

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

Wednesday, October 10, 2007 - 7 p.m.

Call to Order

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on Wednesday, the 10th day of October, 2007. Mayor Kerkeslager called the meeting to order at 7:00 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 publishing a copy of the meeting notice in 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 4, 2007. Copies of said Notice were made available to members of the general public."

Roll Call

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

Mayor Ellwood R. Kerkeslager

Council Members:

Mary-Anna Holden

Astri J. Baillie

Donald J. Bowen

Carmela Vitale

John M. Elias

Robert H. Conley

Also Present:

Raymond M. Codey, Borough Administrator

Joseph Mezzacca, Jr., Borough Attorney

Marilyn Schaefer, Borough Clerk

AGENDA REVIEW

A Resolution regarding the Bayley Ellard lease is not on the Consent Agenda; a resolution regarding Gilbane will be discussed separately at the Regular Meeting; discussion and Resolution regarding summer help was removed from the Agenda.

Reading of Closed Session Resolution

Mr. Elias moved:

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

EXECUTIVE SESSION MINUTES (1)

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

PERSONNEL MATTERS (2)

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

CONTRACT MATTERS (10)

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

POTENTIAL LITIGATION MATTER (1)

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

Seconded: Mrs. Vitale

Vote: Unanimous voice vote

Reconvene in Council Chamber

Mayor Ellwood R. Kerkeslager reconvened the Regular Meeting at 7:45 p.m. in the Council Chamber with all members present. The Pledge of Allegiance was recited by all.

APPROVAL OF MINUTES

Ms. Baillie moved approval of the **Regular Meeting Minutes of September 24, 2007**, with the following amendment to page 7:

.....

Don Brunner, Redmond Drive, asked if a crosswalk on the east end of Main Street (near Starbucks) is still under discussion; Mayor Kerkeslager commented that **the Downtown Development Commission East Business District Committee has that issue and other traffic issues under active consideration.** ~~Mr. Brunner and Mr. Conley, Traffic Calming Committee Chair, could talk about this.~~

.....

Mrs. Holden seconded the motion, which passed by voice vote.

Ms. Baillie moved approval of the **Executive Minutes of September 24, 2007**. Mrs. Holden seconded the motion, which passed by voice vote.

October 10, 2007

GREETINGS TO PUBLIC

Mayor Kerkeslager made the following comments:

Special recognition was given to Raymond M. Codey as he assumed his official title of Borough Administrator during the Council Meeting.

As a surprise for Mr. Codey in celebration of his assuming the title "Borough Administrator", Mr. Codey's family members were invited into the meeting room, including his wife Peggy; his brother, The Honorable Eugene Codey with his wife Stephanie; four of his sisters: Barbara Repetti with her husband Peter; Maureen Caputo and her husband Franklin, Joan Durkin and Susan Codey; nephew Owen Codey and niece Emily Codey. Roses were presented to Mrs. Codey. Mayor Kerkeslager read and presented Mr. Codey with the following Proclamation:

P r o c l a m a t i o n
of the
B o r o u g h o f M a d i s o n

Proclaiming October 10th as
RAYMOND M. CODEY DAY

Whereas, Raymond M. Codey was appointed as Acting Administrator of the Borough of Madison on March 1, 2007 and has served dutifully to this day; and

Whereas, on the 1st day of October 2007 Raymond M. Codey was divested of his "Acting" title and began to bear the "reality" of the position from that point forward; and

Whereas, during the past six months, the "initiation process" administered by the governing body, residents, employees and volunteers that Ray endured required excellence in leadership, patience, perseverance and, above all, humor, for if "Laughter is the best medicine," Ray, who is not only an attorney by profession, is also one of the most effective unlicensed doctors in town through the doses of humor he generously supplies to everyone on a daily basis; and

Whereas, as a result of passing the intense initiation process, as the newly appointed Borough Administrator of Madison he will no longer be required to multi-task more than 35 issues at once; hold no more than 48 meetings per day, unless each meeting can be held to a maximum of 10 minutes or less, and speak at a minimum of 240 words per minute; and

Whereas, as Raymond M. Codey begins his official term as Administrator of the Borough of Madison, he is strongly encouraged to participate in the Madison Area YMCA's "Jumping Through Hoops" program to keep him in shape for all **future** members of Madison's governing bodies, and he is to continue to pursue his **Administrator's Wellness Program** including health breaks of one or more of the following: potato chips, caffeinated diet soft drinks, chocolate candy and/or ice cream—in order to optimize his energetic management style;

Now, therefore, I, Ellwood R. Kerkeslager, Mayor of the Borough of Madison, do hereby congratulate Raymond M. Codey as he assumes the position of Borough Administrator of Madison. Ray has made great strides for Madison during this brief period. He brings excellent attitude, skills and knowledge to the office, coupled with earned respect from employees, Governing Body and residents of the Borough. On behalf of the Mayor and Council, I hereby proclaim October 10th as **Raymond M. Codey Day** in the Borough of Madison and sincerely wish him the best of luck and success as he continues to work with the Governing Body, employees and residents to face the many challenges that lie ahead. ☺

Ellwood R. Kerkeslager, Mayor

Mayor Kerkeslager announced a 10-minute recess and invited everyone to partake of light refreshments available in the Firemen's Social Room.

The meeting reconvened with all members present.

REPORTS OF COMMITTEES

Community Affairs

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

Mrs. Holden thanked the Downtown Development Commission and Janice Piccolo for a very successful Bottle Hill Day this past Saturday; it was a gorgeous day. The Farmers Market continues on Thursdays; tomorrow's feature is "American as Apple Pie". The Senior Citizens Center will hold its annual candidates forum on Monday, October 15, 2007, at 10:30 a.m. at the Senior Center at 28 Walnut Street. In addition, the Senior Citizens Advisory Committee, in concert with the Mayor's Initiative Series on Cultural Diversity, will have a program at the Senior Center on Wednesday, October 17, 2007, at 1 p.m. led by Rabbi Shalom Lubin, who will host a roundtable discussion addressing ways of bridging cultural conflict.

Utilities

Ms. Baillie, Chair of the Committee, made the following comments:

Last night there were multiple large lightning strikes in Madison that caused several outages and tripped breakers at James Park. Madison's crews did locate and correct the problems—they worked further into the morning hours to correct another problem of an underground equipment failure on

Madison Avenue. Ms. Baillie thanked the Electric Utility Department because they are always efficient and are always there for us.

Health & Public Assistance

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

Public Works and Engineering

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

Mrs. Vitale extended her thanks to Downtown Manager Janice Piccolo for a very successful Bottle Hill Day; it was a wonderful day; it extended all the way down Central Avenue to Dodge Field; there were 300 vendors; it was an extraordinary and special day for all of us! Mrs. Vitale gave special thanks to David Maines, Superintendent of Public Works, and his crew; Mr. Maines came out and stayed working from 5 a.m. to 8 p.m.; the Public Works Department crew cleaned and picked up garbage and filled a 30-yard dumpster.

Mr. Maines has announced that leaf pickup will start on the north side of town. Beginning on October 15, 2007, leaf bags may be picked up at the Public Works garage. Residents may look for articles in the Madison Eagle for schedules of leaf pickup. The Public Works Department continues to take care of playground equipment and recreation fields.

Finance and Borough Clerk

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

Public Safety

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

Next Wednesday, October 17, 2007, Project Community Pride will hold a hair cut-a-thon from 9 a.m. to 5 p.m.—haircuts are \$30.00 and all the funds raised that day will go to Project Community Pride.

