

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

May 10, 2010 - 7 p.m.

CALL TO ORDER

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 10th day of May 2010. Council President Tsukamoto called the meeting to order at 7 p.m. in the Mayor's Office, Room #210 of Bayley-Ellard High School, 205 Madison Avenue, 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 Bayley-Ellard High School, and filing a copy in the office of the Clerk, all on January 7, 2010. 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:

Absent: Mayor Mary Anna Holden, excused

Council Members:

Astri J. Baillie

Robert H. Conley

Jeannie Tsukamoto

Sebastian J. Cerciello

Donald R. Links

Absent: Vincent A. Esposito, excused

Also Present:

Raymond M. Codey, Borough Administrator

Elizabeth Osborne, Borough Clerk

Joseph Mezzacca, Jr., Borough Attorney

AGENDA REVIEW

There was approval of the Regular and Executive Agenda.

READING OF CLOSED SESSION RESOLUTION

Ms. Baillie moved:

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

MINUTES FOR APPROVAL (1)

Executive Session Minutes of April 26, 2010

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

CONTRACT MATTERS (7)

BOE BUDGET NEGOTIATIONS

LABOR NEGOTIATIONS

HDM CHANGES ORDERS

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13 MADISON AVENUE, LLC
MADISON RECREATION CENTER – DRE
MADISON RECREATION CENTER
CIVIC CENTER – PLAYWRIGHTS THEATRE
Date of public disclosure 60 days after conclusion, if disclosure required.

PERSONNEL MATTERS (2)
2010 MUNICIPAL BUDGET
RECREATION DIRECTOR P/T
Date of public disclosure 90 days after conclusion, if disclosure required.

LITIGATION MATTERS (2)
STOP & SHOP
COUGAR FIELD
Date of public disclosure 60 days after conclusion, if disclosure required.

POTENTIAL LITIGATION MATTERS (2)
24-HOUR ZONING
MULTI FAMILY HOUSING
Date of public disclosure 60 days after conclusion, if disclosure required.

Seconded: Mr. Conley
Vote: Approved by voice vote of members present

RECONVENE IN COUNCIL CHAMBER

Council President Tsukamoto reconvened the Regular Meeting at 8:15 p.m. in the 3rd Floor Meeting Room of Bayley-Ellard with all members present, except Dr. Esposito. The Pledge of Allegiance was recited by all.

APPROVAL OF MINUTES

Ms. Baillie moved approval of the **Executive Minutes of April 26, 2010**. Mr. Conley seconded the motion, which passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links
Nays: None
Absent: Dr. Esposito

Ms. Baillie moved approval of the **Regular Meeting Minutes of April 12, 2010**. Mr. Conley seconded the motion, with the following correction:

Page 2 of 13 last sentence:
... provided an overview of the review of existing and future conditions ~~to~~ of various intersections within the Borough of Madison

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links
Nays: None
Absent: Dr. Esposito

Ms. Baillie moved approval of the **Regular Meeting Minutes of April 26, 2010**. Mr. Conley seconded the motion, with the following correction:

Page 5 of 17 last sentence:
... ~~at the~~ **in front of** the Museum of Early Trades & Crafts. Annual May Day events....

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Page 8 of 17 last sentence:

... Mayor Holden advised that the **Shared Services**/Joint Finance Committee members will meet tomorrow....

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links

Nays: None

Absent: Dr. Esposito

GREETINGS TO PUBLIC

Council President Tsukamoto made the following presentation:

Mrs. Tsukamoto presented the following proclamation to Borough Clerk Elizabeth Osborne in honor of Municipal Clerks' Week.

