

EYE ON THE CLIFFS

"Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future." John F. Kennedy

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LG USA Progress Report

Construction is under way for the long-anticipated LG North American Headquarters in Englewood Cliffs. Driving along 9W or Hudson Terrace, you can see the structure of the 350,000 square foot office and parking buildings. The complex will seem less stark when the bare steel is covered with special non-reflective glass, and 1,500 trees are planted on the 27 acre site, the second largest corporate site in the borough.

The \$300 million project started in 2010 when LG acquired the site. The project was delayed when, starting in 2013, conservation groups on both sides of the Hudson challenged the proposed 143 foot, eight-story height. They were joined by a local residents group, Concerned Residents of Englewood Cliffs, which also sought to reduce the building height. In 2015, after months of negotiation, LG signed an historic Settlement Agreement with the conservation community. Instead of its original eight-story design, the new building will have a five-story north wing which is just shy of 70 feet in height, and a four-story south wing. The building's footprint will be the same as originally proposed.

The LG USA project shows the importance of compromise. Following months of discussions and negotiations with the conservation community, in 2015 LG USA agreed to the re-design of the building in order to protect the iconic vistas and integrity of the Palisades, a National Landmark. Significantly, the Settlement Agreement was not court ordered. LG USA stayed at the negotiating table with the conservation community until a "win-win" solution that all could embrace was found. LG USA expects construction to be completed by the end of 2019 or early 2020.



EXTERIOR | WEST AERIAL VIEW



**2018 Borough Expenditures are up by \$1 million
2018 Borough Taxes Increase by 8.76 percent**

The amount of borough taxes is determined by the Mayor and Council based on the budget they adopt. State law mandates that the budget be introduced by the Mayor and Council before it can be advertised, presented to the public, and thereafter adopted. The 2018 budget was adopted on June 26, and tax bills were sent out recently.

The chart below shows for the years 2016 through 2018, the “Total Budget”, the “Total Non-Tax Revenues” and the “Amount to be Raised by Taxes”. “Total Non-Tax Revenues” includes both the cash surplus used to fund the budget and all other revenues, excluding property taxes, expected to be received by the borough. The amount to be raised by taxes (see last column) is the total amount that borough taxpayers must pay in property taxes. Generally, when the budget increases, our taxes also increase commensurately unless there are offsetting increases in non-tax revenues.

As shown below, the “Total Budget” (all borough expenditures) has *increased* 14% by \$2.2 million since 2016. Even though spending increased by \$1.2 million 2017, taxes did not increase significantly from 2016 to 2017 because total revenues also increased during this period. From 2017 to 2018, the “Total Budget” increased by yet another \$1 million. During the same period, however, non-tax revenues declined. Despite a nearly quarter million dollar increase in cash surplus used, the 2018 budget still results in an 8.76 percent increase in the amount to be raised by property taxes.

<u>Borough Year</u>	<u>Total Budget</u>	<u>Total Non-Tax Revenues less</u>	<u>Cash Surplus Used consisting of</u>	<u>Other Non-Tax Revenues plus</u>	<u>Amount to be Raised by Taxes equals</u>
2018	\$ 18,100,375	\$ 4,450,496	\$ 1,545,000	\$ 2,905,496	\$ 13,649,879
2017	17,102,260	4,551,397	1,300,000	3,251,397	12,550,863
2016	15,913,605	3,497,537	910,000	2,587,537	12,416,067

Contrary to the explanation provided by Mayor Kranjac in the letter mailed with your tax bill, nothing in this budget is new or surprising other than the increase in legal fees. Payments to lawyers, settlements, related insurance and contingencies now approach \$1.8 million, which is 10% of the entire budget. There is no new “*slew of unfunded mandates from Trenton.*” The borough has always dealt with rising fixed costs for health care and related insurance. The 2018 budget does not fund any noteworthy new programs; it includes \$145,000 to maintain the two new administrative positions previously added. The only major budget decrease is a reduction in police overtime to \$175,000. As of June 30, 2018, actual police overtime expense has already reached \$150,000. No new funds are budgeted for improved Witte field maintenance.