Coming up at the end of this month, the Madison Police Department will be hosting its 4th annual "Keep Out of Mischief Night" on October 30th, the night before Halloween. Clearview's Madison Cinema will be showing Shrek III at 6:30 p.m. This is a positive alternative choice for children on Mischief Night. This is done in cooperation with the Madison Alliance Against Substance Abuse, Coviello Brothers, Comic City, Torey J., Central Avenue and Kings Road PTO's, Project Community Pride, Morristown Municipal Airport and Madison PBA Local No. 92. An event for the older children of 6th, 7th and 8th grades will be at the Madison Area YMCA and is a special midweek teen night from 7 p.m. to 9:15 p.m. According to Mr. Conley's son, those teens attending will get a homework pass—Mr. Conley cautioned that students check with their teachers to verify!

On a more serious note, Mr. Conley commented that there have been several child-luring attempts in Madison, one in early September and one just recently. The 11-year-old Kings Road School student was approached by someone in a vehicle who asked for directions and asked the child to get into the car. The victim described the vehicle as an older red four-door vehicle with tinted back windows and boxes in the rear. The victim described the suspect as a white male between 30 and 50 years old, white/grey hair, with a mustache and beard; he had an earring in the right ear and wore a cross and chain around his neck. Anyone who has further information should call the Madison Police Department at (973) 593-3000. This serves as a great reminder to talk to your children about what to

do when a stranger approaches.

At the last Council Meeting, Nancy Wallace of Maple Avenue spoke about commuter parking on Maple Avenue at the upper end; parking is restricted for the entire length of Maple Avenue; the ordinance reads that the restriction is for four hours; anyone who sees an offending parked car should call the Madison Police Department, who will come by and mark the tires and ticket, if necessary.

ANNOUNCEMENT

Mayor Kerkeslager made the following announcement:

Employee of the Month

Elaine Rommel of the Madison Police Department has been selected as Employee of the Month for October in recognition of her 50 years of dedicated service to the Borough of Madison. Her service over the years included School Guard, Police Matron and, presently, Community Service Officer. The official anniversary date was October 1, 2007. A congratulatory luncheon was held in her honor on October 2, 2007.

Marriage Ceremony

Mayor Kerkeslager commented on a marriage ceremony he performed. This was a marriage of the daughter of the woman whose family came to Madison to get refuge after Hurricane Katrina; she settled in Madison, has loved it here in Madison and her children have taken well to Madison; she married a local young man. It was wonderful to see that evolution of the family, so happy to be living here in Madison.

COMMUNICATIONS AND PETITIONS - None

INVITATION FOR DISCUSSION (1 of 2)

Mayor opened the meeting to the public for their opportunity to ask questions and make comments. 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.**

Helen Crosier, Valley Road, asked to be advised of the proper process to use for a resident to appeal a decision made about Borough trees being taken down. Mrs. Crosier was advised of the process: a resident may call Superintendent of Public Works David Maines or Mayor Kerkeslager; Mr. Maines would check the situation out and get back to the resident.

Sam Piccolo*, Central Avenue, noted that neighbors have not been notified regarding agenda discussions #7 and #8; lighting is a neighborhood issue.

Fran Mantone*, Prospect Street, reported that the audience can't hear the Council proceedings.

Eugene Zipper, Greenwood Avenue, asked why the Borough would go ahead with turf field installation before considering use of the 53 acres being purchased for open space, recreation and historic preservation.

Wayne Parisi, Gibbons Place, gave an opinion as a parent whose child plays sports; felt Madison has less fields, which are in bad shape, than other towns, which have more and nicer fields, and asked that Madison spend money on youth.

Sam Cerciello*, Park Avenue, spoke again about the Fire & Police building, including his disappointment with its design, costs and the delay in completion.

Fran Mantone*, Prospect Street commented regarding the Fire & Police building and the frustration of residents; residents need to know that the Mayor and Council sympathize with them.

Eugene Zipper, Greenwood Avenue, commented that if it were up to him, the Borough should not do business with Cablevision.

*did not print name on sheet provided

Agenda Discussions

10/10/07-1 Electronic payment of taxes and municipal charges

After comments from Chief Financial Officer Robert Kalafut, Madison Network Administrator James Sanderson and Brian Borri of Cit-e-net, LLC, regarding the vendor's Internet-based municipal web site application services, Mrs. Holden moved approval of Mr. Codey's agenda recommendation to approve on-line tax payments with optionally additional ACH on-line payment types. Mr. Bowen seconded the motion, which passed by voice vote.

The service can be up and running by February 2008.

10/10/07-2 INCREASE PREVIOUSLY APPROPRIATED AMOUNT OF \$15,000 (ORDINANCE 15-2007) **FROM THE WATER CAPITAL IMPROVEMENT FUND** FOR ASBESTOS ABATEMENT FROM THE WATER & LIGHT PLANT BY \$10,000 FOR A TOTAL OF \$25,000

Mr. Bowen moved approval of Superintendent of Public Works David Maines' request to appropriate funds for asbestos abatement at the Water & Light Plant. Mrs. Holden seconded the motion, which passed by voice vote.

Ordinance 72-2007 is listed for introduction later in the meeting.

10/10/07-2A INCREASE THE PREVIOUSLY APPROPRIATED AMOUNT OF \$15,000.00 (ORDINANCE 20-2007) FROM THE **ELECTRIC CAPITAL IMPROVEMENT FUND** FOR ASBESTOS ABATEMENT FROM THE WATER & LIGHT PLANT BY \$10,000.00 FOR A TOTAL OF \$25,000.00

Mr. Bowen moved approval of Electric Utility Superintendent Michael Piano's request to increased funding for asbestos abatement at the Water & Light Plant. Mrs. Holden seconded the motion, which passed by voice vote.

Ordinance 73-2007 is listed for introduction later in the meeting.

10/10/07-3 TWO 20-YARD LOCKABLE DUMPSTERS FOR ELECTRIC DEPARTMENT – APPROPRIATE \$10,000

Mr. Bowen moved approval of Electric Utility Superintendent Michael Piano's request to appropriate funds for two 20-yard lockable dumpsters for the Electric Department. Mrs. Holden seconded the motion, which passed by voice vote.

Ordinance 74-2007 is listed for introduction later in the meeting.

10/10/07-4 APPROPRIATE \$5,000 FROM THE WATER CAPITAL IMPROVEMENT FUND FOR THE PURCHASE OF A 20 CUBIC YARD LOCKING DUMPSTER FOR USE BY THE WATER DEPARTMENT

After discussion, there was agreement by voice vote to approve Public Works Superintendent David Maines' request to appropriate funds for the above purpose.

Ordinance 75-2007 is listed for introduction later in the meeting.

10/10/07-5 REJECT BID FOR AERIAL TRUCK

Mr. Conley moved approval to reject the bid for an aerial truck and authorize rebid. Mrs. Holden seconded the motion. Mr. Mezzacca commented that the consent of surety required by law was missing from the bid documents, and therefore the bid had to be rejected. There was no further discussion and the motion passed by voice vote.

A resolution rejecting the bid and authorizing rebid is listed on the Consent Agenda.

10/10/07-6 award bid for leaf removal to Grinnell of Sparta in the amount of \$90,000.00

After discussion, there was agreement by voice vote to approve Superintendent of Public Works David Maines' request to award the bid for leaf removal to Grinnell of Sparta in the amount of \$90,000.00.

A resolution will be listed on the October 22, 2007 Consent Agenda.

10/10/07-7 DEDICATE FUNDS FROM THE SALE OF 24 CENTRAL AVENUE FOR AN ARTIFICIAL TURF FIELD

After extended comments and detailed discussion, and motions made, withdrawn, and restated, two motions were adopted as follows:

- 1) Mr. Conley moved to dedicate \$1 million in the 2008 Capital Budget from the sale of 24 Central Avenue for General Capital purposes. Ms. Baillie seconded the motion.