MUNICIPAL CLERKS' WEEK

MAY 2 THROUGH MAY 8, 2010

WHEREAS, the Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world; and

WHEREAS, the Office of the Municipal Clerk is the oldest among public servants; and

WHEREAS, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, the Municipal Clerk serves as the information center on functions of local government and community; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations; and

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk;

NOW, THEREFORE, I, Mary-Anna Holden, Mayor of the Borough of Madison, on behalf of the governing body, do hereby recognize the week of May 2 through May 8, 2010, as Municipal Clerks' Week, and further extend appreciation to our Municipal Clerk, Elizabeth Osborne, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

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Mary-Anna Holden, Mayor

May 10, 2010

Mrs. Tsukamoto made the following announcements:

Employees of the Month for May are Brigitte Kelly, Lara Shaljian and Mike Shugrue of Project Community Pride for the work they performed over the last year in rebuilding Project Community Pride and for their counseling success in helping children and families resolve their problems.

Anniversary – Sgt. Dennis Lam of the Madison Police Department will reach his **20th Anniversary** with the Borough on May 16, 2010.

Mrs. Tsukamoto noted that annual May Day festivities in the Borough of Madison were a great success with nearly 1,000 volunteers participating. Mrs. Tsukamoto announced that the Borough of Madison has been named a Tree City once again for outstanding tree care and environmental awareness, and that the Tree City flag flies proudly on the flag pole at the Hartley Dodge Memorial building.

Mrs. Tsukamoto noted that Police Officer Chad M. Rybka was recently honored by the 200 Club of Morris County for his bravery. The Morris County Board of Freeholders will also recognize Officer Rybka this Wednesday, May 12, 2010.

Mrs. Tsukamoto announced that there will be a special meeting of the Council of the Borough of Madison on Friday, May 14, 2010, at 6 p.m. to discuss the defeated School Board budget. Mrs. Tsukamoto invited the members of the Madison Board of Education to attend, as well as all members of the public.

The Mayor and Council will attend the regularly scheduled Board of Education meeting on May 18, 2010, at 7:30 p.m. in the Media Room at the High School. Both meetings will be advertised according to law.

Mrs. Tsukamoto offered the condolences of the Borough Council to the family of Dr. Esposito on the loss of his mother.

REPORTS OF COMMITTEES

Community Affairs

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

Close to 1,000 people came into town to help mulch, plant flowers and clean up our public spaces. Donations from the event also help fund the Garden Club's hanging flower baskets, which are expected to be installed within the next four weeks. All three local universities are preparing for their commencements. Drew University and the College of St. Elizabeth are both this Saturday, May 15th, and Fairleigh Dickinson University has its commencement on Tuesday, May 18th. TransOptions is partnering with the Madison Bicycle Shop this Friday, May 14th, for Bike to Work Day in Madison, which is part of the National Bike to Work Week. Participants should meet at the bike shop between 7 a.m. and 9 a.m.; there will be prizes, free giveaways and refreshments compliments of Whole Foods. The Rose City Steppers have started their Wednesday Evening Summer Walks, which go from May through September. For the month of May, participants should meet at Loantaka Way, off Madison Avenue, at 7 p.m. The Pfizer 5K Run With Pride, to benefit Project Community Pride, is set for Wednesday, May 26th, at 6:30 p.m. Friday, June 11th, is the start of the second annual Downtown Concert Series in front of the Museum of Early Trades & Crafts. Al Gold and the Suburban Rhythm Kings will be playing their

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Chicago-Style Blues from 6 p.m. to 8 p.m. The performance is free and is the first of nine Downtown Concerts. Special thanks to Blue Ridge Mountain Sports, Madison Honda and the Provident Bank for sponsoring the series. On Sunday, June 13th, the Summer Blast Off event will be held at the Plaza, with antique cars, fun and games. Please contact Plaza Lanes for more information. Also on Sunday, June 13th, the Madison Arts & Culture Alliance is once again sponsoring their Studio Arts Tour. Madison has art studio space throughout town, including our downtown. For more information, please contact MACA or visit www.madisonartsnj.org.

Public Safety

Mrs. Tsukamoto, Chair of the Committee, made the following comments:
The Downtown Development Commission will be receiving a grant in the amount of \$17,500.00 from the Pfizer Corporation for the upcoming year.

