from the OSC’s Final Report, in which the OSC found that *eight* recommendations were “not implemented.” See below with statuses changed to “Not Implemented” highlighted:

| | <u><i>Preliminary Finding “Status”</i></u> | <u><i>Final Report “Status”</i></u> |
|----|--------------------------------------------|-------------------------------------|
| 1 | Partially Implemented | Partially Implemented |
| 2 | Partially Implemented | Not Implemented |
| 3 | Partially Implemented | Not Implemented |
| 4 | Implemented | Partially Implemented |
| 5 | Implemented | Implemented |
| 6 | Partially Implemented | Not Implemented |
| 7 | Partially Implemented | Not Implemented |
| 8 | Partially Implemented | Implemented |
| 9 | Partially Implemented | Not Implemented |
| 10 | Partially Implemented | Not Implemented |
| 11 | Partially Implemented | Not Implemented |
| 12 | Not Implemented | Not Implemented |
| 13 | Not Implemented | Not Implemented |

The OSC's determination to change six separate recommended status findings of "Partially Implemented" to "Not Implemented" supports New Jersey Association of Counties' Executive Director Donnadio's concern that the OSC "conducts its investigations and levies accusations of wrongdoing without due process of law." The Borough is puzzled as to how a status as to any recommendation, taking into consideration the efforts undertaken by the Borough, can be transformed from "Partially Implemented" to "Not Implemented," unless the NJAC is correct that the OSC applies arbitrary standards to achieve its public relations goals. The Borough's analysis of the OSC's Final Report proves that the OSC did not take into account information provided by the Borough or which the Borough would have made available to the OSC had it been advised in advance that the OSC planned to wildly change its "Preliminary Findings" to the Borough's detriment. The Borough therefore wishes to respond to the conclusions set out in the OSC's Final Report as set out below:

1. Develop Procedures for Health Benefit Opt-Out Payments

The Borough has corrected minor clerical errors and implemented improved controls, warranting a status of "Implemented" rather than "Partially Implemented." The Final Report fails to account for the fact that the Borough has addressed the clerical errors that led to *de minimis* errors in payments such as \$48 in overpayments for employees' decision to waive health care coverage in exchange for a waiver payment.

2. Develop Policies for Opt-Out Waiver

The Borough's recent labor agreements have excluded the waiver payment provision and reflect policies to ensure correct payments. The status should be at least "Partially Implemented," if not "Implemented," rather than "Not Implemented." In the most recent collective negotiations agreements entered into with majority representatives of employees of the Borough, the waiver

payment provision has been stricken with the unions' consent. Additionally, policies and procedures have been put in place to ensure that waiver payments are being made correctly.

The OSC's concern regarding waiver payments is misdirected because waiver payments, which incentivize employees to forego more costly health benefit coverage, inherently result in a savings to the taxpayers. In some municipalities, there has been evidence of failure to acknowledge changes in the waiver payment law, which may have favored certain employees and cost taxpayers money in those municipalities. That is not true in the Borough in which any mistakes were minor and not the result of a failure to obey modifications to the waiver payout law. The OSC's determination to downgrade the status from "Partially Implemented" to "Not Implemented" as to this recommendation is baseless and not supported by the facts.

3. Define Procedures for Employee Benefits

The Borough is mystified as to how the OSC can justify downgrading its recommended status for the Borough's administration and oversight of employee benefits from "Partially Implemented" to "Not Implemented." As demonstrated by the attached Employee Policies and Procedures (Exhibit 3), the Borough has only improved upon the efforts which had led to the OSC audit team's recommendation of a "Partially Implemented" status. The Borough has in place a procedure for vacation leave requests, which must be approved by a Department Head, Payroll, Human Resources, the CFO and the Borough Manager. This protocol was met with approval by the OSC audit team to whom the Borough presented it.

The vague bullet points on page 4 of the OSC Final Report paint a misleading picture. The one example of an overpayment for accumulated sick leave concerned an employee who had tragically died while employed by the Borough. The OSC's report fails to point out this relevant fact. With regard to personal and vacation payouts, the OSC criticizes the Borough for

“improperly” compensating employees for compensation “not required by the CBA agreement.” The OSC’s finding on this score demonstrates a lack of understanding as to collective negotiations and labor relations. The mere fact that a contract is silent on a term does not demonstrate that the Borough is not obligated to make a payment. If a union agreement fails to address a term and condition of employment, the Borough is obligated under the New Jersey Employer-Employee Relations Act (“NJEERA”) to negotiate the term with the union.

Had the Borough not made the disputed payments, the affected employees and their majority representative could have filed legal actions through their unions under their contractual grievance procedures or with the Public Employment Relations Commission (“PERC”), in which case an arbitrator or PERC investigator would be assigned to determine whether the past practice between the parties required the payments be made. The OSC’s simplistic analysis that because a “CBA” does not specifically require a benefit to be paid makes it categorically improper to pay that benefit is incorrect and, if followed, would expose the Borough to legal liability and attorneys’ fees. Likewise, the OSC criticizes the Borough for having paid “compensatory time” to employees without proper documentation. This conclusion is wrong on two counts: (1) the documentation is not in the possession of the civilian authorities but rather the police department; and (2) a failure to pay earned “comp time” constitutes a violation of the Fair Labor Standards Act, which could subject the Borough to a federal lawsuit, penalties, attorneys’ fees and other damages. Based on the foregoing, the OSC issued this recommendation “with no regard for contested legal matters or disputed facts and circumstances” – e.g., the precise issue that the New Jersey Association of Counties has brought to the attention of the Senate President.

Finally, the OSC states that “the timing of the issuance of the addendum did not provide us with adequate time to test payments made in accordance with it.” The Borough submits with

its response as Exhibit 4 a payout document demonstrating a retirement payment to an employee (denoted by initials C.R.) with the new procedures in place. In light of the foregoing, the OSC cannot possibly justify downgrading the recommendation of its own team that the Borough be assessed with the status of “Partially Implemented” to “Not Implemented” as to Recommendation No. 3. The Borough has enhanced its procedures, as shown in Exhibit 4. The downgrade to “Not Implemented” is unjustified given the improvements made since the Preliminary Findings.

4. Seek Recoupment of “Improper Leave Payments.”

The OSC downgraded its own recommendation of “Implemented” to “Partially Implemented” regarding recoupment of the Borough’s payouts to its retired Police Chief and Municipal Clerk, which amount to approximately \$95,000 (e.g. the vast majority of the money that the OSC claims that it could have saved the Borough through its recommendations). The Final Report blithely “recommend[s] that the Borough recoup the improper payments,” without explaining how the Borough can do that absent litigation. Apparently, the OSC, which is supposed to seek to safeguard taxpayer funds, believes that the Borough should be compelled to file a costly lawsuit, in which it has no guarantee of success, against its former employees to obtain monies for which those employees will claim a contractual entitlement. The Borough has explained on numerous occasions that its former Chief of Police had two written contracts which permitted him to be paid for unused sick days, but that the one contract provided to the OSC included a clerical error that the Chief would have been able to easily prove in court was not intended by the parties. The OSC’s description of the payments of accrued time to its Police Chief and Municipal Clerk as “gratuitous” fails to consider that these high-level employees were incentivized for years to take fewer days off of work – thereby improving the Borough’s

operational efficiency and lowering overtime payments. The employees relied upon the Borough's promise in anticipation of the realization of what they believed to be a contractual benefit.

The OSC's Final Report ignores the practical and legal complexities involved in recouping these payments. The Borough's previous assessment of "Implemented" should therefore not have been changed.

5. (Implemented).

6. Develop Contract Templates

The OSC's expectation for uniform templates overlooks the realities of collective bargaining and individual negotiations. The status should have remained at least "Partially Implemented." The OSC downgraded its recommendation from "Partially Implemented" to "Not Implemented" based on illogical reasoning that the Borough "had not adopted uniform contract templates with consistent terms and conditions of employment." The Borough questions whether the OSC understands how collective negotiations agreements or individual contracts with employees are reached. Under the NJEERA, an employer cannot walk into the room with a union and insist upon a "contract template" without violating the Act. The "template" for negotiations between a government employer and majority representative for a union is the existing labor agreement, from which all changes must be bilaterally negotiated. Likewise, in order to retain high level employees who have individual contracts, the Borough would be hard pressed to compel such employees to enter into "contract templates" which differ from the previously negotiated contracts.

The OSC, in its haste to find the Borough non-compliant, seeks to impose an unrealistic burden on the Borough to force down its employees' throats "contract templates." Employment

contracts, especially ones with unions and existing employees, must be negotiated and therefore cannot be formed off of templates. Moreover, while the Borough intends to continue to make its best efforts to persuade individual employees and unions to enter into employment contracts that include the policy goals set out by the OSC, in many cases these goals do not actually result in savings to the taxpayers because they incentivize employees to burn accrued time on days that they might otherwise have worked.

7. Eliminate Stipends

The OSC's recommendation fails to appreciate the competitive necessity and taxpayer benefits of stipends for licensed employees. The OSC should not have changed the Borough's status as to this recommendation to "Not Implemented" from "Partially Implemented." The OSC's recommendation that the Borough eliminate stipends for the Superintendent of Water & Sewer, Steve Ussman, is demonstrative of the OSC's penny-wise, pound-foolish Monday morning quarterbacking. The Borough has tried continually to explain to the OSC the fact that the demand for licensed water professionals, and other qualified municipal officials, is at a premium. Keansburg is far from alone in its practice of incentivizing employees to obtain licensure and to use stipends to retain employees who have spent the time, money and education to obtain a high level of credentials. Ussman, for example, possesses a T4 Water Treatment License and W4 Water Distribution License, which are the highest licenses that can be obtained from the New Jersey Department of Environmental Protection ("DEP").

Attached as Exhibit 5 to this letter is a document from the DEP website entitled, "Water Supply & Wastewater Treatment Systems Operators Licensing Frequently Asked Questions," which demonstrates the rigor and commitment necessary to obtain level 1 licenses, much less the coveted level 4 licenses possessed by the Borough's Superintendent of Water & Sewer. The

OSC's Final Report includes the statement that, "[a]though the Borough indicated that an informal analysis of surrounding towns was conducted, the analysis did not sufficiently address the recommendation." To address the recommendation further, the Borough attaches as Exhibit 6 to this letter a segment of the Freehold Township collective negotiations agreement with its blue collar union, which shows that the Township pays its employees annually for each license that they earn, including \$1,375 per year for the W-4 license and \$2,450 per year for the T-4 license. It is the Borough's understanding that nearby Atlantic Highlands pays a stipend of \$2000 per year per license. This local data, if anything, shows that Ussman is undercompensated by comparison to similarly situated professionals in other municipalities for having achieved and maintained the highly sought-after credentials of W-4 and T-4 licensure.

The OSC's decision to drop the recommended status from "Partially Implemented" to "Not Implemented" indicates that the OSC did not research the issue or provide the Borough with "due process" before attacking the Borough's motives without having a proper basis for doing so. The stipend constitutes a clear taxpayer benefit because it permits the Borough to retain highly skilled employees and induces employees to obtain certifications and licensure that will improve their job performance.

8. (Implemented).

9. Salary Documentation

Contrary to the OSC's findings, the Borough utilizes a payroll system and timekeeping methods that are dependable and designed to circumvent human error. The OSC is incorrect in its assertions that the Borough's system "lacks automatic controls." Although the Borough may not utilize the most technologically sophisticated recordkeeping systems available, the OSC failed to consider the fact that the Borough utilizes a time clock system for employees punching

in and out of work. This tried and true system, in some respects, has advantages over newer systems by which employees can utilize mobile “apps” that do not require their physical presence in the workplace to clock in and out. The OSC’s report also does not mention that the Borough’s payroll service, ADP, maintains employee records for the Borough. The OSC had no rational basis to change the earlier recommended status as to recommendation number 9 from “Partially Implemented” to “Not Implemented.”

10 & 11. LOSAP.

The Borough’s procedures for monitoring LOSAP contributions on behalf of volunteer firefighters, including a state-of-the-art electronic system, were not accurately reflected in the OSC’s final report. The status of recommendations 10 and 11 should be “Implemented” instead of “Not Implemented,” because the OSC completely missed the mark on these recommendations. The OSC’s auditors expressed their approval when the procedures were explained to the OSC by the Borough’s fire department leadership in a presentation. Since approximately 2019, the Borough has had in place an extremely reliable and state-of-the-art electronic system. This system complements the Borough’s strict policy which the Borough adopted by Ordinance. The OSC’s finding of “Not Implemented,” especially after the audit team recommended a status of “Partially Implemented,” has no basis in fact. The OSC’s failure to include in its report any mention of the Borough’s electronic system which was painstakingly explained to the agency calls into question the credibility of its findings.

12 & 13. Take-home Vehicles and IRS Considerations.

The OSC’s findings regarding take-home vehicles are based on its interpretation of IRS regulations and overlook the steps the Borough has already taken. These recommendations should never have been made, much less used to tarnish the Borough with the status of “Not

Implemented.” The OSC has overstepped its authority with regard to take-home vehicles and entered into a field in which it lacks particularized knowledge or authority – the taxability of fringe benefits and IRS regulations. Notwithstanding the OSC’s questionable concerns in this area, the Borough attempted to implement the OSC’s recommendation by reducing the number of take-home vehicles from six to three and adding Borough-decals to vehicles so that members of the public could identify the vehicles at issue. The reduction of take-home vehicles and use of decals, for some reason, were not considered by the OSC as a basis to – at a minimum – designate the status of this recommendation as “Partially Implemented.” The OSC’s suggestion to micromanage top-level staff by forcing them to account for each trip in their vehicle undermines their status as managerial officials and is based only on the OSC’s questionable interpretation of IRS regulations for which the OSC has, admittedly, no expertise.

CONCLUSION

Having reviewed the OSC’s Final Report in depth, the Borough strongly disagrees with the OSC’s top-line conclusion that the implementation of the OSC’s recommendations would have saved the Borough approximately \$125,000. The bulk of the asserted savings comes from payouts to the Chief of Police and Municipal Clerk that for reasons described above could not have been recaptured by the Borough without potentially violating their employment contracts and engaging in costly and protracted litigation that the Borough was likely to lose. Subtracting the approximately \$95,000 in these two payouts and then considering the effects of other payments that the Borough could not address due to legal constraints (such as New Jersey’s laws governing collective bargaining), the OSC’s recommendations, giving all reasonable inferences to the agency, might have at best resulted in a savings of \$15,000 to \$20,000. It is irrefutable

that the OSC and Borough spent more than \$15,000 to \$20,000 individually and collectively in time and work hours going over the issues identified in this report.