Mayor Kerkeslager asked for public comment regarding the stated motion. The following individual spoke.

Nino Coviello, Brannick Drive, in detailed comments, strongly advocated installation of two synthetic turf fields; all the major sports have a representative here at this Council Meeting.

Mr. Coviello was advised that he may speak later in the discussions.

The following roll call vote was recorded:

October 10, 2007

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Mr. Conley moved that the Capital Budget for 2008 reflect funding for turf field or fields. The motion was seconded by Mrs. Holden and passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: Mr. Bowen

10/10/07-8 REQUEST FOR BIDS FOR ARTIFICIAL TURF AT DODGE FIELD

Mrs. Holden submitted an agenda recommendation requesting approval to solicit bids for artificial turf at Dodge Field. There were diverse and detailed Council comments and discussion about plans for the different fields, ability to lock in a discount on a turf field or fields, courtesy of notice to neighbors before making a decision, use of each field; there was input from the public at the meeting regarding the need to notify neighbors, have them as part of the dialogue, acting as soon as possible to turf Dodge Field, original recommendation from the Recreation Committee to turf two fields; commitment to a comprehensive plan; discussion also included questions as to how many turf fields are needed; deciding the layout of 53 acres that Madison is purchasing for recreation and open space purposes; how long it will take to develop those new fields; the need to fix Dodge Field now.

The following members of the public were recognized by the Chair:

Nino Coviello, Brannick Drive, commented including that the Exxon acquisition was taken into consideration when the two fields were recommended by the Recreation Committee; they know what Madison needs today and there is skepticism as to how long it will take to have a comprehensive plan which will include the development of the Exxon property—it will be ten years before Madison has anything down there. Dodge Field will house several sports.

Council Comments included:

The Recreation Committee needs to put a schedule in writing indicating Monday through Friday when baseball will play in May and June; need a schedule of how soccer will play on the weekends; by turfing you will be able to increase use of the fields; how much more will the field be used; the neighbors must know, it is a courtesy; rules and procedures were set up; we need to have neighbors part of the dialogue; bring the information back to us; Dodge Field is surrounded by a neighborhood and is very tight; if we expand the usage, we need to consider the hours, lights, how will the streets be impacted; can the neighborhood in this confined space handle that; other comments included the need to bid now to get a price to work with, that it would not be proper to go to neighbors when Council has not reached a consensus as to turfing Dodge Field; consideration of the neighbors will come after Council has a plan.

Sam Piccolo, Central Avenue, thanked Council Members who supported notifying neighbors; expanded on his views of the need for neighbors to give input—this will impact us tremendously as to sound system and number of days of usage.

Paul DiGiacomo, Union Hill Road, representing the Madison Soccer Club, commented including that he does not see the linkage between the "sports complex" Madison may have in the future at the

October 10, 2007

53 acres of the Madison Community Recreation Center and what Madison needs right now; there are 800 to 1,000 children who play soccer alone in this town; there are 17 traveling teams in Madison; Madison needs to turf two fields in town.

Mayor Kerkeslager commented that it is important to see the conceptual plan that the Council has been looking at and the work they have been doing on the layout of this whole 53 acres; on that property there could be three to four full-size multi-use fields as well as two youth fields on their own; two full-size baseball fields; two Little League fields; if you put down one field without a plan, you are wasting your time—you have to have the plan first and then you start laying down the field.

Paul DiGiacomo, Union Hill Road, respectfully disagreed; Madison will have a finite amount of turf fields in this town; why wait to do it, do it now on the fields we have.

Council comments included:

The Borough has a \$2.5 million Capital Budget on an annual basis; \$750,000 to \$1 million is the cost for one field; how does Council allocate 60% to 80% of the Capital Budget for athletic fields; there should be a commitment of dollars from fundraising for the turf fields. Mr.DiGiacomo was advised that the Borough does not have to accept a bid after its solicitation; Council needs to know the number of games now and number of players served and plan future games and number of players to serve; in the near future the Recreation Committee should come back with a formal proposal and get this done properly. Mr.Coviello commented that he supported getting bids to inform us and was advised that it does not cost the Borough to solicit bids. Council comments included that a budget must be put together including ancillary needs of a turf field—lights, track; after a budget is put together is time to get a bid when you are ready to go; but neighbors must be notified before going out to bid.

Fran Mantone, Prospect Street, does not know about recreation, is not an activist, but was a Council Member in 1984, and Madison has been waiting since 1984 to fix Dodge Field—it is a mess and a disgrace to Madison and feels the request for plans is just procrastinating; spend the money now for the children.

Mayor Kerkeslager asked if all the public comments on this subject have been heard.

Vito Luppino, Niles Avenue, commented that there is a safety factor involved with overuse of fields and field space along with increased seasonal use; turf is obviously a benefit for us. Dodge Field has not been resurfaced except for privately funded money from an individual. The number one factor is the safety of our children. It is not the Public Works fault; our fields are bad because of overuse.

There was no further Council comment on this subject and no vote taken.

Mayor Kerkeslager asked for a vote to extend the meeting 15 minutes, which was approved by voice vote.

Removed from Agenda

10/10/07-9 BEER KEG TRACKING

This issue was removed from the agenda because the state Alcoholic Beverage Control Division recently issued an advisory to municipalities that state government has jurisdiction in the matter, not municipalities.

INVITATION FOR DISCUSSION (2 of 2)

Mayor opened the meeting to the public for their opportunity to ask questions and make comments. 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.***

Nick Spagnoletti, Central Avenue, President of the Madison Junior Lacrosse Club, commented on the use of fields. The number of children participating in sports has exploded over the last few years; what has happened is the larger number of children are being crammed into the same sized fields, which touches on the safety issue.

Paul DiGiacomo, Union Hill Road, commented that Madison has a need right now and offered to help to move quickly.

Eugene Zipper, Greenwood Avenue, commented on the public access schedule given to Madison by Cablevision, and said he spoke with the representatives from Cablevision who are at this meeting and understood the scheduling now.

Wayne Parisi, Gibbons Place, spoke about receiving subdivision approval on three lots on Gibbons Place; he closed on the property and as far as his bank is concerned, it is one building lot that has not been perfected; he asked someone on the Council to find out why there is a delay in "perfecting" the site. Mr. Parisi commented that the Borough Engineer is overwhelmed and needs help, and the Council should do something about it.

Advertised Hearings

The Clerk made the following statement:

Ordinances scheduled for hearing tonight were submitted in writing, were introduced by title and passed on first reading at a Regular Meeting of the Mayor and Council held on September 24, 2007, except for Ordinance 64-2007, which was introduced and passed on first reading at a Regular Meeting of the Council on September 10, 2007; all were published in the Madison Eagle, posted on the Bulletin Board at the main entrance to the Hartley Dodge Memorial and made available to members of the general public requesting same.

Mayor Kerkeslager called up Ordinances for second reading and asked the Clerk to read said ordinances by title:

Introduced 09/10/2007

Hearing 10/10/2007

ORDINANCE NO. 64-2007

BOROUGH OF MADISON

October 10, 2007

ORDINANCE NO. 64-2007

ORDINANCE OF THE BOROUGH OF MADISON GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE BOROUGH OF MADISON, NEW JERSEY TO CSC TKR, INC.