ALERT: Application filed for new 5-story 59 foot high multi-family mixed-use building

The owners of the properties located at 20 to 32 Sylvan Avenue in the southern end of Englewood Cliffs submitted an application to the Borough Building Department on August 15 to build a five-story 59 foot high building on a site of approximately 2 acres, which will have fifty-two (52) residential apartments and six (6) retail stores, as well as 141 parking places and a 5 foot buffer to Fifth Street. This is the same property that has long been neglected by its owners, and was the focus of the Mayor’s proposal last year to designate the property as part of an “Area in Need of Rehabilitation”.

Our borough zoning specifically prohibits mixed-use buildings, which are buildings which house both residences and businesses. This area is currently zoned for business use only. Further, the zoning in this area limits buildings to two stories, does not permit buildings in excess of 30 feet in height, and does not permit buffers of less than 25 feet. By contrast, the LG USA Headquarters, on a site to the north along Sylvan Avenue, is just shy of 70 feet in height and it sits on a 27 acre property. It also provides a 125 foot buffer to adjacent residential properties. This new project’s building application will require multiple variances. The application will have to go to the Planning Board for review.

Mayor Kranjac defies National Stigma-Free Movement establishing his own version

Stigma Free is a program designed by the National Alliance for Mental Illness which seeks to reduce the stigma associated with mental illness. Many adults do not seek treatment for mental illness due to shame and fear of judgment even though mental illness, like physical illness, is a disease that can be helped with medical treatment. The concept of Stigma-Free Communities has been embraced throughout Bergen County. Kranjac, acting unilaterally, rejected the designation. He did not see a need for it in Englewood Cliffs, and Englewood Cliffs was the only community in Bergen County that did not formally designate itself as a “stigma-free zone”. *(story continues at top of next page)*

In early July, acting on its own, the Englewood Cliffs Police Department ("ECPD") took the initiative to create a "stigma - free zone". They explained that they are on the front lines dealing with those who are struggling with mental illness. On a regular basis, they respond to calls from residents suffering from mental disorders, including dementia, depression and anxiety. The ECPD believes it is important to increase community awareness and education. Kranjac took issue with the ECPD initiative and ordered the ECPD's 'stigma free' signs removed. At the July 11 Mayor and Council meeting, Councilwoman Gloria Oh introduced a "stigma-free zone" resolution which recognized the initiative taken by the ECPD and sought official action by the Council. Kranjac raised multiple objections. The resolution was defeated along party lines.

At the August 8 meeting, Kranjac introduced his own version of a stigma-free resolution, a "non-criminal stigma-free zone". His resolution ends with a declaration that the borough is designated "a stigma-free zone for the benefit of people who suffer from mental illness without any element of criminality." This approach has angered mental health professionals and disappointed Bergen County Executive James Tedesco who stated, "*Mental illness is a disease and attaching criminal conduct as a qualifier to withhold support to any person struggling with mental health issues creates the very stigma and unfair bias that we in Bergen County are seeking to avoid.*" Kranjac's resolution was supported by Councilpersons Carrol McMorrow, Mark Park and William Woo. Kranjac cast the tie-breaking vote after Councilpersons Ed Aversa, Gloria Oh and Ellen Park voted against the resolution.

Chief Cioffi three day suspension lifted after Borough Attorney admits to "error"

At the July Mayor and Council meeting, borough attorney Rizzuto admitted that she had made a mistake describing the hearing officer's penalty recommendation. The hearing officer had recommended only a verbal reprimand for the improper dissemination of a PBA memorandum by Chief Cioffi, not the three day suspension without pay which Rizzuto publicly announced on June 13 as the hearing officer's recommendation, and which Councilpersons Woo and Mark Park had approved at the June 13 meeting. A corrected resolution was not on the agenda for the August 8 meeting. Kranjac stated that the resolution "was fixed", and did not allow it to be brought back to the full Council for a new vote.