The Borough always seeks to improve and welcomes recommendations from the OSC and other partners. The OSC's actions in this matter, however, are consistent with the characterizations in the media and expressed by the New Jersey Association of Counties. Sadly, as noted in the news articles covering the OSC's recent bout of criticism from the New Jersey Association of Counties, the OSC seems more concerned with receiving accolades on social media and press releases than actually working efficiently to solve problems in local government. The OSC's inexplicable decision to change its status determinations regarding whether the Borough implemented its recommendations calls into question the OSC's motives and findings, with which the Borough takes exception in many areas as set out above. The Borough will nevertheless continue to work to improve its operations to the benefit of its taxpayers and residents. The Borough would hope that the OSC will also examine its own methodology to determine whether the OSC is doing its best to improve local government functions rather than misrepresenting information for the benefit of obtaining headlines.

Sincerely,

Jonathan F. Cohen
Jonathan F. Cohen

cc: Raymond O'Hare, Administrator

EXHIBIT 1

NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

SHAUN C. VAN DOREN
NJAC President
Hunterdon County Commissioner

JOHN G. DONNADIO, ESQ.
Executive Director

April 23, 2024

Honorable Nicholas P. Scutari
Senate President
67 Walnut Avenue
Clark, NJ 07066

RE: OFFICE OF THE STATE COMPTROLLER

Dear Senate President Scutari:

The New Jersey Association of Counties (NJAC) is respectfully requesting the State Legislature to independently review the manner in which the Office of the State Comptroller (OSC) conducts its investigations of local governments and levies accusations of wrongdoing through social media, the press, or other means without due process of the law. NJAC is particularly concerned with recent OSC press releases concerning Essex, Hudson, and Union counties where OSC alleges fraud, waste, or abuse with no regard for contested legal matters or disputed facts and circumstances.

With respect to Hudson County, the OSC issued a press release on 03/21/24 charging that *"the Office of State Comptroller finds Hudson County used an improper process and circumvented transparency requirements"* notwithstanding Hudson County's good faith difference of opinion on how the County awarded a contract for medical services at the Hudson County Correctional and Rehabilitation Center (HCCRC). Moreover, the County cooperated fully and transparently with the OSC throughout the investigation, provided hundreds of pages of documents as directed, and ultimately proposed that the Appellate Division settle all material matters to which the OSC summarily rejected. Importantly note that since 2019, Hudson County awarded a series of one-year professional services contracts for medical services at the HCCRC and provided timely notification to the OSC as required under the law with no objections or questions until now. For your review, please find enclosed under Appendix A, the OSC's "Letter on Hudson County's Improper Process for a Prison Healthcare Management Contract" and several correspondences between the OSC and Hudson County that demonstrate the County did not act in defiance of the law as sensationalized by the OSC.

In the matter of Union County, the OSC issued a press release on 12/12/23 declaring that an *"investigation by the Office of State Comptroller found Union County violated state law when it paid top officials an extra stipend and reimbursed tuition without following a public process"* despite Union County's contention on the merits that the County's practice for openly and transparently adopting salary ordinances for county professionals is consistent with the law and similar to how the State's five other optional charter counties adopt such resolutions or ordinances accordingly. As is the case with each investigation, the OSC refused to include Union County's 30-page response to the OSC's letter of which the OSC packaged to the media as *"Top Union County Officials Paid Extra Compensation without following public process, investigation finds."* In addition to this letter, please also find enclosed under Appendix B, examples of authorizing salary resolutions or ordinances from all six optional charter counties in Atlantic, Bergen, Hudson, Essex, Mercer, and Union and Union County's above referenced 30-page response that outlines how the County followed long understood statutory law.

Most recently, the OSC issued a 17-page report and accompanying press release alleging that an *“Investigation Uncovers Waste and Abuse in Essex County’s \$40.0 million COVID-19 Vaccination Program.”* Instead of holistically and objectively analyzing the swift and decisive actions taken by Essex County during a once in a generation pandemic, and subsequently recommending future best practices along with areas for improvement, the OSC zealously imposed its substantial resources, statutory powers, and pre-determined agenda to make contestable allegations nearly four years after the fact. Unfortunately, the Comptroller also fails to take into consideration the extraordinary circumstances county governments faced throughout COVID-19 in navigating supply chain demands along with deciphering hundreds of executive orders and multiple procurement laws all the while being responsible for purchasing personal protective equipment, operating testing centers, collecting and sharing public health data, sheltering the homeless and at risk individuals, managing correctional facilities, administering welfare and social service programs, conducting elections, and much more.

In addition to the OSC’s report enclosed under Appendix C as *“An Investigation of Essex County’s COVID-19 Vaccination Program”* and Essex County’s defense of its Program along with a letter from the State Department of Health applauding the County’s work as exceptional, please take a moment to review the 2023 YouTube video featuring Acting State Comptroller Kevin Walsh. In the video entitled *“How Your Town’s CFO Can Stop or Allow Local Government Waste,”* the Acting State Comptroller proclaims that his Office *“often finds staggering waste, and a big reason why, the chief financial officer is not doing their job.”* Throughout the recording, the Acting State Comptroller attempts to evoke fear in the minds of viewers that fraud, waste, and abuse is everywhere and that public finance officers are primarily responsible. Established in 2007 to audit, assess, and monitor public agencies, the Legislature could not have intended for the OSC to evolve into an agency that operates as prosecutor, judge, and jury.

Separate, but related, NJAC recently submitted a request for the OSC to withdraw its recent rule proposal as the OSC failed to follow the guidelines established by Governor Phil Murphy in Executive Order, No. 63, which in part, recommends that when considering rule changes, *“State entities should engage with affected communities and provide various groups to work in partnership with the State in crafting solutions.”* To the best of NJAC’s knowledge, counties, municipalities, licensed professionals, or other stakeholders, provided zero input into the rule proposal, which will unfortunately lead to further overreaching by the OSC. Moreover, the rule proposal ignores, circumvents, or undermines the critical roles played by the Division of Local Government Services (DLGS) in the Department of Community Affairs (DCA) as a valuable and trusted resource for local governing bodies; the Office of Attorney General as the State’s chief law enforcement agency; and, the Judiciary as the final arbiter of the law.

For the reasons set forth above, NJAC again is respectfully requesting the State Legislature to independently review the manner in which the OSC conducts its investigations and levies accusations of wrongdoing without due process of the law. Thank you for your time and consideration, and please do not hesitate to contact me with any questions or concerns.

Very truly yours,


John G. Donnadio, Esq.
Executive Director

Encls: Appendices A – C

cc: Honorable Phil Murphy, Governor
Honorable Diane Gutierrez-Scaccetti, Chief of Staff
Honorable Brian P. Stack, Chairman, Senate Judiciary Committee

EXHIBIT 2

POLITICS

This N.J. agency calls out political corruption. Politicians want more control over it.

Updated: Apr. 27, 2024, 8:23 a.m. | Published: Apr. 26, 2024, 8:01 a.m.



The Office of State Comptroller is getting pushback from county leaders after issuing reports on political corruption. NJ Advance Media



By [Jelani Gibson](#) | NJ Advance Media for NJ.com and [Susan K. Livio](#) | NJ Advance Media for NJ.com

The [Office of the State Comptroller](#), an independent government agency tasked with tracking government corruption, fraud, waste and abuse in New Jersey, is facing organized pushback from county officials who are demanding state lawmakers rein in its

The New Jersey Association of Counties sent a letter Tuesday asking state Senate President Nick Scutari, D-Union, to curb comptroller power and establish procedures that could challenge the agency’s findings.

The association “is respectfully requesting the State Legislature to independently review the manner in which the Office of the State Comptroller conducts its investigations of local governments and levies accusations of wrongdoing through social media, the press, or other means without due process of the law,” the letter read.



Kevin Walsh, the acting comptroller, said in a statement he welcomed a public hearing to discuss his office’s work.

“We are proud of the work we are doing to protect taxpayers. Our role is to go where the facts lead us, then draw conclusions based on those facts and the law,” Walsh said in a statement to NJ Advance Media late Thursday. “We know that doing that work effectively means sometimes we will upset powerful people. That’s why the office is independent and should remain so.

Walsh argued that the criticism had more to do with entities of power not wanting a watchdog.

“So far none of the counties has pointed out any factual errors in our reports. It seems their complaints have more to do with their discomfort with the transparency and accountability that our reports bring.”

The resistance comes in the wake of a multitude of blistering releases from the office detailing allegations of fraud from multiple counties, including Essex, Hudson and Union.

Last week, the comptroller issued a report questioning how Essex County spent COVID-19 funding. One county employee was paid \$130,000 over 11 months, yet the county health officer didn't know who she was or what she did, according to the report. And at least eight workers paid to work in the vaccination program were also full-time employees of other government agencies at the same time.

Essex County Executive Joseph DiVincenzo called the comptroller's findings “unbalanced and unfair.”

“His findings amount to nothing more than a ‘do as I say, not as I do gotcha’ report pointing out issues with just a very small fraction of the funds spent by the county fighting COVID,” DiVincenzo said.

John Donnadio, the nonpartisan county association's executive director, said his members unanimously endorsed sending the letter to object to the Comptroller's “bullying” tactics. He said Walsh's reports and “sensational” press releases do not reflect the counties' “good faith disagreements with the facts and the law.”

The association is not seeking to abolish the Comptroller's office, but believes state legislators ought to consider imposing “guardrails” on its authority — perhaps by introducing a third-party review of the findings, Donnadio said.

“We are alarmed by the manner he has come after local government without regard to facts or circumstances and without regard to due process,” he said.

Donnadio also questioned Walsh's decision to release a YouTube video last year criticizing municipal finance officials.

“Did you know the Office of the State Comptroller audits and investigates local governments? And when we do, we often find staggering waste. A big reason why? The Chief Financial Officer is not doing their job,” Walsh said in the video.

The comptroller and the association have been at loggerheads before. The Legislature has been working on a controversial bill that would restrict the amount of public information the government has to hand over through an Open Public Records Act or OPRA request.

“I fear that if documents are harder to get, we will get less transparency and that will lead to more corruption, fraud, waste, and abuse,” Walsh said during testimony at a March hearing.

The county association supports the bill, while Walsh said it would invite more corruption.

Donnadio called out Walsh for criticizing the bill while seeking a change to the comptroller office’s regulations that would exempt them from providing documents to the public about its work.

Walsh responded that the exemptions were focused on protecting the identities of whistleblowers.

“We are not exempting ourselves from OPRA,” he said. “We have a duty to protect the confidentiality of our investigations, including tips that we receive.”

During the legislative hearing on changing the Open Records Act, he credited Jersey residents with being a part of some of the agency’s most impactful investigations.

“The bill that I read does have a provision in it that permits the government to sue residents,” Walsh said during his testimony. “I’ve been with the Office of the State Comptroller for about four years now — and some of the best tips we get come from New Jersey residents who file OPRA requests, get those documents, especially from local government entities, and share those with us with a tip where they think that something has gone wrong.”

A spokesman for Scutari, who is also chairman of the Union County Democratic Committee, said the senate president was reviewing the letter and declined further comment. Gov. Phil Murphy’s press office did not respond to a request seeking comment.

The move also came as the state was criticized by good-government advocates for changing the law governing the campaign finance watchdog agency, the Election Law Enforcement Commission.

Walsh is an acting state comptroller and hasn’t been confirmed by the state Senate for years due to a tradition known as senatorial courtesy, where legislators from a nominee’s home county and legislative district must sign off. It has been cited as a way for legislators to block officials they have a distaste for.

In response to the criticism of Walsh's office, Laurie Facciarossa Brewer, the New Jersey Long-Term Care Ombudsman, offered praise for the Comptroller's work as head of the Medicaid Fraud Division investigating nursing homes.

The Comptroller's office has urged the state to deny Medicaid funding to the nursing homes with the longest record of poor performance based on the federal 5-star grading system and has suspended the worst operators from the Medicaid program.

News of the letter was first reported by Politico.

"Kevin Walsh and the Comptroller office are taking a bold new approach to this issue. This type of innovative thinking is critically needed in the face of corporate and private equity ownership of New Jersey nursing homes," she said.

NJ Advance Media staff writer [Ted Sherman](#) contributed to this report.

[Jelani Gibson](#) is a cannabis and politics reporter for [NJ.com](#). He can be reached at jgibson@njadvancemedia.com. Follow him on X [@jelanigibson1](#) and on [LinkedIn](#).

[Susan K. Livio](#) may be reached at slivio@njadvancemedia.com. Follow her at X at [@SusanKLivio](#).

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1 of 6

Have changes in the economy impacted you personally this year?

- I am doing the same financially as I was at this time last year
- I am doing better financially than I was at this time last year
- I am doing worse financially than I was this time last year

Next

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Critics press NJ lawmakers to curb state watchdog

BRENDA FLANAGAN, SENIOR CORRESPONDENT | APRIL 26, 2024 | MORE ISSUES

Acting State Comptroller Kevin Walsh has drawn ire over several critical reports



New Jersey's 21 county government have "had it" with the state's acting State Comptroller Kevin Walsh, says John Donnadio, the executive director of the New Jersey Association of Counties. The counties want lawmakers to put a short leash on the independent watchdog.

"The comptroller is acting as judge, prosecutor and jury all in one," Donnadio said.

Walsh recently issued several damning reports pointing out alleged fraud and misuse of taxpayer dollars in Union, Hudson and Essex counties. The counties vigorously disputed some of the findings.

In a letter to legislative leaders, Donnadio claimed a YouTube clip by Walsh “attempts to evoke fear in the minds of viewers that fraud, waste and abuse is everywhere and that public financial officers are primarily responsible...” He asks lawmakers to investigate the investigator and mandate “guardrails” so counties can fully rebut accusations.

“We’d like for the Legislature to conduct a hearing on the office of the state comptroller,” Donnadio says. “We are alarmed at the fact that the comptroller has the authority to levy accusations of wrongdoing when there are disputes of facts and legal matters without due process of the law.

“If the Legislature has any questions about any of the reports that we’ve issued — including the ones that the counties are now upset about — we welcome the chance to fully engage on that. I fully stand behind the facts that are in there. And the conclusions that we reached,” Walsh said.