WHEREAS, the governing body of the Borough of Madison (hereinafter referred to as the "Borough") determined that CSC TKR, Inc. (hereinafter referred to as "the Company" or "Cablevision") had the technical competence and general fitness to operate a cable television system in the Borough, and by prior ordinance granted its municipal consent for Cablevision to obtain a non-exclusive franchise for the placement of facilities and the establishment of a cable television system in the Borough; and

WHEREAS, by application for renewal consent filed with the Borough and the Office of Cable Television on or about April 9, 2007, Cablevision has sought a renewal of the franchise; and

WHEREAS, the Borough having held public hearings has made due inquiry to review Cablevision's performance under the Franchise, and to identify the Borough's future cable-related needs and interests and has concluded that Cablevision has substantially complied with its obligations under the Franchise and has committed to certain undertakings responsive to the Borough's future cable-related needs and interests; and

WHEREAS, the governing body of the Borough has accordingly concluded that the consent should be renewed subject to the requirements set forth below; and that, provided Cablevision's proposal for renewal embodies the commitments set forth below, the Borough's municipal consent to the renewal of the Franchise should be given; and

WHEREAS, imposition of the same burdens and costs on other franchised competitors by the Borough is a basic assumption of the parties;

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

SECTION 1. DEFINITIONS

For the purpose of this Ordinance the terms defined above shall have the meanings there indicated, and the following additional terms shall have the following meanings:

"Act" or "Cable Television Act" shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq.

"Application" shall mean Cablevision's application for Renewal of Municipal Consent, which application is on file in the Borough's office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.

"Board" shall mean the Board of Public Utilities of the State of New Jersey or its successor agency.

"Borough" shall mean the governing body of the Borough of Madison in the County of Morris and the State of New Jersey.

"Company" shall mean CSC TKR, Inc. ("Cablevision"), the grantee of rights under this Ordinance.

"FCC" shall mean the Federal Communications Commission.

"Federal Act" shall mean that federal statute relating to cable communications commonly known as the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 *et seq.* and the Telecommunications Act of 1996, or as those statutes may be amended.

"Federal Regulations" shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 *et seq.* (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 C.F.R. Section 76.3), or as such regulations may be amended.

"Standard installation" shall mean the installation of drop cable to a customer's premises where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.

"State" shall mean the State of New Jersey.

"State Regulations" shall mean those regulations of the State of New Jersey Board of Public Utilities relating to cable television. N.J.A.C. 14:17-1.1 *et seq.* and N.J.A.C. 14:18-1 *et seq.* or as such regulations may be amended.

SECTION 2. STATEMENT OF FINDINGS

A public hearing concerning the consent herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of Cablevision to receive this consent, the Borough hereby finds Cablevision possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that Cablevision's operating and construction arrangements are adequate and feasible.

SECTION 3. GRANT OF AUTHORITY

The Borough hereby grants to Cablevision its non-exclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Borough of a cable television system, and for the provision of any communication service over such system as may be authorized by federal or State regulatory agencies. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

SECTION 4. DURATION OF FRANCHISE

This consent granted herein shall be non-exclusive and shall be for a term of ten (10) years from the date of issuance of a Certificate of Approval by the Board.

SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL

If Cablevision seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A 48:5A-11 and N.J.S.A. 48:5A-16, and applicable state and federal rules and regulations. The Company shall also seek approval from the Board authorizing continued operation during the period following expiration of the consent granted herein, and until such a time that a decision is made by the Borough and the Board relative to the renewal of said consent.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to Cablevision shall apply to the entirety of the Borough and any property hereafter annexed.

SECTION 7. PRIMARY SERVICE AREA

Cablevision shall be required to proffer service along any public right-of-way to any person's residence located in the portion of the franchise territory, as described in the map attached to the Application at tariffed rates for standard and nonstandard installation. Such area designated shall constitute the primary service area.

SECTION 8. FRANCHISE FEE

Cablevision shall pay to the Borough, an annual franchise fee, in accordance with N.J.S.A 48:5A-30.

SECTION 9. FREE SERVICE

Upon enactment of this ordinance by the Borough and issuance of a Certificate of Approval by the Board, the Company shall provide, upon request and within ninety (90) days, free of charge, one (1) standard installation and monthly basic cable television service to all State or locally accredited

public, private and parochial schools and all municipal buildings used for governmental purposes within the Borough. A preliminary schedule of said properties is attached hereto as Exhibit A.

Upon enactment of this ordinance by the Borough and issuance of a Certificate of Approval by the Board, the Company shall provide to one municipal location used for governmental purposes, without charge, the following within ninety (90) days: (1) one standard installation; (2) one cable modem per installation; and (3) basic cable modem service for the term of this Ordinance. The Borough shall be permitted to network, at its own cost, four personal computers terminals to the cable modem provided by the Cablevision. This offer shall be subject to the reasonable terms, conditions and use policies of the Company as those policies may exist from time to time.

Upon enactment of this ordinance by the Borough and issuance of a Certificate of Approval by the Board, the Company shall provide, upon request and within ninety (90) days, to state and locally accredited public and private and parochial elementary and secondary schools and municipal public libraries in the Borough, without charge, the following: (1) one standard installation per school and library; (2) one cable modem per installation; and, (3) basic cable modem service for the term of this Ordinance for each installation. Each school and library shall be permitted, at its own cost, to network up to 25 computers to the cable modem provided by Cablevision. This offer shall be subject to the reasonable terms, conditions and use policies of the Company, as those policies may exist from time to time."

SECTION 10. CONSTRUCTION/SYSTEM REQUIREMENTS

Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its plant and facilities in the Borough:

(a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.

(b) If at any time during the period of this consent, the municipality shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough shall remove or relocate its equipment, at its own expense.

(c) Upon request of a person holding a building or moving permit issued by the Borough, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than fourteen (14) days prior written notice in order to arrange for the changes required.

(d) During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim public trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities, and shall be coordinated and approved by the Borough of Madison Shade Tree Management Board.

SECTION 11. TECHNICAL AND CUSTOMER SERVICE STANDARDS

Cablevision shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

SECTION 12. LOCAL OFFICE OR AGENT

Cablevision shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

SECTION 13. DESIGNATION OF COMPLAINT OFFICER

The Office of Cable Television is hereby designated as the complaint officer for the Borough pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

SECTION 14. LIABILITY INSURANCE

Cablevision agrees to maintain and keep in force and effect at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of five-hundred thousand dollars (\$500,000) for bodily injury or death to one person, and one million dollars (\$1,000,000) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder. Cablevision shall provide to the Borough at the commencement of this consent evidence of such insurance, which evidence shall, upon the request of the Borough, also be provided on an annual basis during the term hereof.

SECTION 15. PERFORMANCE BOND

Cablevision shall obtain and maintain, at its sole cost and expense, during the entire term of this Ordinance, a bond to the municipality in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of its obligations as provided in this Franchise. The bond shall be filed with the Borough Clerk of the Borough.

SECTION 16. RATES

A. The rates of the Company for cable television service shall be subject to regulation to the extent permitted by federal and State law.

B. Cablevision shall implement a senior citizen discount in the amount of ten percent (10%) off the monthly broadcast basic level of cable television service rate to any person sixty-two (62) years of

age or older, who subscribes to cable television services provided by the Company, subject to the following:

Such discount shall only be available to eligible senior citizens who do not share the subscription with more than one person in the same household who is less than sixty-two (62) years of age; and,

Subscribers seeking eligibility for the discount must meet the income and residence requirements of the Pharmaceutical Assistance to Aged and Disabled (PAAD) program in the State pursuant to N.J.S.A. 30:4D-21;

The senior citizen discount herein relates only to the entry level basic rate of cable television service, and shall not apply to any additional service, feature, or equipment offered by the Company, including premium channel services and pay-per-view services.