Finance and Borough Clerk

Mr. Conley, Chair of the Committee, made the following comments:
The municipal budget will be introduced at the Borough Council meeting of May 24, 2010, with a hearing scheduled for June 28th. Mr. Conley will be presenting a three-year capital budget overview, also on May 24th, to discuss funding future capital projects with limited resources.

Utilities

Dr. Esposito, Chair of the Committee, absent.

Public Works and Engineering

Mr. Cerciello, Chair of the Committee, made the following comments:
Mr. Cerciello noted a meeting with Borough Engineer Robert Vogel and consultants on the North Street pump station and Lincoln Place projects to discuss how some of the work may be done in-house. Mr. Cerciello indicated that he would like to be involved in all Borough projects. Mr. Cerciello noted a presentation at a previous Council meeting by Architect Alan Andreas for a proposed pavilion at Rosedale Park. Cleanup will begin with an Eagle Scout project to restore the Pit area. Fundraising for the proposed pavilion could be accomplished through the sale of pavers. Additional information will follow.

Health & Public Assistance

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

COMMUNICATIONS AND PETITIONS

The Borough Clerk announced receipt of the following communications:

A letter received April 29, 2010, from Mr. William Hoffman of Norwich Court regarding municipal spending.

A letter received May 4, 2010, from Mr. Bob Jennings of Albright Circle regarding proposed Lincoln Place improvements.

INVITATION FOR DISCUSSION (1 of 2)

Council President Tsukamoto opened the meeting to the public for their opportunity to ask questions and make comments on those items listed on the Agenda only. The Council President 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.**

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Tom Haralampoudis, Pomeroy Road, raised concern regarding a construction company's unusual buildup of soil at the base of trees along Pomeroy Road following roadway reconstruction. Mr. Haralampoudis raised concern about speeding on Pomeroy Road now that paving is completed. Mr. Conley noted that the Traffic Calming Committee will meet in the morning to discuss the situation. Mr. Haralampoudis asked what progress the Council has made regarding shared services with the Board of Education. Mr. Haralampoudis asked for any update on the 49 Acres. Mr. Links noted that there will be a presentation in a few weeks, including public discussion, to achieve concrete plans. Ms. Baillie noted that a presentation in February contained a concept plan for Phase I and Phase II, but involved possible wetland issues. The plan now is to put artificial turf on Madison High School property, but the Borough Council has not yet approved this plan. Ms. Baillie noted that there is no funding plan in place. Mrs. Tsukamoto suggested that the issue be placed on the May 24th agenda for further discussion. Mrs. Tsukamoto noted that no member of the Borough Council present this evening has met with representatives of T&M Associates.

Tim Harrington, Cross Gates Road, commented on the reconstruction of Pomeroy Road, noting a safety hazard at the culvert near the library. Mr. Harrington suggested coming up with another name for the Safety Complex. Mr. Harrington recommended asking for volunteer contributions to fund programs. Mr. Harrington urged consideration that the Red Cross building be purchased by either the Borough of Madison or the School Board, and that the sale of the Electric Utility be looked into. Mr. Harrington noted that the municipal budget needs public support, and the public needs more information.

Jeff Gertler, Pomeroy Road, provided photos of soil built up at the base of trees along Pomeroy Road and raised concern for the condition should the situation continue. Mr. Gertler cautioned of possible hazards to electric lines.

Eugene Zipper, Greenwood Avenue, inquired about the advertising of Borough Council meetings.

AGENDA DISCUSSIONS

05/10/2010-1 PUBLIC POWER ASSOC. REPRESENTATIVES

There was no objection to authorizing a Unanimous Consent in Lieu of Meeting Resolution and to appoint Raymond M. Codey as delegate and James Burnet as alternate delegate to the Public Power Association of New Jersey.