Commentary: *The "error" made and corrected by the borough attorney raises many concerns. Kranjac and Rizzuto had insisted that the matter, which was a last minute addition to the June 13th meeting agenda, had to be voted on at the June meeting, even though several councilpersons were, at the time, temporarily barred from voting pending a court hearing to be held the following month (see Eastwood litigation, last page). It would have been prudent to delay the vote until the Court ruled. There was no urgency. The Court lifted the temporary injunction in July allowing the entire Council, except Councilwoman Carrol McMorrow, to vote on Cioffi disciplinary matters. Perhaps the reason this disciplinary matter was not properly corrected in public at the August 8 meeting by a new vote, was because Kranjac feared that the full Council would dismiss all the charges. It is not yet known how much money was spent by the borough in its effort to punish Cioffi for releasing the PBA memorandum. Borough attorney Rizzuto has not submitted any legal bills to the borough since January 2018.*

The "Cioffi Tapes"

At the outset of the August 8 meeting, Kranjac and McMorrow launched a new chapter in their continuing crusade to humiliate and vilify Chief Cioffi. They have now demanded that he release to the public 120 tapes he made of conversations with elected officials and employees which span three years, and take over one full day to listen to in their entirety. Recording of conversations is legal in the State of New Jersey as long as one party knows that the recording is taking place. Kranjac and McMorrow, who were permitted to listen to the tapes only because they are named defendants in the Cioffi lawsuit against the borough, allege that they are "highly disturbing", include sexual and gender based comments, and makes them "fear for their safety." Despite their attempt to arouse public demand for release of the tapes, Kranjac and McMorrow know that a Federal Court Judge must decide whether the tapes will be released to the public. These tapes were part of the legal discovery process in a lawsuit against the borough, and are currently protected from disclosure, like all other discovery items, because they have not yet been introduced as exhibits in a court hearing.

Commentary: *By State law, Chief Cioffi must retire in January 2019, less than 5 months from now. Since Kranjac took office in 2016, he has targeted Cioffi, trying to undercut his authority within the Police Department and later harassing him with endless complaints of criminality to the Bergen County Prosecutor, none of which have been sustained. Kranjac's personal animus now also targets senior management of the Englewood Cliffs Police Department. Despite the Mayor's attempts to incite public outrage and demand for the tapes, he knows that the decision to release the tapes rests with a Federal Court Judge, who had already made it clear that the Court will decide the issue. Kranjac and McMorrow know that the public has no say in whether the tapes can be released, and they are making allegations about what is on the tapes that no one else can confirm, contradict or even put in context. They continue to pursue Cioffi while there are important issues of critical significance affecting our community such as the potential for massive multi-family housing at 800 Sylvan Avenue and litigation costs that are spiraling out of control. It is time to pay attention to those problems and stop spending time and money attacking Cioffi. Cioffi will retire in January 2019, and all the money spent in the effort to harass him and to force his resignation prior to retirement will have been an enormous waste of taxpayer dollars.*

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IMPORTANT NEWS FOR ENGLEWOOD CLIFFS RESIDENTS

****ECRWSSDDM****
RESIDENTIAL CUSTOMER

PRSR.T.STD
ECRWSS
U.S.POSTAGE
PAID
EDDM RETAIL

Update on the two 800 Sylvan Avenue lawsuits

Affordable Housing Lawsuit: At a Special Meeting on August 21, the Mayor and Council voted unanimously to purchase with \$1.9 million of trust fund money a building and adjacent lots adjacent to Borough Hall to demonstrate to the Court that it is making a good faith effort to meet its affordable housing obligation. The public has not been informed of the size of the borough's affordable housing obligation and how last month's purchase of land and building fits into the undisclosed plan. The borough must develop an affordable housing plan that describes both the number of units that must be built and the location of these units. If the Court stipulates that the borough plan meets the requirements of the State Constitution (Mt. Laurel decisions), the Court will give the borough immunity, and a builder's remedy lawsuit (a lawsuit seeking to build affordable housing without regard to borough zoning) cannot succeed.

