

**MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE
BOROUGH OF MADISON**

March 11, 2013 - 7 p.m.

CALL TO ORDER

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 11th day of March, 2013. Mayor Conley called the meeting to order at 7 p.m. in the Committee Room of the Hartley Dodge Memorial, Kings Road, in the Borough of Madison.

STATEMENT IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

The Borough Clerk read the statement pursuant to the Open Public Meetings Act:

“In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of the Hartley Dodge Memorial, and filing a copy in the office of the Clerk, all on January 3, 2013. This Notice was made available to members of the general public.”

ROLL CALL

The Borough Clerk called the roll and the following acknowledged their presence:

Mayor Robert H. Conley

Council Members:

Jeannie Tsukamoto
Robert G. Catalanello
Robert Landrigan
Carmela Vitale
Astri J. Baillie
Benjamin Wolkowitz

Also Present:

Raymond M. Codey, Borough Administrator
James E. Burnet, Assistant Borough Administrator
Elizabeth Osborne, Borough Clerk
Matthew J. Giacobbe, Esq. Borough Attorney

AGENDA REVIEW

There was approval of the Regular and Executive Agenda.

READING OF CLOSED SESSION RESOLUTION

Mrs. Vitale moved:

RESOLVED, that the meeting be adjourned to an Executive Session to consider the following matters:

MINUTES FOR APPROVAL (1)

February 11, 2013

Date of public disclosure 60 days after conclusion, if disclosure required.

CONTRACT MATTERS (6)

ROSEDALE AVENUE IMPROVEMENTS

SAMSON AVENUE FIELD INSPECTION SERVICES

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SIGNAL IMPROVEMENTS
ARBORICULTURAL CONSULTING SERVICES
IBEW LABOR NEGOTIATIONS update
PFIZER

Date of public disclosure 60 days after conclusion, if disclosure required.

PERSONNEL MATTERS (2)
ZONING OFFICER
DPW TRUCK DRIVER II

Date of public disclosure 90 days after conclusion, if disclosure required.

LITIGATION MATTERS (3)
THEESE V BOROUGH OF MADISON
TAX APPEAL – MADISON MALL APARTMENTS LLC
MADISON COMMONS SETTLEMENT

Date of public disclosure 60 days after conclusion, if disclosure required.

Seconded: Mrs. Tsukamoto
Vote: Approved by voice vote

RECONVENE IN COUNCIL CHAMBER

Mayor Conley reconvened the Regular Meeting at 8 p.m. in the Council Chamber with all members present. The Pledge of Allegiance was recited by all. Harmonium Choral Society sang the 'Star Spangled Banner'.

GREETINGS TO PUBLIC

Mayor Conley made the following comments:

The next meeting of the Mayor and Council scheduled for March 25th has been rescheduled for Monday, April 1, 2013.

Employee of the Month for March:

The Employee of the Month for March is James Sanderson of the IT Department for the work he performed preparing the fleet mileage report.

Award:

Valerie Figueiredo of the Construction Department was selected as the 2013 Technical Assistant to the Construction Officer of the Year by the New Jersey Technical Assistants' Association. She will be honored by her association and by the Department of Community Affairs at an awards luncheon on May 2nd during the Building Safety Conference in Atlantic City.

Proclamation:

Mayor Conley presented a proclamation proclaiming "March 2013 as Madison Young Playwrights Month" to Rebecca Fields, a member of the Playwrights Theatre Board of Directors.

Presentation of Checks:

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A cut-a-thon to benefit the Union Beach Memorial School Education Foundation was held on February 20th at the Salvatore Minardi Salon. Contributors to the cut-a-thon were Salvatore Minardi Salon, Accessories with Style and Dr. Allison Adams. Salvatore Minardi and Carol Osborne from the salon, Kay Forrest and Sandra Cullen from Accessories with Style and Peg Codey, Chair of the fundraising event, presented checks to be donated to Mayor Fisk of Union Beach at the next meeting of the Mayor and Council.

APPROVAL OF MINUTES

Ms. Baillie moved to remove approval of the **Regular Meeting Minutes of January 28, 2013** from the agenda. Mrs. Tsukamoto seconded the motion, which passed by voice vote.

Ms. Baillie moved approval of the **Executive Minutes of February 11, 2013**. Mrs. Tsukamoto seconded the motion, which passed with the following roll call vote recorded:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan.
Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz
Nays: None

INTRODUCTION OF THE 2013 BUDGET AND TAX RESOLUTION R 112-2013

CAP BANK ORDINANCE

Mayor Conley calls up Ordinance 3-2013 for first reading and asked the Borough Clerk to read said ordinance by title:

ORDINANCE 3-2013
CALENDAR YEAR 2013 ORDINANCE TO EXCEED THE MUNICIPAL
BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.0% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

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

WHEREAS, the Borough Council of the Borough of Madison in the County of Morris finds it advisable and necessary to increase its CY 2013 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety, and welfare of the citizens; and

WHEREAS, the Borough Council hereby determines that a 1.5% increase in the budget for said year, amounting to \$259,196 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

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WHEREAS, the Borough Council; hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Madison, in the County of Morris, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2013 budget year, the final appropriations of the Borough of Madison shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increase by 3.5% amounting to \$604,790 and that the CY 2013 municipal budget for the Borough of Madison be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

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

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

Mr. Wolkowitz moved that Ordinance 3-2013, which the Borough Clerk read by title, be adopted. Mr. Landrigan seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan.

Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz

Nays: None

BUDGET INTRODUCTION

Statement by Borough Clerk:

Upon introduction and adoption, the 2013 Budget and Tax Resolution will be published by summary in the Madison Eagle on March 14, 2013 with a public hearing date set for April 8, 2013 at 8 p.m. in the Council Chamber, Hartley Dodge Memorial, 50 Kings Road, at which time and place all interested individuals will have an opportunity to be heard, and there will be consideration for final adoption. A copy of the budget as introduced will be filed with the Madison Public Library and the County Library for public review.

R 112-2013 RESOLUTION OF THE BOROUGH OF MADISON ADOPTING 2013 BUDGET AND TAX RESOLUTION

Mr. Wolkowitz moved adoption of Resolution R 112-2013, Introduction of the 2013 Municipal Budget. Mr. Landrigan seconded the motion. Mr. Wolkowitz provided a summary of the budget as introduced, noting a 1.48% tax rate increase, below the State mandated 2% cap, noting that the proposed increase is the lowest increase since 2003. Mr. Wolkowitz also noted this budget contains no loss in municipal services, no increase in the electric or water utility rates and no furloughs or layoffs. The proposed budget includes funding of one million dollars for capital improvements as well as capital funding for both the electric and water utility improvements. Employee contributions to health care continue to increase and several employee

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retirements made the 2012 budget an excellent budget. David Evans of Nisivoccia & Co., Borough Auditor, commended the Council for their efforts regarding the 2013 budget and noted that adoption can take place after approval from the State. Mrs. Tsukamoto commented that while she agrees that the proposed budget has positive aspects she will not support the introduction because she will not rubber stamp a budget, the Open Space Tax levy rate is listed at 2% and she has asked for public discussion regarding the tax levy. Mrs. Tsukamoto stated that she does not support the proposed 1.48% and feels that there is no need for an increase in 2013, as the proposed budget does not correctly reflect revenues and expenses. Mr. Catalanello raised concern regarding the Open Space Tax levy and noted that he had hope to have further discussion before introduction of the budget. Mr. Catalanello asked that the bond rating company be contacted regarding the proposed budget regarding the impact the proposed budget may have on Madison's overall rating. Mayor Conley advised that a discussion of the Open Space Tax levy will be added to the April 1st meeting agenda. Mr. Landrigan noted that the proposed budget is prudent going forward. Mrs. Vitale noted that much hard work went into this budget and asked that the Open Space Tax levy, supported by the voters remain at \$0.02 per \$100 of assessed valuation. Ms. Baillie asked Mr. Codey to remind Council of dates set by the State for introduction and adoption of the municipal budget. Mayor Conley noted that the hearing regarding the introduced budget would take place on at the April 8th Council meeting.

Following Council discussion, the motion passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz

Nays: Mrs. Tsukamoto, Mr. Catalanello

Mayor Conley announced the budget hearing at 8:00 p.m. on April 8, 2013.

REPORTS OF COMMITTEES

Health

Mrs. Vitale of the Committee made the following comments:

The Madison Health Department food handlers training program is scheduled for April 1st, restaurant personnel are encouraged to file their applications. The Health Department also continues to look for pier leadership training members for help with Project Healthy Bones. Training will be held March 19th and 21st. A Matter of Balance coaches training is available March 27th and 28th at the Civic Center and Take Control of your Health program will be offered for six weeks at the Senior Center in Chatham. Please visit the Health Department website for additional program information.

Utilities

Mrs. Tsukamoto, Chair of the Committee, made the following comments:

The Electric Department continues to make permanent repairs to damages from Superstorm Sandy. Mrs. Tsukamoto will have a presentation regarding the water utility at a future Council meeting.

Public Works and Engineering

Mr. Catalanello, Chair of the Committee, made the following comments:

Yard waste collection will begin on Monday, March 18th and regrinding of mulch will begin the following Wednesday. The Public Works Department will coordinate the

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distribution of mulch to residents soon after. The Morris County Utility Authority has announced four hazardous collection dates for 2013, and information regarding collection is available at the table near the door and in the Borough Clerk's office.