Senior citizens, who subscribe to a level of cable television service beyond expanded basic service, including any premium or per channel a la carte service, shall not be eligible for the discount.

C. In the event that Cablevision shall be required to increase the franchise fee in accordance with N.J.S.A. 48-5A-30(d), then at such time as the new fee is instituted, Cablevision shall no longer be obligated to maintain or offer the senior discount specified in Section 17(B) above.

SECTION 17. EMERGENCY USES

Cablevision shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the municipality is unable to

make full use of the cable television system as contemplated herein. The Borough shall utilize the state-approved procedures for such emergency uses.

SECTION 18. EQUITABLE TERMS

In the event that the Borough approves or permits a cable system to operate in the community on terms more favorable or less burdensome than those contained in this Ordinance, such more favorable or less burdensome terms shall be applicable in this consent, subject to a petition to the Board of Public Utilities as provided for in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.

In the event that a non-franchised multi-channel video programmer provides service to residents of the Borough, Cablevision shall have a right to request franchise amendments to this Ordinance that relieve Cablevision of regulatory burdens that create a competitive disadvantage to the Company. In requesting amendments, Cablevision shall file with the Board of Public Utilities a petition for approval in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7 seeking to amend the Ordinance. Such petition shall: i) indicate the presence of a non-franchised competitor(s); ii) identify the basis for Cablevision's belief that certain provisions of this franchise place it at a competitive disadvantage; and iii) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. The Borough shall not unreasonably withhold or object to granting the Company's petition.

In any subsequent municipal consent, the Borough shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Borough's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, the Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

SECTION 19. REMOVAL OF FACILITIES

Upon expiration, termination or revocation of this Ordinance, Cablevision at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the services authorized herein, unless Cablevision, its affiliated entities or assignees should, within six (6) months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

SECTION 20. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS

Cablevision shall continue to make available non-commercial public, educational and governmental (PEG) access as described in the Application for municipal consent.

The Borough agrees that the Company shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses

said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough provision of PEG access programming on such channel.

Within ninety (90) days from the effective date of this franchise, Cablevision shall provide and maintain one access return line at Madison Public Library located at 39 Keep Street in Madison, NJ for the production of non-commercial educational and governmental access programming on the cable system. Upon request of the Borough, Cablevision shall provide access training at least once every year.

In consideration for the rights granted by this Ordinance, Cablevision shall provide the Borough with an initial one-time grant of ten thousand dollars (\$10,000.00) (the "Initial Grant"). Such amount shall be paid within sixty (60) days following the grant of the Certificate from the Board. The Grant may be used by the Borough for any cable and/or other telecommunications related purpose as the Borough, in its discretion, may deem appropriate. Beginning in year two of the franchise (measured by the Certificate of Approval) and annually thereafter through year ten of the franchise, Cablevision shall provide the Borough with an annual amount of one thousand five hundred dollars (\$1,500.00) (the "Annual Grant"). Cablevision shall not be obligated to make any additional payments beyond year ten of the franchise. The Annual Grant shall be payable to the Borough within sixty (60) days from receipt of the Borough's written request. Notwithstanding the foregoing, should Cablevision apply for a system-wide certification or otherwise convert its municipal consent to a system-wide certification in accordance with applicable law, it shall be relieved of any payments due and owing after the date of such conversion or award of a system-wide franchise, with the exception of the Initial Grant.

SECTION 21. INCORPORATION OF APPLICATION

All of the commitments contained in the Application and any amendment thereto submitted in writing to the Borough by the Company except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The Application and any other written amendments thereto submitted by Cablevision in connection with this consent are incorporated in this Ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this Ordinance, or to the extent that they conflict with State or federal law.

SECTION 22. CONSISTENCY WITH APPLICABLE LAWS

This consent shall be construed in a manner consistent with all applicable federal, State and local laws.

SECTION 23. SEPARABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION 24. EFFECTIVE DATE

This Ordinance shall take effect upon issuance of a Certificate of Approval as issued by the Board of Public Utilities.

SECTION 25. WRITTEN REQUEST

The execution hereof by the Mayor of Madison shall fulfill the requirement to provide written notice as specified throughout the Agreement.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon the passage, and publication as required by law.

Schedule A: Preliminary List of Properties per Section 10

Hartley Dodge Memorial Building
Madison Fire and Police Building
Madison Public Works Building
Madison Free Public Library Building
Madison Civic Center, 28 Walnut Street
Madison Housing Authority
Madison High School
Madison Junior High School
Kings Road School
Torey J. Sabatini School
Central Avenue School
Green Village Road School
Bayley Ellard School
Museum of Early Trades and Crafts
Madison Public Schools Administrative Building
St. Vincent Martyr School
22 Central Avenue
Madison Electric Department

October 10, 2007

Mayor Kerkeslager opened the hearing on the above ordinance and asked if anyone wished to be heard. Mr. Mezzacca asked that the ordinance be amended to include the Electric Department building in the Attached Schedule. Such amendment is not significant, and the Council may consider the ordinance for final adoption.

Mrs. Holden moved the above amendment to Schedule A to include the Electric Department building. Mr. Conley seconded the motion. Mayor Kerkeslager recognized a member of the public who wished to speak.

Eugene Zipper, Greenwood Avenue, commented on the senior discount of 10% for qualifying seniors, which applies only for basic Cablevision service; the basic service is about \$11.85 per month, so the 10% discount given to deserving seniors in need of a discount amounts to about \$1.11 per month. Mr. Zipper suggested if there is still room for discussion, this discount should be increased. Mr. Zipper recommended that customers be allowed to pick channels, should the FCC allow this. Mr. Zipper was advised that the cable TV franchise is not an exclusive franchise.

Since no other member of the public wished to be heard, the public hearing was closed.

Mr. Bowen called the motion on the amendment to Ordinance 64-2007, which passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Mrs. Holden moved that Ordinance 64-2007, which the Borough Clerk read by title, be finally adopted as amended. Mr. Conley seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Mayor Kerkeslager declared Ordinance 64-2007 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

Mayor Kerkeslager recognized Mr. Don Viapree, Cablevision representative, who introduced Madison's new representative for government affairs from Cablevision, Mr. Gary Shaw, who will be serving Madison and who will insure the compliance with the ordinance that just passed, and will update Madison with anything Madison needs in the future. Mr. Shaw explained that both he and Mr. Viapree are veterans of Cablevision; Mr. Shaw has been with the Cable system located in Oakland, New Jersey, since 1988 and has had one-half of Morris County and now has all of Morris County and South Jersey; Mr. Viapree is not leaving the company, but has been reassigned; there were three covering the State of New Jersey; one individual left the company, so Mr. Viapree and Mr. Shaw will cover the entire state.

Introduced 09/24/2007

October 10, 2007

Hearing 10/10/2007

ORDINANCE 69-2007

ORDINANCE OF THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS, NEW JERSEY AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S LEASE REVENUE BONDS, SERIES 2007B.

Note to file: Ordinance 69-2007 was introduced and passed 9/24/2007, published, Madison Eagle 9/27/2007; hearing and final adoption October 10, 2007, Published Madison Eagle October 18, 2007; then cancelled by R 278-2007 RESOLUTION OF THE BOROUGH OF MADISON CANCELLING ORDINANCE 69-2007 AND ORDINANCE 70-2007, said resolution Adopted and Approved November 26, 2007

Mayor Kerkeslager opened the hearing on the above ordinance and asked if anyone wished to be heard. Since no member of the public wished to be heard, the public hearing was closed.