“We share the facts because it’s good for democracy for the public to understand where government has fallen down,” he said.

Government transparency advocates say the comptroller doesn’t prosecute, he just reports.

“They have the power to investigate, and they do it well. And they have an incredibly wonderful track record of identifying corruption and misuse of public funds,” said Dena Mottola Jaborska of New Jersey Citizen Action.

“Certainly, if the Legislature does pick up that recommendation, they will get massive resistance from this ... pro-democracy movement. It will be massive,” she said.

Senate President Nick Scutari (D-Union) said, “I can confirm receipt of the letter and we will give it a full review.”

“Agencies like the Office of the Comptroller — that investigate allegations of waste, fraud, and abuse — have a vital role in our government. Due process is also an essential right. If there are concerns about an investigation or the way it was conducted then we should convene a hearing where the findings can be reviewed and all sides can be given an opportunity to be heard,” said Senate Minority Leader Anthony Bucco (R-Morris).

ACTING STATE COMPTROLLER GOVERNMENT TRANSPARENCY

JOHN DONNADIO KEVIN WALSH

NEW JERSEY ASSOCIATION OF COUNTIES NEW JERSEY CITIZEN ACTION

NJ COUNTIES OFFICE OF THE STATE COMPTROLLER

STATE WATCHDOG

EXHIBIT 3



Resolution # 24-010

2024—JANUARY 24, 2024

**RESOLUTION APPROVING THE ADOPTION OF THE
EMPLOYEE HANDBOOK FOR THE BOROUGH OF KEANSBURG**

WHEREAS, the Employee Handbook of the Borough of Keansburg serves as governing document of all employees, volunteers, appointed officials and independent contractors for the Borough of Keansburg; and

NOW THEREFORE BE IT RESOLVED that the Borough of Keansburg hereby agrees to adopt the 2024 Employee Handbook.

BE IT FURTHER RESOLVED that the policies in the Employee Handbook shall be effective immediately from the adoption of this Resolution; and

BE IT FURTHER RESOLVED that copies of the revised Handbook will be produced and distributed to all current and future employees of the Borough of Keansburg.

| | Moved | Seconded | Ayes | Nays | Absent | Abstain |
|---------------|-------|----------|------|------|--------|---------|
| Mr. Donaldson | | | ✓ | | | |
| Mr. Tonne | | | | | ✓ | |
| Mr. Cocuzza | | ✓ | ✓ | | | |
| Mr. Foley | | | ✓ | | | |
| Mr. Hoff | ✓ | | ✓ | | | |

CERTIFICATION

I, Jo-Ann O'Brien, Clerk of the Borough of Keansburg, in the County of Monmouth, New Jersey, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Borough Council at its regularly scheduled public meeting on January 24, 2024

Jo-Ann O'Brien

Jo-Ann O'Brien
Deputy Municipal Clerk



EMPLOYEE HANDBOOK

AND POLICY & PROCEDURE MANUAL

GENERAL PERSONNEL POLICY

It is the policy of the Borough to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations. The personnel policies and procedures of the Borough shall apply to all employees, volunteers, (elected or) appointed officials and independent contractors. In the event there is a conflict between these rules and any collective bargaining agreement, personnel services contract, or Federal or State law including the Attorney General's guidelines with respect to Police Department personnel matters and the New Jersey Civil Service Act, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail.

All employees, officers and Department Heads shall be appointed and promoted by the Borough Council or the Borough Manager. No person shall be employed or promoted unless there exists a position created by an ordinance adopted by the Borough Council as well as the necessary budget appropriation and salary ordinance.

The Borough Manager and all managerial/supervisory personnel are authorized and responsible for personnel policies and procedures. The Borough Council has appointed the Personnel Manager to assist the Borough Manager in implementing personnel practices. The Borough Manager and Personnel Manager shall also have access to the Employment Attorney appointed by the Borough Council for guidance in personnel matters.

As a general principle, the Borough has a "no tolerance" policy towards workplace wrongdoing. Borough officials, employees and independent contractors are to report anything perceived to be improper. The Borough believes strongly in an Open Door Policy and encourages employees to talk with their supervisor, Department Head, Borough Manager, the Personnel Manager or the Employment Attorney concerning any problem

The Personnel Policies and Procedures Manual adopted by the Borough Council are intended to provide guidelines covering public service by Borough employees and is not a contract. This manual contains many, but not necessarily all of the rules, regulations, and conditions of employment for Borough personnel. The provisions of this manual may be amended and supplemented from time to time without notice and at the sole discretion of the Borough.

To the maximum extent permitted by law, the employment practices of the Borough shall operate under the legal doctrine known, as "employment at will." Within Federal and State law, (including the New Jersey Civil Service Act) and any applicable bargaining unit agreement, the Borough shall have the right to terminate an employee at any time and for any reason, with or without notice, except the BOROUGH shall comply with all Federal and State legal requirements requiring notice and an opportunity to be heard in the event of discipline or dismissal.

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accommodations, individuals must (1) be able to perform the essential function of the position, (2) not create a real safety hazard to themselves, co-employees or the public, and (3) be otherwise qualified for the position in that they possess the prerequisites including education, experience, training, skills, licenses or certificates and other job-related requirements. All decisions with respect to accommodations shall be made by the BOROUGH Manager or BOROUGH ADA Council as appropriate.

3. CONTAGIOUS OR LIFE-THREATENING ILLNESS POLICY:

The BOROUGH OF KEANSBURG encourages employees with contagious diseases or life-threatening illness such as cancer, heart disease, Hepatitis C and HIV/AIDS to continue their normal pursuits, including work to the extent allowed by their condition. As in the case of other disabilities, the BOROUGH OF KEANSBURG shall make reasonable accommodations in accordance with legal requirements to allow qualified employees with contagious or life-threatening illness to perform the essential functions of their jobs as long as they are able to meet acceptable performance standards.

Medical information shall be treated confidentially. The BOROUGH OF KEANSBURG will take reasonable precautions to protect such information from inappropriate disclosure. Supervisors and other employees have a responsibility to maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information shall be subject to disciplinary action.

Employees with questions or concerns about contagious or life-threatening illnesses are encouraged to contact the Director of Human Resources.

4. SAFETY AND ACCIDENTS ON THE JOB:

The BOROUGH will provide a safe and health work environment and shall comply with the Public Employees Occupational Safety and Health Act (PEOSHA). The BOROUGH is equally concerned about the safety of the public. Consistent with this policy, Employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary action. Any occupational or public unsafe condition, practice, procedure or act must be immediately reported to the supervisor or Department Head. Any on-the-job accident or accident involving the BOROUGH's facilities, equipment or motor vehicles must also be immediately reported.

5. INSURANCES LOSS CONTROL COUNCIL POLICY:

An Insurance Loss Control Council consisting of Department Heads and Supervisors may be established to insure employee safety and health. The purpose of the Insurance Loss Control Council is to ensure the performance of duties in a safe manner that will protect the health and welfare of fellow employees and citizens of the BOROUGH OF

6. NEW JERSEY RIGHT TO KNOW ACT:

EMPLOYER OBLIGATIONS

Upon hiring, the employer will provide each employee with a pamphlet summarizing the Right to Know Act and his or her rights under the law.

The employer will maintain a central file at its facility that will retain a complete workplace survey, a completed environmental survey, and appropriate fact sheets.

The employer will post on bulletin boards readily accessible to employees a notice of the availability of workplace surveys, environmental surveys, and hazardous substance fact sheets, from the employer, from the Department of Health and Senior Services, and from the Department of Environmental Protection.

The employer will provide copies of workplace surveys, environmental surveys or hazardous substance fact sheets to employees within 5 days of request.

EMPLOYEE RIGHTS

Any employee may request, in writing, from his or her employer, a copy of a workplace survey, environmental survey or hazardous substance fact sheet for the facility at which he or she is employed.

An employee shall have the right to refuse to work with a hazardous substance for which a request was made for information regarding same and not honored within 5 working days of the request without loss of pay or forfeit of any privilege until the request is honored, except if the information that is being requested has not yet been provided by the Department of Health.

PROVISIONS OF THE RIGHT TO KNOW LAW

1. SURVEY COMPLETION
2. LABELING
3. EDUCATION AND TRAINING PROGRAM:
 - a. Employers are required to provide initial Right to Know training to employees who are exposed or potentially exposed to hazardous substances.
 - b. Employees who receive initial Right to Know training must receive annual update training within twelve (12) months of the initial training.
 - c. All new or reassigned employees must be given the initial Right to Know training within thirty (30) days of employment or reassignment.
 - d. The Department of Health requires that if a facility reports hazardous substances, all employees in that facility, regardless of exposure to the hazardous substances, must be provided with a Right to Know brochure annually.

8. SUSTANCE ABUSE POLICY:

1. Pre-Employment – The Borough will exercise its right to include, as part of a Pre-employment physical, a drug and alcohol screen. All results will be kept Confidential and only used to determine an applicant’s fitness for employment with the Borough of Keansburg. A positive drug test will cause the Applicant to be disqualified.
2. Return to work assessment – The Borough will exercise its right to a drug and alcohol screen. Employees who are on extended illness or injury leave shall be required to submit to a drug and alcohol screen, as part of their normal return to work physical.
3. Impairment during work hours – If an employee is suspected of being impaired while on duty, said employee may be required to submit to any tests deemed necessary to determine whether the employee is, or is not, impaired. If an employee is found to be impaired while on duty, said employee shall be subject to REMOVAL in accordance with the Borough’s Disciplinary Policy of this manual.
4. Rehabilitation – If an employee is found to be in need of rehabilitation due to drug or alcohol abuse, said employee will be required to enroll in an approved rehabilitation program. This program will be partially covered by medical insurance to the extent possible, and partially covered by the employee. Failure to enroll in approved rehabilitation program will be grounds for serious disciplinary action.
5. Positive Drug Results – If a BOROUGH employee tests positive for Controlled Substance said employee shall be removed without pay from safety sensitive functions. Said employee may request the second vial to be tested by an independent laboratory at the employee’s expense.

9. WORKPLACE VIOLENCE POLCY:

The BOROUGH OF KEANSBURG will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property are cause for immediate dismissal and may be fully prosecuted. This included any violence or threats made on the BOROUGH’s property, at BOROUGH events or under other circumstances that may negatively affect the BOROUGH’s ability to conduct business.

Prohibited conduct includes:

- Intentionally or recklessly Causing physical injury to another person;
- Making threatening remarks;
- Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Intentionally damaging employer property or property of another employee;
- Possession of a weapon while on BOROUGH property or while on BOROUGH business except with the authority of the Policy Chief; and;

- Unwanted physical contact, including touching, pinching, brushing the body, pushing; or ;
- Non-sexual conduct such as intimidation and hostility based solely upon gender.

Employees who feel they have been subject to sexual harassment must report the harassment to their supervisor, or if they prefer to the Department Head, Director of Human Resources, BOROUGH Manager, or the Employment Attorney. See Employee Complaint Policy.

12. CONSCIENTIOUS EMPLOYEE PROTECTION POLICY:

Employees have the right under the "Conscientious Employee Protection Act (CEPA)" to complain about any activity, policy or practice that the employees reasonably believe is in violation of a law, rule, or regulation promulgated pursuant to law. This right shall be communicated to all employees in an annual letter outlining the specific employee complaint procedure and in a posted notice. A written acknowledgement that the employee received this letter will be included in the employee's official personnel file. The annual notice shall be in English and Spanish and must contain the name of the person who is designated to receive written notification of policies or practices that might violate CEPA. This right will also be communicated in the Employee Handbook. All complaints will be taken seriously and promptly investigated.

The BOROUGH shall not take any retaliatory action or tolerate any reprisal against an employee for any of the following:

- Disclosing or threatening to disclose to a supervisor, Department Head, the BOROUGH Manager, other official or to a public body, as defined in the Conscientious Employee Protection Act (N.J.S.A. 34:19-1 et seq.) an activity, policy or practice that the employee reasonably believes is in violation of a law, a rule or regulation promulgated pursuant to law;
- Providing information to, or testifying before any public body conducting an investigation, hearing, an inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; or
- Objecting to, or refusing to participate in any activity, policy, or practice that the employee reasonably believes is a violation of a law, rule or regulation promulgated pursuant to law; is fraudulent or criminal; or is incompatible with a clear public policy mandate concerning the public health, safety, or welfare.

In accordance with the statute, the employee must bring the violation to the attention of the BOROUGH. However, disclosure is not required where (1) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is emergent in nature. Employees are encouraged to complain in writing using the Employee Complaint form, but may make a verbal complaint at their discretion. See Employee Complaint Policy. Under the law, the employee must give the BOROUGH a reasonable opportunity to correct the activity, policy or practice. The

The BOROUGH recognizes the right of employees to engage in outside activities that are private nature and unrelated to BOROUGH business. However, business dealings that appear to create a conflict between the employee and the BOROUGH's interests are unlawful under the New Jersey Local Government Ethics Act. Under the Act, certain employees and officials are required to annually file with the BOROUGH Clerk a state mandated disclosure form. The BOROUGH Clerk will notify employees and BOROUGH officials subject to the filing requirements of the Act.

A potential or actual conflict of interest occurs whenever an employee including a BOROUGH official is in a position to influence a BOROUGH decision that may result in a personal gain for the employee or an immediate relative including a spouse or significant other, child, parent, stepchild, sibling, grandparents, daughter-in-law, son-in-law, grandchildren, niece, nephew, uncle, aunt, or any person related by blood or marriage residing in an employee's household. Employees are required to disclose possible conflicts so that the BOROUGH may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, immediately contact the BOROUGH Manager or the General Counsel to obtain clarification.

Employees are allowed to hold outside employment as long as it does not interfere with their BOROUGH responsibilities. Employees are prohibited from engaging in outside employment activities while on the job or using BOROUGH time, supplies or equipment in the outside employment activities. The BOROUGH Manager may request employees to restrict outside employment if the quality of BOROUGH work diminishes. Any employees who holds an interest in, or is employed by, any business doing business with the BOROUGH must submit a written notice of these outside interests to the BOROUGH Manager. This notice must be submitted annually on the first workweek of every calendar year.

Employees may not accept donations, gratuities, contributions or gifts that could be interpreted to affect their BOROUGH duties. Under no circumstances accept donations, gratuities, contributions or gifts from a vendor doing business with or seeking to do business with the BOROUGH or any person or firm seeking to influence BOROUGH decisions. Meals and other entertainment valued in excess of \$250.00 are also prohibited. Employees are required to report to the BOROUGH Manager any offer of a donation, gratuity, contribution or gift including meals and entertainment that is in violation of this policy.