Community Affairs

Mr. Landrigan, Chair of the Committee, made the following comments:
The Madison Chamber of Commerce will hold their annual spring membership Open House at Plaza Lanes on Thursday March 21st and the annual Easter Funfest will take place on Saturday March 23rd. Salvatore Minardi Salon will hold a 'Beauty for the Cure' event on March 29th with donation going to the American Cancer Society. Senior Tax Assistance continues until April 10th. Anyone in need of assistance should make an appointment early. The Senior Fair will be held on Saturday, April 13th from 10 a.m. to 1p.m. Mr. Landrigan encourages residents to attend.

Public Safety

Ms. Baillie, Chair of the Committee, made the following comments:
For their heroic rescue from a burning building at 85 Park Avenue on November 18, 2012, Madison Fire Fighters James Blair and Troy Pehowic will receive an award for valor and a meritorious award will be given to Patrol Officer James Cavezza, at the 41st Annual Valor & Meritorious Awards Dinner of the 200 Club of Morris County, to be held on April 23rd, at the Birchwood Manor in Whippany. The Complete Street committee met to review several projects, including the reconstruction of Rosedale and Samson Avenues. Ms. Baillie noted that on Friday, March 15, 2013, the Police Department will participate in a voluntary gun buy-back program sponsored by the Madison Police Department and the Morris County Prosecutor's Office.

Finance and Borough Clerk

Mr. Wolkowitz, Chair of the Committee, no report.

COMMUNICATIONS AND PETITIONS

The Borough Clerk announced receipt of the following communications:

E-mail received February 19, 2013 from Pat Rowe, Pine Avenue regarding the municipal budget.

INVITATION FOR DISCUSSION (1 of 2)

Mayor Conley opened the meeting to the public for their opportunity to ask questions and make comments on those items listed on the Agenda only. Mayor asked that, upon recognition by the Chair, the person shall proceed to the lectern and give his/her name and address in an audible tone of voice, and print the same on the sheet provided for the record. **He/she shall limit his/her statement to three (3) minutes or less.**

Sam Cerciello, Park Avenue, asked for details of a settlement agreement for the Theese v Borough of Madison et al., litigation. Mr. Giacobbe explained that the details of the settlement are to the satisfaction of both parties, but the Council can not comment at this time.

AGENDA DISCUSSIONS

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03/11/2013-1 APPROPRIATION OF \$420,000.00 FROM THE WATER CAPITAL IMPROVEMENT FUND FOR 2013 WATER MAIN REPLACEMENT PROJECTS TO INCLUDE PORTIONS OF RIDGEDALE AVENUE AND GREEN VILLAGE ROAD

Borough Engineer Robert Vogel explained a request for \$600,000 for water main improvements for the entire length of Ridgedale Avenue, as discussed during the Capital budget hearing. Mayor Conley noted that this project is time sensitive. There was agreement to list an ordinance for introduction.

Ordinance 5-2013 is listed for Introduction.

03/11/2013-2 COMPLETE STREETS ADVISORY COMMITTEE

There was agreement to amend the membership of the Complete Streets Advisory Committee to include a representative of the Sustainable Madison Advisory Committee.

Resolution R 102-2013 is listed on Consent Agenda.

ADVERTISED HEARINGS-NONE

INVITATION FOR DISCUSSION (2 of 2)

Mayor opened the meeting to the public for their opportunity to ask questions and make comments on any subject. Mayor asked that, upon recognition by the Chair, the person shall proceed to the lectern and give his/her name and address in an audible tone of voice, and print the same on the sheet provided for the record.

He/she shall limit his/her statement to three (3) minutes or less.

Since no member of the public wished to be heard, the invitation for discussion was closed.

INTRODUCTION OF ORDINANCES

The Clerk made the following statement:

Ordinances scheduled for introduction and first reading tonight will have a hearing during the meeting of April 1, 2013 in the 2nd Floor Council Chamber of the Hartley Dodge Memorial Building, Kings Road, in the Borough of Madison at 8 p.m., or as soon thereafter as practical, for further consideration and final adoption. Said ordinances will be published in the Madison Eagle, be posted at the main entrance to the Borough offices and be made available to members of the public requesting same, as required by law.

Mayor Conley called up Ordinances for first reading and asked the Clerk to read said ordinance by title:

ORDINANCE 4-2013

ORDINANCE OF THE BOROUGH OF MADISON RESCINDING
ORDINANCE 42-2013 ESTABLISHING A STANDING FINANCE COMMITTEE
FOR JOINT MEETINGS WITH THE MADISON BOARD OF EDUCATION

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WHEREAS, Ordinance 42-2009, adopted August 10, 2009, established a standing finance committee for quarterly joint meetings with the Madison Board of Education; and

WHEREAS, the Borough Administrator has recommended that Ordinance 42-2009 be rescinded effective March 25, 2013, because the Borough has been meeting with the Board of Education members and representatives on a more frequent basis and a Borough/Board of Education Shared Services Committee meets on a regular monthly basis.