Mr. Elias moved that Ordinance 69-2007, which the Borough Clerk read by title, be finally adopted. Mrs. Vitale seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Mayor Kerkeslager declared Ordinance 69-2007 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

Introduced 09/24/2007

Hearing 10/10/2007

ORDINANCE 70-2007

GUARANTY ORDINANCE OF THE BOROUGH OF MADISON SECURING THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S "LEASE REVENUE BONDS, SERIES 2007B" IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$7,000,000 (THE "SERIES 2007B BONDS")

Note to file: Ordinance 70-2007 was introduced and passed 9/24/2007, published, Madison Eagle 9/27/2007; hearing and final adoption October 10, 2007, Published Madison Eagle October 18, 2007; then cancelled by R 278-2007 RESOLUTION OF THE BOROUGH OF MADISON CANCELLING ORDINANCE 69-2007 AND ORDINANCE 70-2007, said resolution Adopted and Approved November 26, 2007

Mayor Kerkeslager opened the hearing on the above ordinance and asked if anyone wished to be heard. Since no member of the public wished to be heard, the public hearing was closed.

Mr. Elias moved that Ordinance 70-2007, which the Borough Clerk read by title, be finally adopted. Mrs. Vitale seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Mayor Kerkeslager declared Ordinance 70-2007 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

Introduction of Ordinances

The Clerk made the following statement:

Ordinances being introduced at this meeting will have a hearing during a Regular Meeting of the Council scheduled to begin at 7:45 p.m. or as soon as practical thereafter on October 22, 2007, except for Land Development Ordinance 71-2007, which will have a hearing at the meeting of November 26, 2007, when interested parties will have an opportunity to be heard; each ordinance will be published, posted and made available to members of the public. Mayor Kerkeslager noted that the first Council Meeting in November has been cancelled.

Mayor Kerkeslager called up ordinances for introduction and asked the Borough Clerk to read said ordinances by title:

ORDINANCE 71-2007

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195, LAND DEVELOPMENT, OF THE MADISON BOROUGH CODE REGARDING THE REGULATION OF FENCES AND WALLS

WHEREAS, over the course of several meetings, the Madison Planning Board reviewed the provisions of the Land Development Ordinance which regulate the installation of fences and walls in the Borough and has recommended that the Borough Council consider certain amendments to those regulations to advance safety and aesthetic purposes; and

WHEREAS, the Madison Planning Board has determined that the recommended changes to the fence and wall regulations are substantially consistent with the 2002 Master Plan which in part sought to preserve the residential character of the Borough; and

WHEREAS, the Borough Council has determined to make such recommended amendments.

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

SECTION 1. That Section 195-7 of the Borough Code is amended to modify the definitions of fence and wall by adding a second sentence to each definition and by adding a new definition of retaining wall as follows: [New wording is underlined.]

§ 195-7. Definitions

FENCE - A structure made of posts or stakes, joined together by boards, wire or rails, serving as an enclosure, a barrier or as a boundary.The height of a fence shall be measured from the ground surface at the base of the fence to the highest part of the structure above the base except that posts shall be permitted to extend up to 6 inches above the height limit. An open fence shall be considered a structure having voids comprising 45% or more of the fence façade area. Typical open fence styles include post and rail, chain link, spaced picket, and ornamental rigid metal. All other fences and walls shall be considered solid fences. Typical solid fence styles include stockade, board-on-board, and solid picket.

WALL - A solid, vertical structure of wood, masonry or other material serving to enclose, divide, retain or protect an area.The height of a wall shall be measured from the ground surface at the base of the wall to the highest part of the structure above the base including any fence placed on top of a wall. All walls shall be considered solid fences.

WALL, RETAINING – A type of wall that is constructed between lands of different elevation to stabilize the land surfaces. The height of a retaining wall shall be measured from the lowest ground surface at the base of the wall to the highest part of the structure above the base including any fence placed on top of a wall. Where a series of retaining walls are located on the same slope, the wall height shall be calculated as the sum of the wall heights in the series of walls.

SECTION 1. That Section 195-25.5 of the Borough Code concerning fences and wall is to be replaced in its entirety by the following:

§ 195-25.5. Fences and walls including retaining walls

Fences or walls in excess of 18 inches in height shall be considered as structures accessory to a principal permitted use and shall be permitted in accordance with the standards set forth below:

A. Maximum height and location in residential zones.

All fences and walls in residential zones shall comply with the standards in Schedule A – Fence And Wall Diagram.

B. General regulations for fences and walls including retaining walls.

(1) No fence or wall shall be constructed or installed so as to constitute a hazard to traffic or safety.

(2) No fence or wall in a residential zone shall be greater than six

October 10, 2007

feet in
height
except in
the case
of tennis
court and
similar
sports
court
facilities.

(3) In all
nonresidential
zones no
fence
shall
exceed 6
feet in
height.
On
properties
with
nonresidential
uses
which
abut
residential
uses, any
open
fencing
shall be
buffered
with
evergreen
landscaping.

(4)
Except
for
locations
within
sight
triangles,
hedges
and other
landscaping
shall be
exempt
from the
height
limitations
of this
subsection,

October 10, 2007

but shall
not be
located
so as to
constitute
a hazard
to traffic
or safety.

(5) The
face or
finished
side of a
fence or
wall shall
face the
adjacent
property
or street.

(6) No
fence or
wall shall
be
constructed
with
barbed
wire,
metal
spikes or
other
such
dangerous
material
or
constructed
in such
manner
as to be
dangerous
to
animals
or
humans.

(7) No
fence or
wall shall
be
constructed
without
the
issuance

October 10, 2007

of a
zoning
permit or
a building
permit.

(9) All
fences
and walls
shall be
contained
within the
property
lines of
the parcel
containing
the
principal
use.

10)
Retaining
walls over
18 inches
in height
shall be
set back
from any
property
line by at
least 2
feet or
setback a
distance
equal to
the height
of the
retaining
wall or
retaining
wall
series,
whichever
is greater.

D. Swimming pool fences. Every private swimming pool shall have a fence enclosure which complies with the New Jersey Uniform Construction Code.

E. Retaining walls. Any retaining wall 48 inches or greater in

October 10, 2007

height or a series of retaining walls along the same ground slope which together total 48 inches or greater in height shall require a building permit.

SECTION 2. All ordinances or parts thereof which are inconsistent or in conflict with the provisions of this ordinance or any part thereof are hereby repealed to the extent of said inconsistency or conflict.

SECTION 3. This ordinance shall take effect as provided by law.

SCHEDULE A – FENCE AND WALL DIAGRAM



Ms. Baillie moved that Ordinance 71-2007, which the Borough Clerk read by title, be adopted. Mr. Bowen seconded the motion. Mr. Bowen confirmed that this ordinance allows a 4 front yard fence.

Mayor Kerkeslager recognized a member of the public.

Fran Mantone, Prospect Street was glad this ordinance was taken back to the Planning Board for review; Mrs. Mantone was advised that the fee schedule is in the ordinance and is unchanged.

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

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

ORDINANCE 72-2007

ORDINANCE OF THE BOROUGH OF MADISON AMENDING ORDINANCE 15-2007 TO INCREASE APPROPRIATION FROM \$15,000.00 TO \$25,000.00 FOR ASBESTOS ABATEMENT FROM THE WATER & LIGHT PLANT

WHEREAS, Ordinance 15-2007 of the Borough of Madison appropriated \$15,000.00 from the Water Capital Improvement Fund for asbestos abatement from the water & light plant; and

WHEREAS, the Superintendent of Public Works has recommended that the Borough amend Ordinance 15-2007 to appropriate an additional \$10,000.00 from the Water Capital Improvement Fund thereby increasing Ordinance 15-2007 to \$25,000.00 for asbestos abatement from the water & light plant; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Water Capital Improvement Fund in an amount not to exceed \$10,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should amend Ordinance 15-2007 to appropriate an additional \$10,000.00 from the Water Capital Improvement Fund thereby increasing Ordinance 15-2007 to \$25,000.00 for asbestos abatement from the water & light plant.