17. POLITICAL ACTIVITY POLICY:

Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees are prohibited from engaging in political activities while performing their public duties and from using BOROUGH time, supplies or equipment in any political activity. Any violation of this policy must be reported to the supervisor, Department Head, Director of Human Resources, BOROUGH Manager or the BOROUGH Attorney.

forwarded to the Director of Human Resources for inclusion in the employee's official personnel file. As a part of the evaluation/recommendation, employees have the right to request a conference with the BOROUGH Manager or Director of Human Resources.

19. EMPLOYEE DISCIPLINE POLICY:

An employee may be subject to discipline for all of the following reasons:

- Falsification of public records, including attendance and other personnel records.
- Failure to report absence.
- Harassment of co-workers and/or volunteers and visitors.
- Theft or attempted theft of property belonging to the BOROUGH, fellow employees, volunteers or visitors.
- Failure to report to work day or days prior to or following a vacation, holiday and/or leave, and/or other unauthorized day of absence.
- Fighting on BOROUGH property at any time.
- Being under the influence of intoxicants (e.g., liquor) or illegal drugs (e.g., cocaine or marijuana) on BOROUGH property and at any time during work hours.
- Possession, sale, transfer or use of intoxicants or illegal drugs on property and at any time during work hours.
- Insubordination
- Entering the building without permission during non-scheduled work hours.
- Soliciting on BOROUGH premises during work time. This includes but is not limited to distribution of literature or products or soliciting membership in fraternal, religious, social or political organizations, and/or sales of Avon, Amway, etc.
- Careless waste of material or abuse of tools, equipment or supplies.
- Deliberate destruction or damage to BOROUGH or suppliers' property.
- Sleeping on the job.
- Carrying weapons of any kind on BOROUGH premises and/or during work hours, unless carrying weapons is a function of your job duties or as allowed by State / Federal law.
- Violations of established safety and fire regulations.
- Unscheduled absence, and chronic or excessive absence.
- Chronic tardiness.
- Unauthorized absence from work area, and/or roaming or loitering on the premises, during scheduled work hours.
- Defacing walls, bulletin boards or any other BOROUGH or supplier property.

Volunteers may be released from service immediately from service for any violation of the BOROUGH's policy and procedures

20. EMPLOYEE DEFINITIONS:

"PART-TIME EMPLOYEE" means an employee whose regular hours of duty are less than the regular and normal workweek for that job title or agency.

"REGULAR APPOINTMENT" means the employment of a person to fill a position in the competitive division of the career service upon examination and certification, or the employment of a person to a position in the noncompetitive division of the career service.

"PERMANENT EMPLOYEE" means an employee in the career service who has acquired the tenure and rights resulting from regular appointment and successful completion of the working test period.

"TEMPORARY APPOINTMENT" or "SEASONAL APPOINTMENT" means employment during a period of emergency or in a temporary position if it is required for a period of not more than six (6) months or for recurrent periods aggregating not more than six (6) months in any twelve (12) month period.

"PROVISIONAL APPOINTMENT" means employment in the competitive division of the career service pending the appointment of a person from an eligible list.

"WORKING TEST PERIOD" OR "PROBATIONARY PERIOD" means a part of the examination process after regular appointment, during which time the work performance and conduct of the employee is evaluated to determine if permanent status is merited.

"UNCLASSIFIED SERVICE" means those positions and job titles outside of the senior executive service, not subject to the tenure provisions of Title 11A, New Jersey Statutes or these rules unless otherwise specified.

21. EMPLOYEE TERMINATION POLICY:

An employee may be terminated depending upon the circumstance for any of the reasons listed in Policy 19 (Employee Discipline).

22. EMPLOYEE SEPARATION POLICY:

This establishes a uniform method for employee separation from service with the BOROUGH OF KEANSBURG for the best interest of the employee and the BOROUGH.

PROCEDURE

All employees who intend to resign from the BOROUGH, as well as all employees about to be discharged must satisfy their outstanding obligations to the BOROUGH OF KEANSBURG prior to final separation. This is accomplished through the exit interview with the BOROUGH Manager and/or Director of Human Resources.

11. Calculate any remaining fringe benefits and inform employee, Supervisor and Division of Accounts of remaining benefits.
12. Conduct exit interview.
13. Deliver COBRA notice.
14. BOROUGH Manager's office is to notify Division of Accounts to release final check.

NOTE: With reference to item No. 4, the employee is responsible for appearing for his/her appointment for his/her exit interview as all appropriate documents must be signed before clearance of final paycheck.

23. EXIT INTERVIEW POLICY:

To establish the procedure for the systematic review of employee separation and advise the employee of their rights upon separation.

PROCEDURE

Employee who either resigns or terminates employment with the BOROUGH OF KEANSBURG will be scheduled for an exit interview by the BOROUGH Manager or Director of Human Resources prior to their last day on the job.

It will be the responsibility of the Department Head to ensure this interview is scheduled. At the time of the exit interview the employee will be advised of the right to continue, convert, terminate or vest (if applicable) any benefits.

At the time said employees will also have clearance from the Department Head indicating that satisfactory arrangements have been made for the surrender of any municipal identification, badges, cards, clothing, keys, tools or property, etc.

Failure to return all BOROUGH property will result in employee's final paycheck being withheld.

It will be necessary for the employee to confirm forwarding address or other pertinent information as it might apply.

Upon completion of the above, the BOROUGH Manager's office will forward notification to the payroll department to release the final payment of said individual.

[Note: cannot withhold final paycheck for delay in exit interview].

24. PHYSICAL EXAMINATIONS:

POLICY

The BOROUGH reserves the right to require a medical examination if it is deemed necessary by virtue of an employee's inability to perform the duties or responsibility of their classification. This may include patterns of chronic sick leave absenteeism.

Association, such employee shall be required to pay a representation fee to the Association. Membership dues or representation fee may be paid in full directly to the Organization or in equal installments by payroll deduction.

28. CODE OF ETHICS:

PROCEDURE

The Local Government Ethics Law, P.L. 1991, c.29 shall apply.

29. TRANSFERS:

POLICY

INTER-DEPARTMENTAL TRANSFER - If an employee is interested in a transfer between departments, it is required that the approval of both Department Heads involved be obtained before any consideration will be given to this request by the BOROUGH Manager.

INTRA-DEPARTMENTAL TRANSFER - To transfer an employee to another classification other than that which he/she now holds in your Department, you must obtain the approval of your Department Head and the BOROUGH Manager.

30. CREDIT FOR PRIOR SERVICES:

SERVICE CREDIT IS NOT GUARANTEED BY THE BOROUGH and may not be available. If and when applicable the following shall be the possible policy:

Any employee previously employed with or transferred from a State, County or Municipal Government institution where said employee was performing a function of a substantially similar nature as that being performed on behalf of the BOROUGH OF KEANSBURG and whose service was continued in that capacity may be eligible to receive credits for said prior employment, in accordance with the following:

- (a) Prior to an employee being hired, the service credit may be waived by written agreement between a prospective employee and the BOROUGH Manager. This should be negotiated and agreed to, in writing, each time an employee is hired who worked for another State, County or Municipal Government.
- (b) To be eligible for a service credit, the prospective employee must meet the following requirements.
 - 1. Continuous Service - There cannot be any breaks in the service being credited. Nor may there be any lapse of time between the service being credited and service with the BOROUGH OF KEANSBURG.
 - 2. Relevant Service - in order to be relevant, prior service must have been worked in a substantially similar function as the one to which the service will be credited (i.e. - Prior service as a police officer would be relevant to a position as a police officer with the BOROUGH).
- (c) Prior service time which is credited to an employee may not be counted as time

SECTION TWO

WORKPLACE POLICIES

32. ABSENTEEISM:

PURPOSE

The purpose of this definition is to delineate between authorized and unauthorized absenteeism.

PROCEDURE

- A. Chronic or excessive absenteeism shall be cause for removal from service as stated under Section 4A of the New Jersey Administrative Code.
- B. Earned carry-over sick leave shall be credited at the beginning of each calendar year. For those who have not earned sick leave carry-over sick leave absence will be earned on a monthly basis for that year until employee earns carry-over sick leave. When sick leave absences are in excess of sick leave earned on a monthly basis, employee will not receive payment for sick leave.
- C. An employee shall be considered to be unauthorized absent when, unless in emergency situations, they fail to report to work at the proper time and place, and fail to notify their immediate supervisor or their designee not later than 30 minutes after their scheduled starting time, or as designated by the Department Head or their designee.
- D. Authorized absence is considered to be the following: sick, vacation, personal days, approved leave of absence, approved family or medical leave, funeral leave, compensatory time and jury duty.

33. ABSENTEEISM - BOARDS, COUNCILS AGENCIES AND COMMISSIONS:

PURPOSE

To minimize the effect of absenteeism on the rewarding and productive expertise, training and experience of its members and their work.

PROCEDURE

Absenteeism of more than 50% of all regularly scheduled meetings within a six (6) month period shall be disapproved. It shall be incumbent upon each Chairperson to advise their membership of this attendance policy and to advise the BOROUGH Council when an individual appointee's attendance is below 50% of all regularly scheduled meetings within said six (6) month period. Upon direction of the BOROUGH Council, the BOROUGH Clerk will inform members with excessive absenteeism that their appointment is terminated.

- Educational Improvements
- Disciplinary Actions
- Health Benefits
- Emergency Notification
- Withholding tax-both State & Federal

For change of address, Employee History Form (Exhibit) will be filled out with one copy to go to the Supervisor, one copy to the Division of Accounts, and the original to be transmitted to the Department of Human Resources. In case of all other vital information changes, telephone the Department of Human Resources, and an appointment will be made in order that the necessary changes can be appropriately documented.

37. CHECK CASHING:

It is the policy of the BOROUGH OF KEANSBURG that all employees are responsible for cashing or disposing of their own payroll checks, and the BOROUGH does not authorize any employee to act as an agent to cash other employees' checks. All checks are to be cashed on the employee's personal time, and they are not allowed or permitted to use BOROUGH time or equipment for the purpose of cashing checks.

38. COFFEE BREAKS:

Personnel should be aware that coffee breaks are a privilege and must be taken in accordance with approved schedule established by the Supervisor or Department Head.

Where facilities have been provided, they will be utilized and breaks will not exceed 15 minutes.

Personnel working in administrative offices will not leave the building during break time. Other personnel will take coffee breaks as designated by the Department Head or Supervisor.

39. CONDUCT:

POLICY

It is the duty and responsibility of all employees of the BOROUGH OF KEANSBURG to deal with the public in a pleasant and courteous business-like manner. Employees are to treat fellow employees of the BOROUGH OF KEANSBURG with courtesy and respect within their daily contact.

PROCEDURE

If an employee is found to be conducting themselves in a manner contrary to the provisions stated above, the employee may be subject to disciplinary action.

43. EMERGENCY EXIT - MUNICIPAL BUILDING (AND SATELLITE LOCATIONS):

PURPOSE

To develop a sound program for the emergency exit from the Municipal Building and satellite-locations in the case of fire or other disaster for all occupants of the building. At satellite locations, where applicable, follow similar responsibilities and procedures for safety in their own buildings. Satellite locations shall submit specific plans to the BOROUGH Manager for review and approval.

RESPONSIBILITY

It is the responsibility of the BOROUGH Engineer (or other designee of the Borough Manager) to file a copy of this program with each and every office located in the Municipal Building. It is the responsibility of the individual in charge of that office to see that every employee in said office is knowledgeable of the emergency exit policy for the Municipal Building or their satellite location.

It is the responsibility of the Engineer to arrange for regular testing of the Fire Alarm System in the Municipal Building and satellite locations to insure proper functioning.

It is the responsibility of the Engineer to coordinate periodic fire and/or disaster drills for the education of occupants of the Municipal Building and satellite locations.

It is the responsibility of the Superintendent of Public Works to arrange for continuous lighting of the "Exit" lights.

PROCEDURE

1. Immediately upon the sounding of the alarm, the switchboard operator on duty is to notify the Police Department and switch the board over to the Police Desk.
2. In case of Fire: The person sounding the alarm is to call the Fire Department by dialing the operator and asking for the BOROUGH OF KEANSBURG Fire Department.
3. In case of Bomb Scare: The person receiving the "Bomb Call" is to sound the alarm and notify the Police Department. A "Bomb Call" may come to any department in the Municipal Building or satellite locations and is, not necessarily given directly to the switchboard operator.
4. All employees, upon the sounding of the alarm, are to vacate the building, using the closest Fire Exit Stairwell. File out to the parking lot. Any employee that does not leave the building will be subject to disciplinary action. Department Heads do not have the authority to allow anyone to remain in the building. Department captains are to see that the public vacates the building "along with" the employees. Ground floor (lower level) and first floor (main floor) captains are to make sure that no one enters the building after the alarm is sounded.
5. Those employees who handle any monies are to close the cash boxes and place them in vaults and safes.

I.D. Cards are made available to the BOROUGH employees on a period basis based upon the availability of equipment for said purposes being provided by the Identification Bureau of the Department of Public Safety. Notice of said service will be provided to employees by their Supervisors.

Badges for the BOROUGH Council and Department Heads will be ordered by the BOROUGH Clerk. BADGES ARE RESTRICTED TO THE BOROUGH COUNCIL, MUNICIPAL CLERKS OFFICE AND DEPARTMENT HEADS, NO OTHER BADGES WILL BE ISSUED.

49. OUTSIDE EMPLOYMENT POLICY:

Employees will not be permitted to engage in outside employment which conflicts with their responsibility to the BOROUGH. Employees will be permitted to engage in outside employment if it does not constitute a conflict of interest and is work that would not be performed during the employee's normal tours of duty with the BOROUGH. However, the employee recognizes that his/her primary employment responsibility is to the BOROUGH and will therefore be available, immediately following tours of duty, upon reasonable notice by the BOROUGH, if he/she is called back to perform service on an emergency basis at hours other than during his/her normal tours of duty. The Employee shall be required to obtain the permission of the BOROUGH Manager before the Employee obtains other employment.

50. PERSONAL TELEPHONE CALLS AND PERSONAL CELL PHONE USAGE:

DEFINITION

PERSONAL CALL - A telephone call not necessitated by an employee's assigned work.