NOW, THEREFORE BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and the State of New Jersey that Ordinance 42-2009 be rescinded; and

BE IT FURTHER RESOLVED, by the Council of the Borough of Madison, in the County of Morris and the State of New Jersey, as follows:

SECTION 1: That Chapter 47, entitled "Standing Finance Committee for Joint Meetings with the Madison Board of Education" of the Borough code be amended to removed Chapter 47 in its entirety.

SECTION 2: This Ordinance shall take effect as provided by law.

Mr. Wolkowitz moved that Ordinance 4-2013, which the Borough Clerk read by title, be adopted. Mr. Landrigan seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan.

Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz

Nays: None

ORDINANCE 5-2013

ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$50,768.90 FROM THE RESERVE FOR FILTRATION SYSTEM IN THE WATER UTILITY AND \$669,231.10 FROM THE WATER CAPITAL IMPROVEMENT FUND FOR WATER MAIN REPLACEMENT OF MUNICIPAL ROADS INCLUDING PORTIONS OF RIDGEDALE AVENUE AND GREEN VILLAGE ROAD

WHEREAS, the Borough Engineer has recommended that the Borough appropriate \$50,768.90 from the Reserve for Filtration System in the Water Utility and \$669,231.10 from the Water Capital Improvement Fund for water main replacement on municipal roads including portions of Ridgedale Avenue and Green Village Road; and

WHEREAS, the Chief Financial Officer has attested to the availability of the funds in the Reserve for Filtration System in the Water Utility and Water Utility

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Capital Improvement Fund in an amount not to exceed \$720,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$50,768.90 from the Reserve for Filtration System in the Water Utility and \$669,231.10 from the Water Capital Improvement Fund for water main replacement on municipal roads including portions of Ridgedale Avenue and Green Village Road.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: The amount of \$50,768.90 from the Reserve for Filtration System in the Water Utility and \$669,231.10 from the Water Capital Improvement Fund is hereby appropriated for water main replacement of municipal roads including portions of Ridgedale Avenue and Green Village Road.

SECTION 2: The capital budget of the Borough is hereby amended to conform with the provisions of this Ordinance.

SECTION 3: This Ordinance shall take effect as provided by law.

Mr. Catalanello moved that Ordinance 5-2013, which the Borough Clerk read by title, be adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan.
Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz
Nays: None

CONSENT AGENDA RESOLUTIONS

The Clerk made the following statement:

Consent Agenda Resolutions will be enacted with a single motion; any Resolution requiring expenditure is supported by a Certification of Availability of Funds; any Resolution requiring discussion will be removed from the Consent Agenda; all Resolutions will be reflected in full in the minutes.

Mrs. Vitale moved adoption of the Resolutions listed on the Consent Agenda. Mrs. Tsukamoto seconded the motion. Mrs. Tsukamoto asked for further clarification of Resolution R 105-2013. Following discussion, Mrs. Vitale moved to table Resolution R 105-2013 until the next meeting, seconded by Mrs. Tsukamoto and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan.
Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz
Nays: None

Mrs. Vitale moved adoption of the Resolutions R 97-2013 through R 104-2013 and R 106-2013 through R 111-2013 as listed on the Consent Agenda. Mrs. Tsukamoto seconded the motion. Mr. Wolkowitz abstained from voting on Resolution R 110-2013.

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There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan,
Mrs. Vitale, Ms. Baillie

Nays: None

Abstain: Mr. Wolkowitz

R 97-2013 RESOLUTION OF THE BOROUGH OF MADISON AWARDING CONTRACT TO DENNIS HARRINGTON OF MADISON, NJ FOR FIELD INSPECTIONS AND OVERSIGHT OF THE SAMSON AVENUE IMPROVEMENT PROJECT IN THE AMOUNT NOT TO EXCEED \$13,500.00

WHEREAS, the Borough Engineer has recommended that the Borough obtain professional services from Dennis Harrington, P.E., for field inspections and oversight of the Samson Avenue Improvements project (hereinafter the “Contract”); and

WHEREAS, said services would constitute professional services for which a contract may be awarded without the need for competitive bidding pursuant to N.J.S.A. 40A:11-5; and

WHEREAS, the Borough Engineer has recommended that the Borough Council award the Contract to Dennis Harrington, P.E. in an amount not to exceed \$13,500.00, for field inspections and oversight of the Samson Avenue Improvements project; and

WHEREAS, Dennis Harrington, P.E., must submit to the Borough Purchasing Officer the required documents to satisfy the requirements of N.J.S.A. 19:44A-20.5, since this matter is being awarded without competitive bidding; and

WHEREAS, the Chief Financial Officer has attested that funds are available in an amount not to exceed \$13,500.00 for this purpose, which funds were appropriated by Ordinance 21-2012.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough, a professional service contract for professional services with Dennis Harrington, P.E., for field inspections and oversight of the Samson Avenue Improvements project in an amount not to exceed \$13,500.00.