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: Ordinance 15-2007 is amended to appropriate an additional \$10,000.00 from the Water Capital Improvement Fund thereby increasing Ordinance 15-2007 to \$25,000.00 for asbestos abatement from the water & light plant.

SECTION 2: The 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.

Mrs. Vitale moved that Ordinance 72-2007, which the Borough Clerk read by title, be adopted. Mr. Elias seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

ORDINANCE 73-2007

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING ORDINANCE
20-2007 TO INCREASE APPROPRIATION FROM \$15,000.00 TO
\$25,000.00 FOR ASBESTOS ABATEMENT FROM THE WATER & LIGHT
PLANT**

WHEREAS, Ordinance 20-2007 of the Borough of Madison appropriated \$15,000.00 from the Electric Capital Improvement Fund for asbestos abatement from the water & light plant; and

WHEREAS, the Electric Utility Superintendent has recommended that the Borough amend Ordinance 20-2007 to appropriate an additional \$10,000.00 from the Electric Capital Improvement Fund thereby increasing Ordinance 20-2007 to \$25,000.00 for asbestos abatement from the water & light plant; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Electric Capital Improvement Fund in an amount not to exceed \$10,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should amend Ordinance 20-2007 to appropriate an additional \$10,000.00 from the Electric Capital Improvement Fund thereby increasing Ordinance 20-2007 to \$25,000.00 for asbestos abatement from the water & light plant.

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: Ordinance 20-2007 is amended to appropriate an additional \$10,000.00 from the Electric Capital Improvement Fund thereby increasing Ordinance 20-2007 to \$25,000.00 for asbestos abatement from the water & light plant.

SECTION 2: The 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.

Ms. Baillie moved that Ordinance 73-2007, which the Borough Clerk read by title, be adopted. Mr. Bowen seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

ORDINANCE 74-2007

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING
\$10,000.00 FROM THE ELECTRIC CAPITAL IMPROVEMENT FUND TO
PURCHASE TWO 20-YARD LOCKABLE DUMPSTERS**

WHEREAS, the Electric Utility Superintendent has recommended that the Borough appropriate \$10,000.00 from the Electric Capital Improvement Fund to purchase two (2) 20-yard lockable dumpsters for the storage of scrap cable and metals; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Electric Capital Improvement Fund in an amount not to exceed \$10,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$10,000.00 from the Electric Capital Improvement Fund to purchase two (2) 20-yard lockable dumpsters for the storage of scrap cable and metals; and

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 \$10,000.00 is hereby appropriated from the Electric Capital Improvement Fund to purchase two (2) 20-yard lockable dumpsters for the storage of scrap cable and metals.

SECTION 2: The 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.

Ms. Baillie moved that Ordinance 74-2007, which the Borough Clerk read by title, be adopted. Mr. Bowen seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

ORDINANCE 75-2007

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING
\$5,000.00 FROM THE WATER CAPITAL IMPROVEMENT FUND TO
PURCHASE A 20 CUBIC YARD LOCKING DUMPSTER FOR THE WATER
DEPARTMENT**

WHEREAS, the Superintendent of Public Works has recommended that the Borough appropriate \$5,000.00 from the Water Capital Improvement Fund to purchase a 20 cubic yard locking dumpster for the Water Department; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Water Capital

October 10, 2007

Improvement Fund in an amount not to exceed \$5,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$5,000.00 from the Water Capital Improvement Fund to purchase a 20 cubic yard locking dumpster for the Water Department; and

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 \$5,000.00 is hereby appropriated from the Water Capital Improvement Fund to purchase a 20 cubic yard locking dumpster for the Water Department.

SECTION 2: The 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.

Mrs. Vitale moved that Ordinance 75-2007, which the Borough Clerk read by title, be adopted. Mr. Elias seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias, Mr. Conley

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.

R 237-2007 concerning Gilbane was removed from the Consent Agenda and will be considered separately.

Mr. Elias moved adoption of the Resolutions listed on the Consent Agenda (excluding R 237-2007). Mrs. Vitale seconded the motion, which passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen
Mrs. Vitale, Mr. Elias,

Mr. Conley, as to R 232-2007 through R 236-2007 and R
238-2007

Nays: None

Abstain: Mr. Conley, as to R 239-2007

R 232-2007

RESOLUTION OF THE BOROUGH OF MADISON AMENDING PROFESSIONAL SERVICES CONTRACT FOR EMERGENCY SERVICES COMMUNICATIONS DESIGN/INTEGRATION TO V-COMM, L.L.C. IN AN AMOUNT NOT TO EXCEED \$26,500.00 FOR SIX MONTHS DURING THE TERM OF THE TAKEOVER AGREEMENT

WHEREAS, a professional services contract was previously awarded to VCOMM, L.L.C., for professional services for emergency services communications design/integration in connection with the construction of the new Fire and Police Building which contract was authorized pursuant to R 99-2005 and amended pursuant to R253-2006; and

WHEREAS, the Borough Engineer has recommended an amendment to the existing professional services contract with V-COMM, L.L.C., be made to include additional professional services in an amount not to exceed \$26,500.00 for the Fire and Police building, pursuant to a Statement of Work proposal for a proposed adjustment to fees dated September 6, 2007, due to the delay in completion of the Fire and Police Building by Eastern Builders, Inc., and to coincide with the takeover agreement with Liberty Mutual Insurance Company; and

WHEREAS, such services constitute a professional service for which a contract may be awarded without the need of competitive bidding pursuant to N.J.S.A. 40A:11-5-1(a); and

WHEREAS, the Borough Engineer has determined and certified in writing that the value of the acquisition will exceed \$17,500.00; and

WHEREAS, V-COMM, L.L.C., has submitted to the Borough Purchasing Agent, the required documents to satisfy the requirements of N.J.S.A. 19:44A-20.5, since this matter may be awarded without competitive bidding; and

WHEREAS, V-COMM, L.L.C. has completed and submitted a Business Entity Disclosure Certification which certifies that V-COMM, L.L.C. 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 V-COMM, L.L.C. from making any reportable contributions through the term of the contract; and

WHEREAS, the Director of Finance has attested to the availability of funds in an amount not to exceed \$26,500.00 for this purpose.

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, an amendment to the professional services contract with VCOMM, L.L.C. for professional services for emergency services communications design/integration in connection with the construction of the new Fire and Police Building in an amount not to exceed \$26,500.00, for a six month period, in a

October 10, 2007

form acceptable to the Borough Attorney, for all the reasons set forth herein.

2. 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.

3. The Business Disclosure Entity Certification, Political Contribution Disclosure Form and the Determination of Value shall be placed on file with this resolution.

R 233-2007

RESOLUTION OF THE BOROUGH OF MADISON REJECTING BID FOR AERIAL TRUCK AND AUTHORIZING REBID

WHEREAS, the Borough of Madison previously advertised for bids for an aerial truck for the Fire Department in accordance with Local Public Contracts Law N.J.S.A. 40A:11-1 et seq., and the sole bid received was rejected for failure to comply with mandatory statutory requirements; and

WHEREAS, the Borough of Madison again publicly advertised for bids for an aerial truck for the Fire Department in accordance with Local Public Contracts Law N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, in respect to the second bid advertisement, the Borough received one bid from Rosenbauer-General Safety Equipment, LLC, of Wyoming, Minnesota, which bid package was not compliant with applicable public bidding laws, in that it was, among other deficiencies, missing a Consent of Surety, which is a mandatory statutory requirement; and

WHEREAS, the Fire Chief recommended that this bid be rejected for failure to comply with mandatory statutory requirements.