RESPONSIBILITY

A. Each employee is responsible for:

- Restricting personal calls during business hours to emergency calls only.
- Confining personal calls to lunch and rest periods unless an urgent personal situation arises.
- Spending as little time as possible on any personal call made during business hours.
- Using a personal cell phone (away from work station) or coin-operated telephone for a personal call whenever such a phone is available.
- Ensuring that the BOROUGH OF KEANSBURG is not obliged to bear the cost of any personal calls made by that employee on a BOROUGH telephone. One of the following methods may be used.
 1. Using personal cell phone
 2. Charging the call to a home phone.
 3. Charging the call to a personal credit card.

POLICY

The Borough Manager shall determine which personnel are deemed essential during a public emergency.

- A. In any case where a snow emergency may be announced through the media for the BOROUGH OF KEANSBURG employees, this will only apply to non-essential personnel. All essential personnel will be required to report as scheduled.
- B. Only the Governor or his designee shall determine, declare, and announce the existence of a "Snow Emergency."
- C. "Snow Emergency" closing shall apply only to non-essential personnel. All essential personnel will be required to report as scheduled. Essential employees are all those employees whose continued service is essential to the public health, safety, and welfare of the BOROUGH OF KEANSBURG, and more particularly are employed in the Department of Public Safety, and Public Works Department.
- D. Each Department Head shall notify those employees in the above departments who are essential and who are required to work.
- E. Non-essential personnel are all other employees of the BOROUGH.

PROCEDURE

- A. Those non-essential employees who do not work as a result of a "Snow Emergency" shall not be paid but shall be permitted to use a sick leave day, vacation day, or other available compensatory time as permitted by the employee's collective bargaining agreements so as to be eligible for pay for such day.
- B. Essential employees who do work shall be paid their regular wages.
- C. In the case where no "Snow Emergency" is declared, employees not reporting for work will not be paid.

54. MEALS AND LODGING:

To state the eligibility of employees for reimbursement of those expenses incurred while engaged in activities related to employment with the BOROUGH OF KEANSBURG. Examples as follows:

1. Regular official business travel.
2. Convention, conferences, staff training or seminar travel.

AUTHORITY

1. BOROUGH OF KEANSBURG regulations where provided.
2. Negotiated collective bargaining unit agreements.

PREPARATION AND SUBMISSION OF TIME REPORTS

1. Each Supervisor or Department Head is responsible for preparing and submitting time sheets at the time designated as the end of the work week. This responsibility pertains to all Provisional, Temporary, and Permanent employees, both in the Classified and the Unclassified Service.
2. For reporting other than scheduled working hours, following the same procedure and report all said time on the time sheets.

SUPERVISOR'S OR DEPARTMENT HEAD'S VALIDATION OF TIME REPORTS

Each Supervisor or Department Head is responsible for:

Developing and maintaining a system which will ensure the accuracy of pay hours/days reported on time sheets.

Designating a qualified person to validate time sheets in the absence or unavailability of the Supervisor or Department Head.

Note: For employees who are on loan or temporary assignment, the Supervisor or Department Head for whom the employee is actually working is responsible for forwarding an approved copy of the Time Sheet to the Supervisor or Department Head who maintains the employee on the official payroll.

GENERAL

A payroll check will not be issued to an employee for whom no time sheet has been submitted. The payroll check of that employee's immediate Supervisor (or Department Head) may also be withheld until such time as that employee's time sheet is submitted.

Department Heads or Supervisors are responsible for signing all time sheets before submission to the Division of Accounts for processing.

Time sheets must be submitted to the Finance Department by 10:00 A.M. the first working day after the last day of the week being submitted. It is the Department Head's responsibility to see that they are submitted.

The Department Head must file a daily attendance report to the Department of Human Resources by 10:00 A.M. of the current day.

SECTION THREE

PAID AND UNPAID TIME OFF POLICIES:

58. PERSONAL DAYS:

POLICY

The BOROUGH, pursuant to negotiated collective bargaining agreements, grants personal leave days annually for each employee.

PROCEDURE

Personal leave days are administered in accordance with terms of the respective collective bargaining agreement. Each collective bargaining agreement differs slightly with respect to the number of personal leave days granted. A review of the respective collective bargaining agreement should be made in order to determine the proper amount of time to be granted, and the procedure for utilization.

Personal leave days may be used for religious holidays.

59. COMPENSATORY TIME:

PURPOSE

When the BOROUGH OF KEANSBURG has a project or function that must be realized within a specific time frame and it cannot be completed during the normally scheduled daily work hours, at the discretion of the Department Head and the ADVANCE approval of the Borough Manager comp time may be awarded as follows:

1. It is the responsibility of the Department Head or their designee to authorize said employee to work in excess of his/her normally scheduled daily hours and to grant compensatory time off in lieu of overtime payment.
2. It is the responsibility of the Department Head or their designee to record all authorized compensatory time on the departmental daily attendance record.
3. Compensatory time off shall be granted with the approval of the Department Head or their designee.
4. Compensatory time off taken by an employee must be recorded on the daily attendance record of the respective department.
5. The basis for computing compensatory time off shall be in the manner outlined in negotiated collective bargaining agreements.
6. Compensatory time shall be utilized in the calendar month earned unless collective bargaining agreements specifically state other methods or the Borough Manager agrees to allow an extension.

militia of the State of New Jersey, shall be entitled to a leave of absence with pay not to exceed 90 work days in the aggregate in any one calendar year for any period of Federal active duty, and unlimited paid leave in the case of State active duty. Active duty shall not include inactive duty training such as weekend drills. During any such period of leave with pay, the employee shall be required to reimburse the BOROUGH for any military pay received while the employee is receiving regular pay from the BOROUGH.

C. Regarding military service for reservists other than New Jersey National Guard members:

A permanent employee or a full-time, temporary employee who has served for one year or more, who is a member of the organized reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States or other affiliated organizations, including national guard units of other states, shall be entitled to a leave of absence with pay not in excess of 30 work days in the aggregate in a calendar year when he or she shall be engaged in any period of Federal active duty. During any such period of leave with pay, the employee shall be required to reimburse the BOROUGH for any military pay received while the employee is receiving regular pay from the BOROUGH.

D. Regarding service and reemployment for all members of the military in time of war or emergency:

An employee in the career, senior executive or unclassified service, other than a person holding a position for a fixed term or period, who enters either Federal or State active military service in time of war or emergency, or for any period of training, or pursuant to any selective service system, shall be entitled to a leave of absence without pay for the period of such service and three months after discharge. However, if an employee is incapacitated by wound or illness at the time of discharge, such leave shall be extended until three months from recovery but in no event more than two years from date of discharge.

1. No entitlements under this section shall be granted if the separation from military service is by a dishonorable discharge. See N.J.S.A. 38:23-4.
2. To the extent that a member of New Jersey's organized militia, including the New Jersey National Guard, has not exhausted 90 days of paid leave in accordance with (B) above, or a reservist has not exhausted 30 days of paid leave in accordance with (C) above, the member or reservist shall be permitted paid leave in accordance with, as applicable, (B) or (C) above, and also shall be afforded the rights of military members in accordance with (D)1 through 3 above.

E. An employee is entitled to a leave of absence without pay for such other military duty not covered by (B), (C) or (D) above. At the discretion of the employee, vacation leave, administrative leave and other accrued compensation may be used for such absences.

The BOROUGH OF KEANSBURG will apply the “rolling-forward” method to calculate an employee’s entitlement to FMLA leave. By this method, the 12-month FMLA “leave year” is the period measured forward from the date the employee’s first FMLA leave begins.

When an employee takes leave for a reason covered by the New Jersey Family Leave Act (“FLA”) and the FMLA, the leave shall be simultaneously counted against an employee’s entitlement under both statutes to the extent permitted by law.

Spouses employed by the BOROUGH shall each be entitled to the full twelve (12) weeks of family leave irrespective of the reason leave is taken.

Leave for birth and care or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement.

INTERMITTENT LEAVE

Under some circumstances, employees may take FMLA leave intermittently — which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

- If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent or reduced schedule leave is subject to the BOROUGH Manager’s approval.
- FMLA leave may be taken intermittently or on a reduced schedule whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

FMLA leave will be unpaid unless the employee has available applicable earned paid leave (such as sick, personal, or vacation leave, or compensatory time). In the event the employee has such available earned paid time off, the employee must first use any applicable earned sick leave, and may, thereafter, at the employee’s election, use any other applicable earned paid time off, all of which time will be counted as FMLA leave. Once such applicable paid time off is exhausted, the remainder of the FMLA leave will be unpaid.

The BOROUGH, through the BOROUGH Manager, is responsible for designating an employee’s use of paid leave as FMLA leave, based on information from the employee.

“Serious health condition” for purposes of the FMLA means an illness, injury, impairment, or physical or mental condition that involves either:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

MAINTENANCE OF HEALTH BENEFITS

During FMLA leave, the employee's health insurance coverage will be maintained under the same terms and conditions as if the employee had continued to work. Employees may be required to pay their share of health insurance premiums while on leave, where consistent with applicable collective bargaining agreements and/or health insurance plans in effect at the time of the leave. Employees who are required to contribute part of the cost of health insurance must make arrangements with Personnel for timely payment of premiums.

In some instances, the BOROUGH may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

JOB RESTORATION

Generally, upon return from FMLA leave, the employee will be restored to his/her original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. If the BOROUGH should experience a reduction in force or layoff, an employee who would have been affected by such a reduction in force or layoff had he/she not been on FMLA leave is not entitled to be returned to work following exhaustion or completion of FMLA leave, however, the employee retains all rights under any applicable lay off or recall system.

An employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave and FMLA leave will not be considered in discipline related to tardiness and/or attendance.

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, the BOROUGH may refuse to reinstate certain highly-paid "key" employees after using FMLA leave during which health coverage was maintained. In order to do so, the BOROUGH will:

- notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;
- notify the employee as soon as the BOROUGH decides that it will deny job restoration, and explain the reasons for this decision;
- offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; and
- make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.

A "key" employee is a salaried "eligible" employee who is among the highest paid ten percent of employees.

EMPLOYEE ELIGIBILITY

To be eligible for FLA benefits, an employee must:

- have worked for the BOROUGH for a total of 12 months; and
- have worked at least 1,000 hours (including overtime) over the previous 12 months

The BOROUGH Manager will determine if the employee meets eligibility requirements.

LEAVE ENTITLEMENT

An eligible employee may take up to a total of 12 work-weeks of FLA leave during any 24-month period for one or more of the following reasons:

- for the birth of a child of the employee;
- for placement with the employee of a child for adoption; or
- to care for the employee's family member (child, spouse, or parent) with a serious health condition.

The BOROUGH will apply the rolling forward method to calculate an employee's entitlement to FLA leave. By this method, the 24-month period forward from the date the employee's first FLA leave begins.

When an employee asks for leave for a reason covered by the federal Family and Medical Leave Act ("FMLA"), the leave shall be simultaneously counted against an employee's entitlement under both statutes to the extent applicable and permitted by law. In the case of maternity leave, the employee's FLA leave will not begin to run until the employee is released from disability by her health care provider or exhausts her FMLA leave, whichever occurs first. After release by her health care provider, any remaining FMLA leave will run concurrently with her FLA leave entitlement.

Leave for birth and care, or placement for adoption, must be commenced within 12 months of the birth or placement.

Under some circumstances, employees may take FLA leave intermittently, which means taking leave in blocks of time, or by reducing their normal weekly work schedule.

- If FLA leave is for birth and care or placement for adoption, use of intermittent or reduced schedule leave is subject to the BOROUGH Manager's approval.
- FLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member. Such intermittent leave may not exceed 12 months.
- FLA leave may be taken on a reduced leave schedule in increments of not less than one day and for a period not to exceed 24 weeks.

NOTICE AND CERTIFICATION

When FLA leave is sought due to the birth or placement of a child for adoption, the employee must provide at least thirty (30) days notice of the intention to take FLA leave when reasonably practicable. When FLA leave is sought due to a family member's serious illness, the employee must provide at least fifteen (15) days notice of the intention to take FLA leave, except where emergent circumstances warrant shorter notice.

An employee requesting FLA leave in order to care for the employee's seriously-ill spouse, child, or parent may be required to provide a certification issued by a health care provider supporting the need for the requested FLA leave.

NO RETALIATION

There shall be no retaliation against any employee for exercising his/her rights under the FLA and/or for taking FLA leave.

QUESTIONS

Any questions regarding this policy or FLA leave should be directed to the Human Resources Coordinator.

63. CREDIT TOWARD WAGE INCREMENTS WHILE ON LEAVE WITHOUT PAY:

Time spent by employees on leave of absence without pay will not be included in total time of employment when calculating eligibility for payment of the earned increment after such leave and will be pro-rated based on the eligible time worked. The exception to the above is military leave without pay.

64. SICK LEAVE:

Sick leave will be earned based upon negotiated collective bargaining agreements. Sick leave, for purpose herein, is defined to mean, absence from duty of an employee because of personal illness by reason of which such employee is unable to perform the usual duties of his/her position, exposure to contagious disease, a short period of emergency attendance upon a member of his/her immediate family critically ill and requiring the presence of such employee. The term "immediate family" as used herein, shall mean father, mother, spouse, child, foster child, brother or sister, mother-in-law or father-in-law living in the same dwelling house as that of the employee. Sick leave is a privilege and not a right, and as such, it is not meant to be abused, In order to insure that these abuses do not occur:

An employee who has been absent on sick leave for five (5) or more consecutive work days, at the discretion of the Department Head will require a Return-to-Work assessment.

Department Heads also have the option of having employees medically assessed when reporting off-sick during a workday.

An employee who has been absent on sick leave for periods totaling more than

3. Monmouth Dues
4. Federal Savings Bonds
5. I.R.A.
6. Life Insurance Plan
7. Disability Insurance
8. Deferred Compensation

For any questions or discrepancies relative to checks issued, contact the Division of Accounts.

PROCEDURE

All authorized deductions will be reported to the BOROUGH Manager, so that appropriate notice may be issued to the payroll division.

70. PAY PLAN:

POLICY

All Public Works hourly employees are paid weekly. All other hourly and all salaried employees are paid bi-weekly. All checks will be issued on the Thursday following the close of the pay period. In the case where a holiday or holidays may fall on the pay day, checks will be issued on Wednesday.