BE IT FURTHER RESOLVED that the Borough Clerk is hereby directed to publish notice of the adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A.

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40A:11-5.

R 98-2013 RESOLUTION OF THE BOROUGH OF MADISON AWARDING CONTRACT TO JEN ELECTRIC OF SPRINGFIELD, NJ FOR EQUIPMENT AND SERVICES FOR FLASHER IMPROVEMENT AT FAIRVIEW AVENUE AND GREENWOOD AVENUE IN AN AMOUNT NOT TO EXCEED \$34,585.00

R 99-2013 RESOLUTION OF THE BOROUGH OF MADISON AWARDING CONTRACT TO FRANK RUSSO OF OMLAND ENGINEERING ASSOCIATES OF CEDAR KNOLLS, NJ TO SERVE AS ZONING OFFICER FOR 2013

WHEREAS, the Borough of Madison desires to purchase equipment and services to replace and improve the flasher signal at the intersection of Fairview Avenue and Greenwood Avenue from an authorized vendor under the Morris County Co-Operative Pricing Council (MCCPC); and

WHEREAS, the purchase of goods and services through the County Co-Operative Pricing Council by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A. 40A:11-11, et seq; and

WHEREAS, Jen Electric, Inc., 631 Morris Avenue, Springfield, New Jersey has been awarded a MCCPC contract; and

WHEREAS, the Borough Engineer has recommended that the Borough Council utilize this contract for the purchase of equipment and services to replace and improve the flasher signal at the intersection of Fairview Avenue and Greenwood Avenue; and

WHEREAS, the Chief Financial Officer has attested that funds will be available in an amount not to exceed \$34,585.00 for this purpose upon final adoption of Ordinance 31-2012.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

1. The purchase of equipment and services to replace and improve the flasher signal at the intersection of Fairview Avenue and Greenwood Avenue, at a total price not to exceed \$34,585.00, is hereby approved under the MCCPC contract.

2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to execute a purchase order and contract to Jen Electric, Inc. for the purchase of replacement equipment and services described herein, at a total price not to exceed \$34,585.00, in a form acceptable to the Borough Attorney.

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R 99-2013 RESOLUTION OF THE BOROUGH OF MADISON AWARDING CONTRACT TO FRANK RUSSO OF OMLAND ENGINEERING ASSOCIATES OF CEDAR KNOLLS, NJ TO SERVE AS ZONING OFFICER FOR 2013

WHEREAS, the Borough Administrator has recommended that the Borough Council award a Contract to Frank Russo of Omland Engineering Associates of Cedar Knolls, New Jersey as Zoning Officer for 2013 at an hourly rate of \$105.00; and

WHEREAS, Frank Russo was appointed Zoning Officer for the Borough of Madison at the January 1, 2013 Reorganization Meeting; and

WHEREAS, said services would constitute professional services for which a contract may be awarded without the need for competitive bidding pursuant to N.J.S.A. 40A:11-5; and

WHEREAS, Omland Engineering Associates/Frank Russo shall submit to the Borough Clerk required documents to satisfy the requirements of N.J.S.A.19:44A-20.5, since this matter will be awarded without competitive bidding; and

WHEREAS, Omland Engineering Associates/ Frank Russo shall complete and submit a Business Entity Disclosure Certification which certifies that Omland Engineering Associates/ Frank Russo has not made any reportable contributions to a political or candidate committee in the Borough of Madison in the previous one year, and that the contract will prohibit Omland Engineering Associates/ Frank Russo from making any reportable contributions through the term of the contract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

1. The Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough, a professional service contract for professional services with Omland Engineering Associates/ Frank Russo to serve as Zoning Officer for 2013, such contract to be in a form approved by the Borough Attorney.
2. The Business Disclosure Entity Certification, Political Contribution Disclosure Form and the Determination of Value shall be placed on file with this resolution.
3. The Borough Clerk is hereby directed to publish notice of the adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

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R 100-2013 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING THE MAYOR AND BOROUGH CLERK TO ENTER INTO A SETTLEMENT AGREEMENT, GENERAL RELEASE AND WAIVER WITH JOHN THEESE AND THE MORRIS COUNTY JOINT INSURANCE FUND

WHEREAS, the Borough of Madison has previously been named as a party in litigation entitled John Theese v Borough of Madison, Madison Board of Health, John Hoover, William Rosenberg, Susan DiGiacomo, Jill Rebholz, Robert Landrigan, Ernest Schoellkopf, Donald Links, Ann F. Grossi and John and Jane Doe 1-10 in the Superior Court of New Jersey, Law Division, Morris County, Docket No. MRS-L-1296-11; and

WHEREAS, the parties have engaged in settlement discussions, and the parties have reached an agreement with respect to the matters in dispute between them and to settle the claims in the Litigation; and

WHEREAS, the parties have agreed to settle all pending lawsuits and claims by way of this Settlement.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison in the County of Morris, State of New Jersey that the Mayor and Borough Clerk be authorized to execute a Settlement Agreement/Release in a form approved by the Borough Attorney, with John Theese and the Municipal Excess Liability Joint Insurance Fund.