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 bid from Rosenbauer-General Safety Equipment, LLC, of Wyoming, Minnesota, for an aerial truck for the Fire Department is hereby rejected for the reasons set forth herein and the Borough Administrator is authorized to solicit new bids.

R 234-2007

RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING HALLOWEEN PARADE WITHIN THE BOROUGH OF MADISON TO BE HELD ON SATURDAY, OCTOBER 27, 2007

WHEREAS, the Madison Recreation Department and Madison Chamber of Commerce have requested permission to hold their annual Halloween Parade on Saturday, October 27, 2007; and

WHEREAS, the parade will begin at 1:30 p.m., and proceeded on a route approved by the Madison Borough Police Chief, said route beginning at the Green Village Road School field to Green Village Road to Main Street turning onto Waverly place and finishing at the Hartley Dodge Memorial Building; and

October 10, 2007

WHEREAS, the Recreation Director recommends approval of this request.

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 request of the Madison Recreation Department and Madison Chamber of Commerce to hold their annual Halloween parade in Madison on Saturday, October 27, 2007, as described herein is hereby approved, subject to any safety requirements that are imposed by the Madison Police Department.

R 235-2007

**RESOLUTION OF THE BOROUGH OF MADISON GRANTING
PERMISSION TO COVIELLO BROTHERS, INC. TO DISPLAY HOLIDAY
DECORATIONS**

WHEREAS, Coviello Brothers, Inc., wishes to display Halloween and Christmas decorations on its property in Madison, New Jersey; and

WHEREAS, the Borough Council may permit these displays pursuant to Section 195-34(A)(3) of the Madison Borough Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, that permission is hereby granted to Coviello Brothers, Inc., to display Halloween decorations for the period of October 1, 2007 to November 4, 2007, and to display Christmas decorations for the period of November 23, 2007, through January 4, 2007, on its property located in Madison, New Jersey.

R 236-2007

**RESOLUTION OF THE BOROUGH OF MADISON APPOINTING DARREN
DACHISEN TO THE POSITION OF OEM DEPUTY COORDINATOR AND
APPOINTING JAMES CAVEZZA TO THE POSITION OF OEM ASSISTANT
DEPUTY COORDINATOR AND APPOINTING DARREN DACHISEN,
JAMES CAVEZZA AND CHIP SMITH, OEM COORDINATOR, TO THE
LOCAL EMERGENCY PLANNING COUNCIL**

Whereas, the Office of Emergency Management Coordinator (OEM Coordinator), Chip Smith, was appointed in February 2007 for a three year term through December 31, 2009; and

Whereas, the OEM Coordinator has recommended the appointment of DarrerDachisen to the position of OEM Deputy Coordinator for the unexpired one-year term through December 31, 2007; and

Whereas, the OEM Coordinator has recommended the appointment of JamesCavezza to the position of OEM Assistant Deputy Coordinator for the unexpired one-year term through December 31, 2007; and

Whereas, the position holders of OEM Coordinator, OEM Deputy Coordinator and OEM Assistant Deputy Coordinator are appointed annually to the Local Emergency Planning Council for a one-year term through December 31, 2007.

October 10, 2007

Now, therefore, be it resolved that the following appointments are hereby approved through December 31, 2007:

OEM Deputy Coordinator Darren Dachisen

OEM Assistant Deputy Coordinator James Cavezza

And,

Be it further resolved that the following individuals are hereby appointed to the Local Emergency Planning Council through December 31, 2007:

OEM Coordinator Chip Smith

OEM Deputy Coordinator Darren Dachisen

OEM Assistant Deputy Coordinator James Cavezza

R 237-2007 regarding change order for Gilbane was removed from the Consent Agenda; will be considered separately.

R 238-2007

RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING EXECUTION OF INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF MORRIS AND THE BOROUGH OF MADISON FOR A PROJECT TO ANALYZE TRAFFIC AT NINE INTERSECTIONS AND ALONG ONE ROADWAY TO DETERMINE POTENTIAL IMPROVEMENTS DUE TO BUILDOUT OF THE FORMER EXXON RESEARCH FACILITY ON PARK AVENUE

WHEREAS, the Borough Administrator has recommended that the Borough enter into an interlocal service agreement between the County of Morris and the Borough of Madison to analyze potential traffic impact in the Borough of Madison concerning the potential buildout of the former Exxon research facility in Florham Park on Park Avenue; and

WHEREAS, the Borough of Madison and the County of Morris both desire to analyze potential traffic impacts and to expedite the safe movement of traffic regarding the potential improvements and buildout of the former Exxon research facility on Park Avenue; and

WHEREAS, the total cost of the Madison portion of the project, including engineering, is \$29,000.00, and the County's share of the total cost is \$30,000.00; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Open Space Trust Fund in an amount not to exceed \$29,000.00 for this purpose; and

WHEREAS, the Borough of Madison has been committed to a regional traffic study in regard to the development of the former Exxon research facility on Park Avenue, and this project will form a part of that regional traffic study; and

October 10, 2007

WHEREAS, the Borough of Madison deems it in the best interest of the public to proceed with such project.

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 authorized to enter into an agreement between the Borough of Madison and the County of Morris providing for the authorization of a project to analyze traffic at nine intersections and along one roadway to determine potential improvements due to buildout of the former Exxon research facility on Park Avenue, in a form approved by the Borough Attorney.

R 239-2007

**RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES
LICENSE APPLICATION SUBMITTED BY MADISON AREA YMCA**

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 is hereby approved:

MADISON AREA YMCA

I.D. No. 274-4-27577

R.A. No. 1065 – Off Premises

December 15, 2007

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Legalized Games of Chance Control Commission.

resolution

R 237-2007

**RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING CHANGE
ORDER TO GILBANE, INC., OF LAWRENCEVILLE FOR CONTINUING
CONSTRUCTION MANAGEMENT WORK AT THE FIRE & POLICE
BUILDING**

Mr. Bowen moved R 237-2007 for discussion. Mrs. Holden seconded the motion. Mr. Mezzacca commented that the Resolution extends the Gilbane contract for six months as full-time construction manager in an amount not to exceed \$145,740.00. After comments, it was proposed that due to the late hour, this will be carried forward. Mr. Codey commented that the Borough has Architect Bob Russell and Madison's Construction Code Department for coverage in the meantime.

There was consensus by voice vote to carry this resolution to the next meeting.

Unfinished Business - None

APPROVAL OF VOUCHERS

On motion by Mr. Bowen, seconded by Mrs. Holden and carried, the following vouchers of the

October 10, 2007

Borough of Madison were approved for payment, and the supporting documentation of said vouchers was made part of the Supplemental Minute Book.

Public Safety \$26,103.86

Health & Public Assistance 1,342.82

Public Works & Engineering 247,450.92

Community Affairs 1,995.10

Finance & Borough Clerk 333,097.08

Utilities 781,988.73

Total \$1,391,978.51

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

Yeas: Mrs. Holden, Ms. Baillie, Mr. Bowen

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

New Business

Mrs. Holden was recognized by the Chair and commented that she will be late for the October 22, 2007 Council Meeting (scheduled to begin at 6 p.m.) since she will be at the hearing on Open Space, which is also scheduled for 6 p.m.

Adjournment

There was consensus that the unfinished business will be carried to the next meeting. The meeting was adjourned at 11:41 p.m.

Respectfully submitted,

Marilyn Schaefer

Borough Clerk

Approved October 22, 2007 (MS)

October 10, 2007