73. LIFE INSURANCE:

All certified permanent employees who have not yet attained their 60th birthday will be enrolled in the Public Employees Retirement System's life insurance program. This coverage consists of 1 1/2 times their annual salary on a non-contributory basis and 1 1/2 times their salary on a contributory basis for a total of three (3) times their annual salary. Employees are required to participate in the contributory enrollment plan for a period of one (1) year. After the completion of one (1) year, they may elect to continue or cancel this contributory coverage. Those having attained age sixty (60) or over must prove insurability before this coverage can be effective.

All Police Officers and Fire Fighters enrolled in the New Jersey Police and Firemen's retirement plan will have life insurance coverage amounting to 3 1/2 times their annual salary on a non-contributory basis.

The New Jersey Division of Pensions should be contacted for further information, regarding these life insurance plans.

PROCEDURE

For all persons in the classified service, enrollment will be completed by the Department of Human Resources at the time application is completed for membership in the pension plan. Appointed and elected officials are eligible for enrollment immediately upon their appointment to a BOROUGH position.

The BOROUGH OF KEANSBURG will protect its interest in the claims procedure by monitoring all claims and attendance at fact finding and appeals hearings.

78. CERTIFICATION OF ELIGIBLES FOR APPOINTMENT:

PURPOSE

To establish the procedure for disposition of Certifications of Eligibles for appointment in accordance with mandated Department of Personnel requirements.

PROCEDURE

It is the responsibility of all Supervisors, Department Heads, and Superintendents to cooperate with the BOROUGH Manager in the disposition of certification of Eligibles for appointed and/or promotional examinations as follows:

1. A good, valid reason must be given in writing to the BOROUGH Manager for the rejection of eligibles certified for appointment and/or promotion. The reason provided by the respective Department Heads will be used in notifying the eligibles of their acceptance or rejection for the position in question.
2. With respect to promotional lists, an interview must be arranged by the Department Head or his/her designee for all interested parties. A memorandum to the BOROUGH Manager must indicate the employee to be promoted, along with a comprehensive statement on why each eligible was rejected for said promotion. This statement will be used in notifying the rejected eligible.

When the BOROUGH OF KEANSBURG receives a Certification of Eligibles for a position, the respective Department Head will be contacted by the BOROUGH Manager.

The BOROUGH Manager will proceed as follows upon the receipt of a Certification of Eligibles for Appointment and/or promotion.

79. RESIDENCY REQUIREMENTS:

PURPOSE

To establish a policy on residency requirements.

POLICY

1. Chapter 2-31 of the BOROUGH Code provides that Municipal employees shall be residents of the BOROUGH OF KEANSBURG in the County of Monmouth as a condition of employment.

Section 1: All municipal officials and employees other than those exempt by statute, appointed or employed subsequent to the effective date of this ordinance, must be, as of the date of such appointment or employment, bona fide residents of the BOROUGH OF

perform the work for which he/she was hired. The probationary period is a continuation of the examination process.

PROBATIONARY PERIODS ARE AS FOLLOWS:

Classified Service - 90 Days (Except Police - 1 yr.)

Non-Competitive Service - 90 Days.

It is the responsibility of the immediate Supervisor (or Department Head) to evaluate the performance of an employee serving in a probationary capacity regularly, that being the 30th, 60th, 90th days; for Police and Firefighters once a month.

REMOVALS

The Superior Court of New Jersey, Appellate Division has established some basic guidelines to be considered in determining whether or not a municipality acts in good faith when it removes an employee at the end of his/her probationary test period. The following conditions must be met in order to prove good faith.

1. A probationer is to be provided with all the equipment necessary to the proper performance of his/her duties.
2. Careful records are to be kept of the probationer's work and of any checks or inspections of his/her work.
3. Guidance and advice are to be given to the probationer.
4. The probationer is to be notified of any errors which are indicated through checks or re-inspections.
5. If it is determined at the end of his/her probationary period that his/her performance is unsatisfactory, the probationer must be given a detailed statement of the reasons for such conclusion.

81. ORIENTATION OF NEW EMPLOYEES PROCEDURE:

All new regular full-time and regular part-time employees will be scheduled to meet with the BOROUGH Manager, Director of Human Resources and Department Head on their first day for a general orientation. Copies of all forms and acknowledgement must be returned to the Director of Human Resources for inclusion in the employee's official personnel file. The orientation will include:

- A tour of the appropriate facilities to acquaint the new employee with overall operations as they relate to the specific position;
- The completion of all pertinent personnel, payroll, insurance and pension forms;
- A review of the Employee Handbook and acknowledgement of receipt;
- A review of the Personnel Policies and Procedures manual if the employee is a manager or supervisor and acknowledgement of receipt;

83. PROMOTIONS:

POLICY

In the absence of a current promulgated list, promotional vacancies will be filled provisionally, by management, by the person most qualified. Permanent appointment will be subject to the Department of Personnel examination process.

DEFINITION OF PROMOTION

Promotion means an upward move with increased increment in proportion to increased responsibilities.

PROCEDURE

When Department Heads request a promotion of an employee to the BOROUGH Manager, it shall include increased duties and responsibilities with details that warrant promotion.

An employee shall be eligible for promotion after one (1) year in title. Promotional increases are five (5) to ten (10) percent of base salary as determined by the BOROUGH Manager's office after an evaluation of the duties and responsibilities of the position.

84. PROMOTIONAL LIST:

Procedure to be followed by the BOROUGH Manager's office:

1. Upon receipt of the promotional list, notify the respective Department Head.
2. Record the names of all employees who express interest in the position for which they have been certified as eligible.
3. Notify the respective Department Head when an eligible for the position has contacted the BOROUGH Manager's office. An interview must be provided for each employee expressing interest, certified as eligible.
4. Establish a date and time for the interview mutually convenient for the Department Head, BOROUGH Manager, and the employee expressing interest in the position for which they have been certified as eligible.
5. Upon completion of all interviews with the employee expressing interest in the position, a determination will be made by the BOROUGH Manager and the Department Head of the eligible to be certified to the promotional position.
6. The BOROUGH Manager's office will be notified of the reason for selection of the eligible certified, as well as the reasons for not certifying any other interested eligible for the promotional position.
7. BOROUGH Manager's office will complete the Certification of Eligibles for Appointment based on the selection of the BOROUGH Manager and the

followed and the response action plan. As soon as possible but no later than ten days after receiving the complaint, the BOROUGH Manager or investigator appointed by the BOROUGH Manager will interview the employee. If the employee is reluctant to sign a written complaint, the BOROUGH Manager or investigator will prepare written notes of the date, time and place of the complaint and the specific allegations. These notes will be read back to the employee who will be asked to affirm, preferably in writing the information's accuracy.

- Investigation: The BOROUGH Manager will seek the advice of the Employment Attorney when planning the investigation. The investigation should be conducted by the Employment Attorney or county prosecutor if it involves potential criminal charges. The investigation should establish the frequency and nature of the alleged conduct and whether the complaint coincides with other employment events such as a poor performance evaluation. The investigation should also determine if other employees were subjected to similar misconduct. It is important to protect the rights of both the person making the complaint and the alleged wrongdoer.
- Response Plan – No Corrective Action Required: The BOROUGH Manager will discuss the conclusions with the Employment Attorney and render a decision within fourteen days after the investigation is complete. If the validity of a complaint cannot be determined or the complaint is groundless, the complaining employee should be notified in writing. Care should be taken to avoid being too specific, confrontational or accusatory and to avoid any language that might be construed as defamatory. A general statement is usually more appropriate that the claim was thoroughly investigated, but could not be sufficiently documented or confirmed to justify taking formal action. The employee should be assured that future complaints will be investigated and that the BOROUGH is committed to eliminating wrongful employment practices when they are found to exist. If the investigation reveals that the complainant intentionally and maliciously levied false charges against the alleged wrongdoer, the complainant must be notified of the seriousness of filing a false complaint, and the appropriate disciplinary penalty under the circumstances, up to and including termination.
- Response Plan – Corrective Action Required: If the investigation reveals that the complaint is justified and substantiated, the BOROUGH Manager will formulate with the advice of the Employment Attorney a corrective action plan as well as possible disciplinary action. The complaining employee will be notified, in writing that it appears that the complaint was justified and an appropriate response plan has been formulated. A copy of the response plan should be attached to the letter. The response plan should provide for appropriate remedial action to prevent a recurrence of the wrongful act or behavior.

- Resigned not good standing.
- Deceased.
- Retired. Dismissed. Laid off. Released at end of working test period.
- Removal.
- New positions. Reclassification. Title change. Position upgrade. Position downgrade. Position reclassification. Create position.
- Abolish position. Recruiting assistance.
- Other - Specify

RESPONSIBILITIES

1. Supervisor is responsible for attaching supporting documents to the request to the BOROUGH Manager.
2. The BOROUGH Manager/Director of Human Resources is responsible for processing.

REQUIREMENTS

Supporting documents required to process the following personnel action requests:

SUPPORTING DOCUMENTS

1. Leave of absence for illness - letter of request from employee in certain instances, a physician's certification will be required.
2. Personal leave - Letter of explanation from employee.
3. All separations
4. Resignation not in good standing
5. Military Orders, Military Leave, Return from Military Leave
6. Indication of the five (5) days the employee was absent without approval
7. Certificate of Attendance

PROCEDURE

1. The Supervisor or Department Head is to submit in writing any personnel action request to the BOROUGH Manager.
2. Once approved the BOROUGH Manager will forward the personnel action request to the Director of Human Resources. Approval is valid when signed by the BOROUGH Manager or his designee.
3. The Director of Human Resources will proceed with preparation of all required Department of Personnel documents, and will be responsible for obtaining all necessary official approvals and signatures where required.
4. Copies of the Department of Personnel documents will be forwarded to the Division of Accounts with a copy of same forwarded to the requesting Supervisor

A. SUPERVISOR OR DEPARTMENT HEAD

1. Each alleged breach of discipline shall warrant a thorough investigation to include an opportunity for the employee to offer an explanation for his/her actions. With the exception of immediate suspension, no disciplinary action shall be initiated prior to the completion of this investigation.
 - a). Contact the BOROUGH Manager or Department of Human Resources for information or assistance, as required.
2. In order to preserve the welfare of the BOROUGH and its employees, disciplinary action shall be initiated whenever tangible and explicit evidence of breach of discipline is found. Such evidence must be sufficiently tangible and explicit to serve as proof of the actuality or the existence of the breach and be capable of being documented. Conversely, no disciplinary action shall be initiated when tangible and explicit evidence of breach of discipline does not exist.
3. Afford the employee an opportunity to explain his/her actions.
4. If disciplinary action is warranted, determine on the basis of the evidence and the seriousness of the infraction, the type of discipline most appropriate (consistency is the key to good discipline).
5. When the type of action to be brought against the employee has been determined, pursue one of the following courses, bearing in mind the past conduct of the employee and the lapsed time since the last breach of discipline. In all cases of discipline with the exception of an informal talk, a disciplinary action form must be used.
 - a. INFORMAL TALK – If the behavioral infraction is minor or if there has been no previous disciplinary action, the supervisor should discuss with the employee a plan to change behavior. The supervisor should document for department's files the meeting and topic(s) discussed.
 - b. VERBAL WARNING - The supervisor confronts the employee with the evidence orally and warns him/her of the consequences for continued violation. Complete Employee Warning Notice (Exhibit), with a copy to the BOROUGH Manager.
 - c. WRITTEN WARNING – Supervisor completes Employee Warning Notice (Exhibit), setting forth the facts and the BOROUGH's position on the matter forward a copy to the employee, the BOROUGH Manager, and a copy to the Director of Human Resources office for inclusion in the employee's personnel file.
 - d. SUSPENSION, FINE, DEMOTION, REMOVAL OR INVOLUNTARY RESIGNATION

10. Following the hearing the determination of the hearing officer and Final Notice of Disciplinary will be completed by the BOROUGH Manager, his designee, and/or the Director of Human Resources.
11. The Department of Human Resources is responsible for forwarding the appropriate paperwork to the Department of Personnel

91. OPEN PUBLIC RECORD ACT (OPRA):

PURPOSE

To provide a standard form to be used by all departments for requests for public information pursuant to the Open Public Record Act (OPRA)

PROCEDURE

The BOROUGH Clerk has been designated custodian of records for the BOROUGH OF KEANSBURG. Attached in Exhibit is the necessary form a member of the public can use to request a public record. This form is to be used for all requests for public information so that they will be made in writing in order to avoid any misunderstandings with respect to the intent of the request for the specified information. Furthermore, it will provide a signed statement whereby the requesting party will be liable for the costs for copies of any information requested in accordance with the Open Public Records Act.

All completed forms will be turned into the BOROUGH Clerk's office by the member of the public requesting the record. .

92. OPEN PUBLIC MEETINGS ACT CONCERNING PERSONNEL MATTERS:

Discussions by the governing body or any body of the BOROUGH concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective officer or employee shall be in closed session unless the individual requests in writing that the discussion be held in open session. Such request must be granted. Prior to the discussion by the governing body or any body of the BOROUGH concerning such matters, the Clerk shall notify the affected person(s) of the meeting date, time and place, the matters to be discussed and the person's right to request that the discussion occur in open session. In the event more than one person is affected by the discussion and one of the affected persons does not request that the discussion be in open session, then the discussion shall be in closed session. If the individual(s) does not request that the discussion be held in open session, the governing body or other body of the BOROUGH may at its sole discretion invite the affected individual(s) to attend the applicable portion of the closed session.

93. DESTRUCTION OF PUBLIC RECORDS:

Supervisors and Department Heads are personnel charged with the responsibility for the maintenance of public records and required to maintain said records and to dispose of them in a uniform manner which complies with the destruction of public records act. Therefore, before any public record is disposed of, a request must be

will participate, such fees and expenses will be pro-rated on a per-person basis among the participating Departmental Budgets.

RESPONSIBILITY

THE DEPARTMENT OF HUMAN RESOURCES OFFICE SHALL BE RESPONSIBLE FOR:

1. Supplying information about training opportunities available to the various Department Heads of the BOROUGH OF KEANSBURG.
2. Assisting management in meeting its development goals by helping to analyze training needs and in designing, developing, conducting, and evaluating training programs.
3. Obtaining further approvals or disapprovals of requests for training, as required. Requesting waivers of advertising for salaries and fees payable to non-BOROUGH agencies and personnel, as required in the case of professional services.
4. Requesting Federal Aid for training costs.
5. Determining the availability of funds.