R 101-2013 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING SETTLEMENT OF THE 2010, 2011 AND 2012 TAX APPEAL ENTITLED MADISON MALL APARTMENTS V. BOROUGH OF MADISON, DOCKET NOS. : 008811-2010, 007112-2011 AND 009088-2012 OF THE TAX ASSESSMENT OF BLOCK 2208, LOT 26, KNOW AS 286-294 MAIN STREET, IN THE BOROUGH OF MADISON, MORRIS COUNTY, NEW JERSEY

WHEREAS, an appeal of the real property tax assessment for tax years 2010, 2011 and 2012 involving Block 2208, Lot 26, has been filed by the Taxpayer, Madison Mall Apartments; and

WHEREAS, the proposed Stipulation of Settlement, a copy of which is incorporated as if set forth at length herein, has been reviewed and recommended by the Borough Tax Assessor and Borough Tax Expert; and

WHEREAS, settlement of said matter as more fully set forth below is in the best interest of the Borough of Madison.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

1. Settlement of the 2010 and 2011 tax appeal is hereby authorized as follows:

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286-294 Main Street
Block 2208, Lot 26
Year 2010, 2011

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Settlement Amount</u>
Land:	\$ 1,280,000	N/A	\$ 1,280,000
Imprvts:	\$ 3,249,400	N/A	\$ 3,249,400
Total:	\$ 4,529,400	N/A	\$ 4,529,400

2. Settlement of the 2012 tax appeal is hereby authorized as follows:

286-294 Main Street
Block 2208, Lot 26
Year 2012

	<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Settlement Amount</u>
Land:	\$ 1,280,000	N/A	\$ 1,280,000
Imprvts:	\$ 3,249,400	N/A	\$ 2,720,000
Total:	\$ 4,529,400	N/A	\$ 4,000,000

3. All Borough officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Borough Tax Appeal Attorney to enter into the Stipulation of Settlement negotiated between the parties and previously provided.

R 102-2013 RESOLUTION OF THE BOROUGH OF MADISON AMENDING THE COMPLETE STREETS POLICY TO INCLUDE A MEMBER OF THE SUSTAINABLE MADISON ADVISORY COMMITTEE

WHEREAS, the Borough of Madison adopted a Complete Streets Policy by Resolution

R 161-2012 on June 11, 2012, which recognizes the need to accommodate many modes of travel on local streets, including pedestrian, cyclists, motorist and mass transit riders; and

WHEREAS, the Borough Council unanimously approved creation and membership of the Complete Streets Advisory Committee at the regular Council meeting of June 25, 2012; and

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WHEREAS, a Complete Streets policy is consistent with the NJDOT Policy 703 effective 12-3-09, the Borough of Madison Master Plan, and certain sustainability goals; and

WHEREAS, the Borough Council of the Borough of Madison wishes to amend the membership of the Complete Streets Advisory Committee to include a representative of the Sustainable Madison Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the membership of the Complete Streets Advisory Committee include a representative of the Sustainable Madison Advisory Committee.

R 103-2013 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING INDEMNIFICATION AGREEMENT WITH THE DIOCESE OF PATERSON FOR HOSTING A VOLUNTARY GUN BUY-BACK PROGRAM AT BAYLEY ELLARD

WHEREAS, the Madison Police Department has requested permission to use a portion of the Bayley Ellard property located at 205 Madison Avenue in Madison on Friday, March 15, 2013 for a voluntary gun buy-back program sponsored by the Madison Police Department and the Morris County Prosecutor's Office; and

WHEREAS, the Borough Administrator and Police Chief have recommended approval of such program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Madison Police Department is authorized to execute an Indemnification Agreement with the Diocese of Paterson to use a portion of the Bayley Ellard property located at 205 Madison Avenue in Madison, provided that an appropriate insurance certificate naming the Diocese of Paterson as additional insured with the minimum amount of liability insurance of \$1,000,000.00 issued by an insurance company acceptable to the Diocese of Paterson, and further provided that the Diocese of Paterson is indemnified and held harmless from any and all claims or injury that may occur.