Appeal of the Planning Board Decision Lawsuit*: The 800 Sylvan Avenue LLC (Normandy) motion to have discovery relating to an alleged conflict of interest on the part of Planning Board Chairman Russell Porrino was denied by the Court. The Court stated that Normandy had waived its right to allege a conflict of interest because it did not raise the conflict issue during the Planning Board proceedings. The Court further stated that it did not believe that Normandy made a sufficient case under New Jersey law to demonstrate that Porrino, who led the 4 to 3 vote to deny Normandy's corporate building application (Mary O'Shea, Aurel Vallari, J.P. Lee also voted to deny) had a disqualifying conflict of interest. Normandy alleged that Porrino should have been disqualified from voting because he could not be unbiased since his parents' former home was adjacent to the site and they had an extensive history of litigation and complaints relating to the 800 Sylvan Avenue property. The Court has scheduled the trial on the Normandy appeal to begin in February 2019.

*Carin Geiger, President of EC for Responsible Government, is an Intervening Plaintiff in the Appeal of the Planning Board decision.

Commentary: *Certifications by Normandy filed with the Court as part of its appeal expose Kranjac's misrepresentations to residents. Kranjac has circulated letters to residents accusing Normandy of wanting to build housing at its site at 800 Sylvan Avenue all along. However, in the court proceeding, Normandy has certified (attested under oath) that it was well aware that Englewood Cliffs was not in compliance with its affordable housing obligation when it made its decision to file for a commercial use of the property in 2017. While it could from the outset have sought permission from the borough to build housing and seek a builder's remedy for dense residential housing, it nevertheless spent \$1.5 million to prepare and proceed with a costly and time-consuming corporate building application to the Planning Board. Those are the facts.*

EC for Responsible Government supports the ongoing legal efforts of the borough on the Affordable Housing lawsuit. Yet, it makes no sense to us why the Planning Board continues to spend our tax dollars fighting Normandy's appeal of the Planning Board denial of its corporate building application. That denial is what has led to the borough's costly affordable housing litigation. Kranjac continues to disparage and malign Normandy and misrepresent its intentions. If the borough wants corporate development at 800 Sylvan Avenue, it would be in the borough's best interest for the Mayor to work with Normandy and negotiate a solution that (i) paves the way for Normandy to build its proposed corporate office building, and (2) puts an end to the threat of construction of 600 units of residential housing at that same site. The 2015 LG USA Settlement Agreement demonstrates that when there is respect and communication between the negotiating parties, solutions that are mutually beneficial can be obtained. Kranjac's baseless accusations and hostility towards Normandy do us all a disservice.

Eastwood Litigation alleging conflict of interest is dismissed. Injunction denied.

On July 12, NJ Superior Court Judge Farrington denied resident Lauren Eastwood's attempt to bar Council members Oh, Aversa and Ellen Park from voting on disciplinary matters brought by Mayor Kranjac against Chief Cioffi. The Judge noted that the Court was "not considering the merits" of the Eastwood complaint and that the court system is intended to adjudicate municipal actions after they occur. Stating that "an interlocutory injunction", which is a court order to prevent a party from acting, "is an extraordinary equitable remedy utilized primarily to forbid and prevent irreparable injury", she held that Eastwood had not met any of the four legal requirements required. Judge Farrington noted that "the Court will not judge the actions of the voting members of the council (referring to the June 13 meeting) nor will it consider the possible actions of the council going forward." She also noted that "it has been held that the Court should refrain from granting temporary injunctive relief, if the relief sought would have the effect of granting plaintiff all the relief they ultimately seek." The borough will have to pay attorney costs to defend the three councilpersons and the borough. It has not yet been determined how much money the borough had to spend to defend against Eastwood's litigation.