THE DEPARTMENT HEAD OR SUPERVISOR SHALL BE RESPONSIBLE FOR:

1. Supplying information about training opportunities available as it is received from the BOROUGH Manager.
2. Forwarding training requests to the BOROUGH Manager.
3. Notifying employees of disposition of training requests.
4. Registering employees of disposition of training as required.
5. Determining the training needs for the unit or division.

THE EMPLOYEE IS RESPONSIBLE FOR:

1. Making the training needs known to the immediate Supervisor or Department Head.
2. Submitting related expenses that will be incurred during training, where applicable.

REQUIREMENTS FOR OUT-SERVICE TRAINING:

Approvals for out-service training shall be subject to the availability of funds for such purposes.

OUT-SERVICE TRAINING SHALL BE SHOWN TO BE:

1. Of direct value to the BOROUGH.
2. Relevant to the trainee's duties.
3. Limited to providing knowledge and skills not available through in-service training.

- Car allowance is reimbursed monthly with documentation. Mileage log sheets may be obtained from the BOROUGH Manager. (Exhibit).
- Each employee who uses a privately owned vehicle in the performance of official duties for the BOROUGH OF KEANSBURG for which use that employee is being reimbursed is responsible for:
- Carrying Liability Insurance with a minimum coverage of \$100,000.00 / 300,000.00 for personal injury liability and \$25,000.00 for property damage with a Company approved by the New Jersey Department, of Insurance.
- Supplying evidence that such coverage is in full force and effect.
- Complying with all Motor Vehicles Laws of the State of New Jersey.

ALLOWABLE REIMBURSEMENT

The reimbursable mileage allowance shall be determined by the negotiated collective bargaining unit agreement where applicable. Such mileage reimbursement requests must be submitted on Mileage Log Sheet requisitions and will be payable upon presentation in accordance with the established procedure for the payment of bills. In absence of contractual provisions, the following shall apply to Council "8" and Council "8" Supervisors Unit.

1. Mileage reimbursement at current rate established by resolution.
2. Tolls
3. Public Transportation expenses.

96. CONTINUING EDUCATION PROCEDURE:

Managerial and supervisory personnel will also update employees periodically by department meetings and memos that should address specific problems and concerns that may arise. Every effort will be made to encourage employee suggestions about ways to avoid employer-employee disputes and violation of employment rights.

97. PERFORMANCE EVALUATION PROCEDURE:

Periodic evaluations are critical to create a formal record of an employee's performance over time and establish a foundation for personnel actions such as promotion and termination. In addition to day-to-day feedback to the employee, a performance evaluation must be conducted for all employees at least annually. The completed appraisal becomes part of an employee's permanent record.

Performance discussions must also provide employees with guidance regarding their ability to meet job standards. Extraordinary skills or abilities should be recognized in addition to areas for improvement. Supervisors or Department Heads should review future training needs and career planning. The reviewer should also encourage the employee to make suggestions about how the department can improve. The reviewer

It is crucial that all reviewers complete the evaluation forms with care and with complete candor. Although reviewers are encouraged to set forth areas of strength and utilize tact in presenting criticism, it is important that all performance issues of any significance be addressed thoroughly and in unambiguous terms in the evaluation form, and verbally with the employee.

Exceeds Expectations- means consistently exceeds established standards in most areas of responsibility. All requirements must be met and objectives achieved above the established standards.

Meets Job Requirement-s means all job requirements were met and planned objectives accomplished within established standards. There were no critical areas where accomplishments were less than planned.

Needs Improvement- means performance in one or more critical areas does not meet expectations. Not all planned objectives were accomplished within the established standards and some responsibilities were not completely met.

Does Not Meet Minimum Standards- means performance is unacceptable and important objectives have not been accomplished. Needs immediate improvement.

After completing the evaluation, the reviewer will return the form(s) with the signed acknowledgement to the Borough Manager. After review by the Borough Manager, the form(s) are to be forwarded to the Personnel Manager for inclusion in the employee's official personnel file. As a part of the evaluation, employees have the right to request a conference with the Borough Manager or Personnel Manager.

98. EMPLOYEE HANDBOOK PROCEDURE:

The Personnel Manager with the assistance of the Employment Attorney shall draft an Employee Handbook for the approval of the Borough Manager. A separate version of the Handbook will be drafted for part-time and seasonal employees as well as for major bargaining groups if appropriate. Once approved, copies will be distributed and employees will be required to sign an acknowledgement of receipt that will be placed in the official personnel file. The Handbook will be revised and re-distributed whenever there is a significant change in personnel practice or every two years.

99. DRIVER'S LICENSE POLICY:

- Any employee whose work requires that the operation of Borough vehicles must hold a valid New Jersey State Driver's License.
- All new employees who will be assigned work entailing the operating of a Borough vehicle will be required to submit to a Department of Motor Vehicles driving record check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.
- Periodic checks of employee's drivers' licenses through visual and formal Department of Motor Vehicles review checks shall be made by Department Heads or Division

EXHIBIT 4

| | | | |
|----------------|---------------------------|---------------|--------------------|
| Employee Name: | C [REDACTED] R [REDACTED] | | |
| Date: | 5/1/2024 | | |
| Time | | | |
| | Hours | Salary | Amount Due |
| Per | 40 | \$74.38 | \$2,975.20 |
| Vac | 237.25 | | \$17,646.65 |
| Sick | 281/140.5 | | \$10,450.39 |
| Comp | 163.25 | | \$12,142.53 |
| Total | | | \$43,214.77 |

| | |
|---------------|-------------------------|
| Dept Head | <i>Clay [Signature]</i> |
| HRO | <i>Steph Rogers</i> |
| Payroll Clerk | <i>Nicole Hall</i> |
| CFO | <i>[Signature]</i> |
| Mgr | <i>[Signature]</i> |

EXHIBIT 5

Water Supply & Wastewater Treatment System Operators Licensing Frequently Asked Questions

GENERAL LICENSED OPERATOR FAQ'S

- Q1. How does an individual become certified?**
- Q2. How long are licenses valid?**
- Q3. What is operating experience?**
- Q4. What is direct responsible charge experience?**
- Q5. Does New Jersey grant reciprocity to out-of-state license holders?**
- Q6. Can I pay my renewal fee online?**
- Q7. How do I notify DEP that I will no longer be serving as the licensed operator in charge at a system or that I am the new licensed operator at a system?**
- Q8. How can I look up the license information for a water and/or wastewater system operator?**

APPLICATION FAQ'S

- Q9. How do I apply for an examination?**
- Q10. When are the application closing dates?**
- Q11. Can you apply for more than one exam on the same application?**
- Q12. Can I apply for more than one exam in the same exam cycle?**

EXAM FAQ'S

- Q13. How often are the examinations given?**
- Q14. Can I reschedule my exam?**
- Q15. After taking an exam, how will I be notified of the results?**
- Q16. I work at a utility that has multiple water and/or wastewater facility classifications. If I have one year total operating experience, does that satisfy the experience needed to qualify to take multiple examinations (e.g., both treatment and conveyance, or both water and wastewater treatment, etc.)?**

COURSES & CONTINUING EDUCATION FAQ'S

- Q17. What courses are acceptable for operator license renewal?**

Q18. What are the continuing education requirements for license renewal?

Q19. What are the DEP-approved training courses and who provides them?

Q20. What are the California State – Sacramento At Home Correspondence Course Alternatives?

Q21. How can I find out how many Training Contact Hours (TCHs) I have received and how many are needed for license renewal?

Q22. Who do I contact if I was not credited for Training Contact Hours (TCHs)?

Q23. I have completed the required training course(s) to be eligible to sit for an examination. Am I eligible for reimbursement by the DEP?

Q24. I want to become a training provider of water/wastewater related courses. How do I obtain approval from the DEP?

Q25. As a training provider how can I verify my courses and associated rosters have been entered in your system?

Q26. As a training provider who do I contact if my courses and rosters have not been entered or the information is incorrect?

General Licensed Operator FAQ's

Q1. How does an individual become certified?

The candidate must pass a DEP-approved examination for each license. The following minimum education and experience are required to be eligible for each exam. Please note the following definitions: "Associates degree" means successful completion of two years of formal education at an accredited college resulting in an engineering or related science degree or post-secondary vocational program or a bachelor's degree in a field that does not meet the requirements of the bachelor's degree category. "Bachelor's degree" means four years of formal education at an accredited college resulting in an engineering or related science degree.

VSWS

- Minimum of High School diploma or equivalency certificate
- Completion of NJDEP approved training course
- 6 months of operating experience

License Classes S-1, T-1, W-1, and C-1

- Minimum of High School diploma or equivalency certificate

- Completion of NJDEP approved training course
- One year of operating experience

License Classes S-2, T-2, W-2, and C-2

- Completion of DEP approved training course
- High School Diploma or equivalency certificate plus 3 years operating experience
- Associate's degree plus 2 years operating experience
- Bachelors degree plus 1.5 years operating experience

License Classes S-3, T-3, W-3, and C-3

- Completion of DEP approved training course
- High School Diploma or equivalency certificate plus 6 years of experience (3 years operating experience and 3 years direct responsible charge experience)
- Associates degree plus 4 years of experience (2 years operating experience and 2 years direct responsible charge experience)
- Bachelors degree plus 3 years of experience (1.5 years operating experience and 1.5 years of direct responsible charge experience)

License Classes S-4, T-4, W-4, and C-4

- Completion of DEP approved training course
- High School Diploma or equivalency certificate plus 10 years of experience (6 years operating experience and 4 years direct responsible charge experience)
- Associates degree plus 7 years of experience (4 years operating experience and 3 years direct responsible charge experience)
- Bachelors degree plus 5 years of experience (3 years operating experience and 2 years of direct responsible charge experience)

License Class N-1

- Completion of DEP approved industrial wastewater training course
- Minimum of High School diploma or equivalency certificate
- One year of operating experience

License Class N-2

- Completion of DEP approved industrial wastewater training course
- High School diploma or equivalency certificate plus 3 years operating experience
- Associates Degree plus 2 years operating experience
- Bachelors degree plus 1.5 years operating experience

License Class N-3

- Completion of DEP approved industrial wastewater training course
- High School diploma or equivalency certificate plus 6 years operating experience
- Associates Degree plus 4 years operating experience
- Bachelors degree plus 3 years operating experience

License Class N-4

- Completion of DEP approved industrial wastewater training course
- High School diploma or equivalency certificate plus 10 years operating experience
- Associates Degree plus 7 years operating experience
- Bachelors degree plus 5 years operating experience

Q2. How long are licenses valid?

Licenses are valid from the date of issuance to September 30. License holders receive renewal invoices every August. Renewal and initial invoices are available online [here](#). If a previous license holder fails to renew a license within one year following the renewal date of the license, a license will not be issued until the current requirements for the license are met and a new qualifying exam is passed.

Q3. What is operating experience?

Operating experience is the time spent in the satisfactory performance of operational duties at a system which is acceptable to the Board of Examiners which reviews Statements of Qualifications included in every application. For an industrial wastewater treatment system (N) license, manufacturing and process experience may be acceptable in lieu of operating experience.

Q4. What is direct responsible charge experience?

Direct responsible charge experience means active, daily, on-site supervision, including operation and maintenance responsibilities in a system with a classification no less than one classification lower than the license sought. This experience shall be gained while in possession of a license no less than one grade lower than the license sought.

Q5. Does New Jersey grant reciprocity to out-of-state license holders?

Individuals holding licenses issued by other State(s) may apply to the Board of Examiners to be considered for an equivalent New Jersey license. The applicant must meet the minimum education and experience requirements for the New Jersey license and must have passed an examination that is considered equivalent to the New Jersey exam. Also, New Jersey may only grant reciprocity for another State's license if that State grants reciprocity to New Jersey licensees.

Q6. Can I pay my renewal fee online?

Yes. Go to [DEP Online](#) and select Pay for a License (listed under Non-Registered Services). You must have your invoice number, license number and credit card/checking account information available to utilize this service. Renewal and initial invoice numbers are available online [here](#).

Q7. How do I notify DEP that I will no longer be serving as the licensed operator in charge at a system or that I am the new licensed operator at a system?

Complete and submit the [DEP-065 form "Licensed Operator in Charge Employment Notification Form \(Water\)](#) or the [DEP-065 form "Licensed Operator in Charge Employment Notification Form \(Wastewater\)](#) to the Bureau of Licensing & Registration. The form must be completed and signed by both the licensed operator and the system owner or administrator. Licensed operators shall notify DEP at least two weeks prior to changing positions or employment. The owner of a system employing a new licensed operator shall notify DEP within two weeks after the licensed operator begins his/her employment.

Q8. How can I look up the license information for a water and/or wastewater system operator?

Click [here](#) to get a report all water and wastewater license holders which includes information on what license(s) they currently hold.

Application FAQ's

Q9. How do I apply for an examination?

For T, W, S, C, N, or VSWS license(s) complete Examination Application for License to Operate ([Form #ADM-035](#)) and the accompanying Statement of Qualifications ([Form #ADM-035A](#)). Include documentation of High School Diploma and completion of necessary training courses. The statement of qualifications must include an original signature by the appropriate signatory which is typically the licensed operator in charge at the system but in some cases may be the system owner or administrator. The non-refundable \$70 application fee must be included with each individual application. Applications that are received without the appropriate documentation and/or fee will be returned without Board of Examiner review. Applications must be postmarked no later than February 1st for the March exam, June 1st for the July exam, and September 1st for the October exam.

Q10. When are the application closing dates?

The application closing dates are February 1st for the March examination, June 1st for the July examination and September 1st for the October examination. Applications must be postmarked by the closing dates.

Q11. Can you apply for more than one exam on the same application?

No, you must submit a separate application for each license type applied for, you must have an updated Statement of Qualifications for each license type.

Q12. Can I apply for more than one exam in the same exam cycle?

You may apply for multiple exams in the same exam cycle. However, a separate exam application and a separate \$70 fee must be submitted for each license type, and all individual applications and fees must be sent together in one package.

The same Statement of Qualifications, each with an original signature (no copies), must be provided for each exam application indicating the appropriate percentage of time for each job duty. The Board will immediately reject all applications where inconsistent information is presented on multiple applications.

Exams have a 3-hour time limit therefore applicants may take no more than two exams per day. If you are approved to take more than two exams in the same exam cycle, third and subsequent exams will be scheduled on different day(s).