R 104-2013 RESOLUTION OF THE BOROUGH OF MADISON AWARDING CONTRACT TO TIMBER VIEW CONSULTING OF ROCKAWAY, NJ FOR ARBORICULTURAL CONSULTING SERVICES FOR THE SHADE TREE MANAGEMENT BOARD

WHEREAS, the members of the Shade Tree Management Board solicited quotes for arboricultural consulting services for the development of a Third

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Community Forestry Management Five (5) Year Plan (the "Contract") in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-6.1, et seq.; and

WHEREAS, the Temporary Purchasing Officer has recommended that the Contract should be awarded to Timber View Consulting, of Rockaway, NJ for arboricultural consulting services, in the amount of \$65 per hour not to exceed \$3,000.00; and

WHEREAS, the Borough Council has determined to award said contract to Timber View Consulting; and

WHEREAS, the Chief Financial Officer has attested that funds will be available in an amount not to exceed \$65 per hour for arboricultural consulting services, in subaccount 215 from the 2013 Shade Tree Management budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

1. The Contract is hereby awarded to Timber View Consulting, of Rockaway, NJ for arboricultural consulting services based upon their quote in the amount of \$65 per hour for consulting services for the Shade Tree Management Board.

2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to enter into the Contract with Timber View Consulting, of Rockaway, NJ, in a form acceptable to the Borough Attorney.

R 105-2013 ITEM REMOVED AND THE # RETIRED

R 106-2013 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING THE APPOINTMENT OF PETER J. KING, ESQ. AS ATTORNEY FOR THE MADISON BOARD OF HEALTH FOR 2013

WHEREAS, the Madison Board of Health has a need to obtain Professional Legal Services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Madison Board of Health and Peter J. King, Esq., of King and Petracca, Esqs., located at 51 Gibraltar Drive, Suite 1D, Morris Plains, New Jersey 09750, have agreed to enter into an agreement for Board of Health legal services; and

WHEREAS, the Chief Financial Officer has certified that adequate funding for this purpose is included in the 2013 Board of Health budget account #330, subaccount #215; and

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WHEREAS, the Madison Borough Council has reviewed the proposed agreement and is agreeable to contracting for such services.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Madison, in the County of Morris and State of New Jersey, ratifies the agreement between the Madison Board of Health and Peter J. King, Esq., as described herein.

R 107-2013 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING APPOINTMENT OF RUSSELL BOARDMAN TO THE POSITION OF TRUCK DRIVER II IN THE PUBLIC WORKS PARKS DEPARTMENT

WHEREAS, the Superintendent of Public Works has recommended that an offer of employment be made to Russell Boardman for the position of Truck Driver II in the Public Works Parks Department upon satisfactory completion of a pre-employment background check; and

WHEREAS, the Superintendent of Public Works has recommended that upon satisfactory completion of the background check, that the Personnel Officer be authorized to hire Russell Boardman for the position of Truck Driver II in the Public Works Parks Department upon receipt of satisfactory results of physical and back assessment and drug/alcohol test, at an annual salary of \$40,283.00 in accordance with the appropriate collective bargaining unit contract.

WHEREAS, the Borough Administrator agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison in the County of Morris and State of New Jersey, as follows:

1. The Personnel Officer shall make an offer of employment to Russell Boardman for the position of Truck Driver II in the Public Works Parks Department upon satisfactory completion of a pre-employment background check.

2. The Personnel Officer is authorized to hire Russell Boardman for the position of Truck Driver II in the Public Works Parks Department upon receipt of satisfactory results of physical and back assessment and drug/alcohol test, at an annual salary of \$40,283.00 in accordance with the appropriate collective bargaining unit contract.

R 108-2013 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES LICENSE APPLICATION SUBMITTED BY PTO CENTRAL AVENUE SCHOOL

BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the following application for Raffles License, to be held as listed below, be and the same are hereby approved:

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PTO CENTRAL AVENUE SCHOOL
I.D. No. 274-5-23982
R.A. No. 1272 – On Premise
April 4, 2013

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Applicant along with the Raffles License.

R 109-2013 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING THE FARMERS' MARKET FOR 2013

WHEREAS, the Downtown Development Commission has recommended to the Borough Council that the Farmers' Market be continued in the Borough of Madison to be held on Green Village Road from Thursday, June 13, 2013 to October 17, 2013; and

WHEREAS, the Borough Council recognizes that the Farmers' Market has been a welcome addition to the Borough in that it creates another community event which has been successfully run in the past;

WHEREAS, the Borough Council finds that it is a benefit to the Borough of Madison and its citizens to allow the continued operation of the Farmers' Market; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison County of Morris, State of New Jersey, as follows:

1. A Farmers' Market is authorized to be conducted on Green Village Road from Thursday, June 13, 2013 to October 17, 2013.
2. The Farmers' Market shall be conducted in accordance with the 1993 "Guidelines for Madison's Farmers' Market", as amended by the 1997 amendments, as well as the Madison Farmers' Market Regulations and By Laws, subject to the dates and times and other conditions set forth in this resolution. Farmers shall be allowed to sell agricultural products that are produced and sold on their farms, including eggs, pork, wheat flour and baked goods and the sale of field-grown and cut field flowers; however, the sale of potted plants, shrubbery or other landscaping products shall not be permitted.
4. The requirements of the Peddling and Soliciting Ordinance (Chapter 139 of the Madison Borough Code) shall not apply to the Farmers' Market as authorized by Chapter 139-13(c).
5. The requirements of the Sign Ordinance (Chapter 195 of the Madison Borough Code) shall not apply to the extent that the Farmers' Market shall be permitted to have signs as utilized in previous years for the day of the market only