Exam FAQ's

Q13. How often are the examinations given?

Examinations for Licensed Operators are given three times a year in March, July and October.

Q14. Can I reschedule my exam?

Yes, examinations may be rescheduled but only for emergency situations. Please send a letter to our office detailing why you could not make the scheduled exam and that you wish to be scheduled for the next examination. Note that an additional \$70 fee will be required for any rescheduled exam because once the exam booklets are ordered, they cannot be returned or refunded.

Q15. After taking an exam, how will I be notified of the results?

Approximately 7 to 10 working days following the exams, the names of candidates that Passed an exam will be posted [here](#). If your name does not appear on the Passed list, then you failed that exam and you will receive a copy of the exam analysis via email. If you passed an exam, you will receive a bill for the initial license fee within 2 to 3 weeks or you can check online for your invoice at any time by clicking [here](#). Candidates that pass an exam will only be provided an analysis of their test results upon request via email through www@dep.nj.gov. No one is permitted to review the actual exams in accordance with the exam vendor's protocol.

Q16. I work at a utility that has multiple water and/or wastewater facility classifications. If I have one year total operating experience, does that satisfy the experience needed to qualify to take multiple examinations (e.g., both treatment and conveyance, or both water and wastewater treatment, etc.)?

The Board reviews applications to determine if the applicant meets exam admission criteria on a case-by-case basis. The Board of Examiners may consider the percentage of time documented for job duties in terms of relevance to each license type, with the understanding that certain job duties may be specific to one license type and others may overlap. If you have gained experience in multiple areas (e.g., treatment and conveyance) during the same period of time while employed in the same position, please specify the appropriate percentages of time in each area.

Individuals must have the appropriate amount of documented experience in each area in order to be eligible for each exam. An applicant employed solely in one specific area of operations who demonstrates little or no experience in the area for which the license is sought will not be approved for admission to that exam. For this reason, particularly for class 1 and class 2 exams, an applicant employed at a smaller utility where he is the jack-of-all-trades may be better

positioned to acquire the experience needed to qualify for multiple license types more expeditiously than an applicant employed at a larger utility with a more specialized job position. The latter applicant may need to serve in multiple positions in different areas of operations in order to demonstrate the appropriate amount of experience needed to qualify for multiple license types.

Courses & Continuing Education FAQ's

Q17. What courses are acceptable for operator license renewal?

Only water-related courses are accepted for water licenses. Only wastewater-related courses are accepted for wastewater licenses. Some courses may be valid for both water and wastewater licenses.

1. Water/wastewater-related Continuing Education Units (CEUs) that adhere to the criteria set forth by the International Association of Continuing Education and Training (IACET) are accepted on the basis of 1 CEU = 10 TCHs.
2. Training programs and courses that have been approved by NJDEP are accepted. These courses will have NJDEP course approval numbers.
3. College credit for courses which are directly relevant to the operation, maintenance or management of a wastewater or water system and which address influences on water quality, public health or environmental protection will be issued 15 TCHs for each credit hour.

Q18. What are the continuing education requirements for license renewal?

License holders must acquire Training Contact Hours (TCHs) in order to meet continuing education requirements for license renewal. The minimum number of TCHs specified for each license must be acquired within fixed three-year cycles. An individual that is licensed for less than the full three-year cycle is not required to obtain TCHs for license renewal during that initial three-year cycle. For new licensees, the TCH requirement does not take effect until the following three-year cycle. If a license upgrade is acquired during the same three-year cycle, the TCH requirement for the lesser license classification is required. For example, a licensee that holds a T-2 license at the start of the three-year cycle and upgrades the license to a T-3 within the same three-year period, will be required to obtain 18 TCHs, NOT 36 TCHs.

The fixed three-year cycles are:

- October 1, 2018 – September 30, 2021 and every three years thereafter

The number of TCHs required every three-year cycle for license types:

- C-3, C-4, N-3, N-4, S-3, S-4, T-3, T-4, W-3, W-4
36 hrs (maximum of 12 hrs will be accepted in Safety related training)
- C-1, C-2, N-1, N-2, S-1, S-2, T-1, T-2, W-1, W-2
18 hrs (maximum of 6 hrs will be accepted in Safety related training)
- VSWS
12 hrs (maximum of 4 hrs will be accepted in Safety related training)

All Licenses

- 7 TCHs are awarded for passing an examination in the appropriate field
- 3 TCHs are awarded for any Red Cross conducted or sponsored First Aid or CPR Class
- 1 TCH is awarded for each year or part thereof for membership in the NJ Section of the American Water Works Association (NJAWWA) for water licenses. (maximum of 3 TCHs may be applied for memberships for each applicable license per cycle)
- 1 TCH is awarded for each year or part thereof for membership in the NJ Water Environment Association (NJWEA) for wastewater licenses (maximum of 3 TCHs may be applied for memberships for each applicable license per cycle)
- 0.5 TCH is awarded for each year or part thereof for membership in any other water/wastewater professional association recognized by the Advisory Committee (maximum of 3 TCHs may be applied for memberships for each applicable license)
- • hour-per-hour (maximum of 36 hrs) is awarded to Instructors of the initial certification courses (Intro to Water/Wastewater, Advanced Water, Advanced Wastewater, Collection Systems, Industrial Wastewater Treatment, and VSWS training) toward the appropriate license

Q19. What are the DEP-approved training courses and who provides them?

The following required training courses are provided by several academic institutions, click [here](#)

- Introduction to Water/Wastewater Course for T1, W1, S1, C1
- Advanced Water Course for T2, W2
- Advanced Wastewater Course S2
- Collections Course for C2
- Industrial Wastewater Course for N1, N2, N3, N4
- Very Small Water System Course for VSWS

Q20. What are the California State – Sacramento At Home Correspondence Course Alternatives?

The CA State At Home Correspondence courses are DEP-approved alternatives to the classroom training courses discussed in previous FAQ#6. The correspondence courses are NOT online courses and require material purchases at www.owp.csus.edu.

Please be aware that any person holding a college degree (related/non-related) and seeking an advanced course is REQUIRED to complete ALL the course volumes for that classification unless they hold the Class 1 license and completed the NJ classroom Introduction to Water and Wastewater course. There is an EXCEPTION for W2 licenses which require completion of all CA State courses.

Water Treatment

T1 License:

NJ classroom course - Introduction to Water and Wastewater

OR

CA State course - Water Treatment Plant Operations Volume I

T2 License:

NJ classroom course - Advanced Water

OR

CA State courses - Water Treatment Plant Operations Volume I

Water Treatment Plant Operations Volume II

Utility Management

W1 License:

NJ classroom course - Introduction to Water and Wastewater

OR

CA State course - Water Distribution System Operation & Maintenance

W2 License:

NJ classroom course - Advanced Water

OR

CA State courses - Water Distribution System Operation & Maintenance

Utility Management

Wastewater Treatment

S1 License:

NJ classroom course - Introduction to Water and Wastewater

OR

CA State course - Operation of Wastewater Treatment Plants Volume I

S2 License:

NJ classroom course - Advanced Wastewater Treatment

OR

CA State courses - Operation of Wastewater Treatment Plants Volume I

Operation of Wastewater Treatment Plants Volume II

Advanced Waste Treatment

Utility Management

C1 License:

NJ classroom course - Introduction to Water and Wastewater

OR

CA State course - Operation & Maintenance of Wastewater Collection Systems Volume I

C2 License:

NJ classroom course - Advanced Collection

OR

CA State courses - Operation & Maintenance of Wastewater Collection Systems Volume I

Operation & Maintenance of Wastewater Collection Systems Volume II

Utility Management

N1, N2, N3, and N4:

NJ classroom course - Industrial Wastewater

OR

CA State Courses - Industrial Waste Treatment, Volume I

Industrial Waste Treatment, Volume II

Utility Management

Q21. How can I find out how many Training Contact Hours (TCHs) I have received and how many are needed for license renewal?

Click [here](#) to get a report of the training contact hours that have been recorded for your license(s).

Q22. Who do I contact if I was not credited for Training Contact Hours (TCHs)?

Please contact your course provider who is responsible for supplying and verifying all training credits to NJDEP. See our list of known course providers

at [https://www.nj.gov/dep/exams/docs/TCH Course Providers List.pdf](https://www.nj.gov/dep/exams/docs/TCH_Course_Providers_List.pdf)

Q23. I have completed the required training course(s) to be eligible to sit for an examination. Am I eligible for reimbursement by the DEP?

Please refer to either the fact sheet for [water](#) or [wastewater](#) to see if you meet the eligibility requirements. If you do, then complete the appropriate application form [BSDW-OC-01](#) or [DEP-125](#) to submit the reimbursement request.

Q24. I want to become a training provider of water/wastewater related courses. How do I obtain approval from the DEP?

Complete and submit the [TCH provider application package](#).

Q25. As a training provider how can I verify my courses and associated rosters have been entered in your system?

Click [here](#) to get a report of the training contact hours that have been recorded for your organization.

Click [here](#) to get a report of the training contact hours that have been recorded for your organization with the rosters.

Q26. As a training provider who do I contact if my courses and rosters have not been entered or the information is incorrect?

If your course is not listed or the information is incorrect please contact us at TCH@dep.nj.gov

EXHIBIT 6

1/1/22

AGREEMENT

BETWEEN

TOWNSHIP OF FREEHOLD

MONMOUTH COUNTY, NEW JERSEY

AND

COMMUNICATIONS WORKERS OF AMERICA

CWA LOCAL 1075

JANUARY 1, 2022 THROUGH DECEMBER 31, 2026

TOWNSHIP OF FREEHOLD

Township Committee

Anthony J. Ammiano

Thomas L. Cook

Maureen Fasano

Lester A. Preston, Jr.

Alan C. Walker

Township Administrator

Peter R. Valesi

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ARTICLE XIII

SALARIES, CERTIFICATION AND LICENSES

Salaries shall be paid to employees in the amounts shown in Appendix B of this contract for the specific tier levels assigned to their assigned civil service title.

For promotions, the minimum Grade level for the new title shall be applied when determining salary, provided that the new grade provides for a minimum 4.0% increase in salary for the promotion, should the minimum Grade not meet the 4.0% criteria, the employee will be assigned the grade that exceeds the 4.0% increase and shall advance from there in succeeding years.

For lateral moves to a new title, the minimum Grade level for the new title shall be applied when determining salary, provided that the new grade provides for a minimum 2.5% increase in salary for the promotion, should the minimum Grade not meet the 2.5% criteria, the employee will be assigned the grade that exceeds the 2.5% increase and shall advance from there in succeeding years.

An employee, who does not hold a Civil Service recycling title, that is assigned to the Recycling Center to work the Tuesday through Saturday shift for more than four weeks shall be entitled to an annual stipend of \$2,500, paid in pay-period installments. The stipend payments shall cease one-month after the employee is assigned out of the Center.

Licenses shall correspond to the following schedules:

| | <u>2017-2021</u> |
|------|------------------|
| C-1 | \$525 |
| C-2 | \$625 |
| C-3 | \$1,075 |
| W-1 | \$525 |
| W-2 | \$625 |
| W-3 | \$1,075 |
| W-4 | \$1,375 |
| T-1 | \$1,225 |
| T-2 | \$1,750 |
| T-3 | \$1,900 |
| T-4 | \$2,450 |
| CDLA | \$1,250.00 |
| CDLB | \$750.00 |

Mechanics who satisfactorily complete and pass the examination for each of eight (8) ASE Certifications or Re-Certifications will be reimbursed for the fee for taking these examinations upon each successful completion.

CDL Requirements

All employees must obtain their CDL to maintain employment with the Township. If an employee is hired without a CDL, they must apply for their CDL within thirty (30) days of employment, and obtain their license within one-hundred twenty (120) days of employment. Failure to do so will be grounds for termination. If more time is required to obtain the CDL license, that extension may be granted at the sole discretion of the Township Administrator, who may withhold granting such extension for any reason, or no reason at all.

Medical exceptions for not obtaining a CDL must be confirmed by the State of New Jersey, Motor Vehicle Commission, that the medical issue is one that specifically

precludes the employee from obtaining a Commercial Driver's License, but does not preclude the employee from holding a valid State of New Jersey Driver's License. Any discipline, up to and including termination with respect to this section, will be performed in accordance with Civil Service Guidelines.

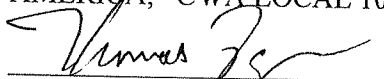
ARTICLE XXVI

TERM AND RENEWAL

This Agreement shall be in full force and effect as of January 1, 2022 and shall effect to and including December 31, 2026 without any re-opening date. Any economic changes in this Agreement shall apply only to those employees on the payroll of the Township on January 1, 2022. This Agreement shall continue in full force and effect from year to year thereafter, unless one party or the other gives notice, in writing, no sooner than one hundred eighty (180) days nor later than one hundred twenty (120) days prior to the expiration date of this Agreement.

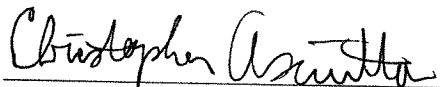
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on this 1 day of Feb., 2022,

COMMUNICATIONS WORKERS
AMERICA, CWA LOCAL 1075

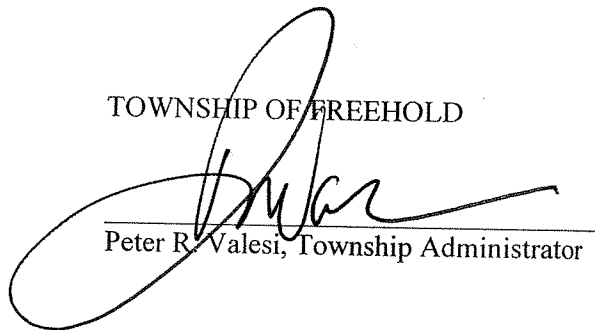


Thomas Fagan, VP, Local 1075





TOWNSHIP OF FREEHOLD

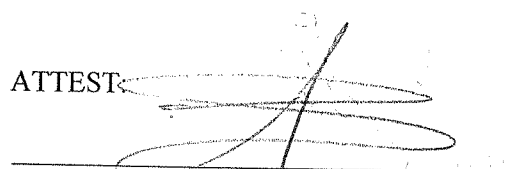


Peter R. Valesi, Township Administrator

ATTEST:



ATTEST:


Sanabel Abouzeina, Township Clerk