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commencing from June 13, 2013 through October 17, 2013, at the following sites, or fewer, and the sign sizes and locations are subject to the approval of the Madison Police Department:

- (a) Main Street and Rosedale
- (b) Main Street and Greenwood
- (c) Main Street and Prospect
- (d) Main Street and Central
- (e) Kings Road and Prospect (on traffic island)
- (f) Kings Road and Green (on flag pole island)
- (g) Madison Avenue and Kings Road (traffic island by Grace Church)
- (h) Conduurso Way (by James Park)
- (i) Park Avenue and Ridgedale
- (j) Central Avenue and Ridgedale

6. The requirements of the Parking Ordinance (Chapter 195 of the Madison Borough Code) shall not apply to the extent that there shall be two (2) hour parking during market hours in areas denoted as one hour parking;

7. The requirements of the Sidewalk and Outside Dining Ordinance (Chapter 195 of the Madison Borough Code) shall not apply to the extent that merchants shall be allowed to have additional tables and displays on the sidewalks during market hours.

R 110-2013 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING SETTLEMENT AND RELEASE AGREEMENT WITH MADISON COMMON CONDOMINIUM ASSOCIATION, INC.

WHEREAS, a claim for property damage was filed with the Borough by Madison Common Condominium Association, Inc., due to the Association's detention basin accumulating extraordinarily large amounts of silt and debris in 2011 and 2012, which required dredging ; and

WHEREAS, the Borough Administrator and Borough Engineer have negotiated a settlement with Madison Common Condominium Association, Inc. in the total amount of \$19,114.98; and

WHEREAS, the Borough Administrator has recommended that the Borough pay \$19,114.98 for full and final settlement of the matter; and

WHEREAS, the Chief Financial Officer has certified that adequate funds are available in Other Insurance (2012), Account 2-01-23-210-514.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

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1. The Settlement and Release Agreement as described herein is approved and the Mayor and Borough Clerk are authorized to execute same.

2. The form of the Settlement and Release Agreement shall be approved by the Borough Attorney.

R 111-2013 RESOLUTION OF THE BOROUGH OF MADISON AWARDING ROSEDALE AVENUE IMPROVEMENTS PROJECT CONTRACT TO TOP LINE CONSTRUCTION CORPORATION

WHEREAS, the Borough of Madison publicly advertised for bids for the Rosedale Avenue Improvements Project (the "Contract") in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the lowest qualified bid on the Contract was submitted by Top Line Construction Corp. of Somerville, N.J. in the amount of \$441,723.21; and

WHEREAS, the Borough Engineer has recommended that the Contract should be awarded to Top Line Construction Corp. in the amount of \$441,723.21; and

WHEREAS, the Borough Council has determined that this bid is fair and reasonable and that Top Line Construction Corp. should be awarded the contract based on its bid in the amount of \$441,723.21; and

WHEREAS, the Chief Financial Officer has attested that funds are available in an amount not to exceed \$441,723.21 for this purpose which funds were appropriated by Ordinance 38-2012.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

1. The Contract is hereby awarded to Top Line Construction Corp. based upon its bid in the amount of \$441,723.21.

2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to enter into a contract with Top Line Construction Corp. in a form acceptable to the Borough Attorney.

UNFINISHED BUSINESS - None

APPROVAL OF VOUCHERS

On motion by Mrs. Vitale seconded by Mrs. Tsukamoto and carried, the following vouchers of the Borough of Madison were approved for payment, and the supporting documentation of said vouchers was made part of the Supplemental Minute Book.

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Public Safety	\$36,773.92
Health & Public Assistance	1,137.65
Public Works & Engineering	216,563.99
Community Affairs	4,565.67
Finance & Borough Clerk	3,023,144.92
Utilities	<u>51,887.87</u>
Total	<u>\$3,334,074.02</u>

The following roll call vote was recorded approving the aforementioned vouchers:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan.

Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz

Nays: None

NEW BUSINESS

Mayor Conley announced the following appointment and requested Council confirmation:

COMPLETE STREETS COMMITTEE

Heather Shepard, 8 Lewis Way, Sustainable Madison Committee Representative, unexpired term through December 31, 2013.

Ms. Baillie moved confirmation of the foregoing appointment. Mrs. Tsukamoto seconded the motion, which passed with the following roll call vote recorded:

Yeas: Mrs. Tsukamoto, Mr. Catalanello, Mr. Landrigan.

Mrs. Vitale, Ms. Baillie, Mr. Wolkowitz

Nays: None

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Elizabeth Osborne
Borough Clerk
Approved May 29, 2013 (EO)