R 125-2010 listed on Consent Agenda

05/10/2010-2 APPROVAL OF PROPERTY TAX EXEMPTION DUE TO WARTIME INJURY

There was agreement to list Resolution R 126-2010 on the Consent Agenda.

R 126-2010 listed on Consent Agenda

05/10/2010-3 APPROVAL OF MEC ANJEC SMART GROWTH PLANNING ASSISTANCE GRANT IN THE AMOUNT OF \$12,000.00

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Jim Burnet, Main Street Executive Director, noted a request by the Madison Environmental Commission to confirm funding for the MEC's ANJEC Smart Growth Planning Assistance Grant Application in the amount of \$12,000.00 through a Clean Communities grant. There was no objection to listing a resolution on the Consent Agenda.

R 128-2010 listed on Consent Agenda

ADVERTISED HEARINGS

The Clerk made the following statement:

Ordinances 17-2010 and 20-2010 scheduled for hearing were introduced by title and passed on first reading at a Regular Meeting of the Council held on April 12, 2010; Ordinances 22-2010 and 23-2010 scheduled for hearing were introduced by title and passed on first reading at a Regular Meeting of the Council held on April 26, 2010; all were posted and filed according to law, and copies were made available to the general public requesting same.

Mrs. Tsukamoto called up the ordinances for second reading and asked the Clerk to read said ordinances by title:

ORDINANCE 17-2010

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195 OF THE BOROUGH CODE, LAND DEVELOPMENT ORDINANCE, REGARDING MINIMUM FLOOR AREA FOR RESIDENTIAL UNITS IN THE R-5A, CBD, CC, AND GATEWAY ZONES

WHEREAS, the Borough Planner has recommended amending Chapter 195 of the Borough Code, the Madison Land Development Ordinance, in regard to minimum floor area for residential units in the R-5A, CBD, CC and Gateway Zones; and

WHEREAS, the Borough Council has considered the proposed amendment to the Madison Land Development Ordinance and wishes to amend the Code as recommended.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that Chapter 195 of the Borough Code entitled "Madison Land Development Ordinance" shall be amended as follows:

SECTION 1: Section 195-7, entitled Definitions shall have the following added to it:
Studio/efficiency apartment: A dwelling unit consisting of not more than one habitable room, together with a kitchen and sanitary facilities.

SECTION 2: *SECTION 195-32.14, ENTITLED R-5A MULTIFAMILY RESIDENTIAL ZONE REGULATIONS, SHALL HAVE THE FOLLOWING ADDED TO IT:*

Section 195-32.14.F(10): Multi-family residential development, consisting of any building or structures with attached housing with three or more units, with the exception of units owned and/or operated by the Madison Housing Authority, shall conform with the following minimum floor area requirements:

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- Studio/Efficiency: 575 square feet
- 1 Bedroom: 750 square feet
- 2 Bedroom: 950 square feet
- 3 Bedroom: 1,200 square feet

SECTION 3: Section 195-32.4, entitled CBD-1, CBD-2 Central Business District Zones regulations, shall have the following added to it:

Section 195-32. 4.G(2): Residential units permitted over first floor commercial space, with the exception of units owned and/or operated by the Madison Housing Authority, shall conform with the following minimum floor area requirements:

- Studio/Efficiency: 575 square feet
- 1 Bedroom: 750 square feet
- 2 Bedroom: 950 square feet
- 3 Bedroom: 1,200 square feet

SECTION 4: Section 195-32.5 entitled CC Community Commercial Zone regulations, shall have the following added to it:

Section 195-32.5.E(3): Residential development, with the exception of units owned and/or operated by the Madison Housing Authority, shall conform with the following minimum floor area requirements:

- Studio/Efficiency: 575 square feet
- 1 Bedroom: 750 square feet
- 2 Bedroom: 950 square feet
- 3 Bedroom: 1,200 square feet

SECTION 5: Section 195-32.13 entitled Gateway Zone, shall have the following added to it:

Section 195-32.13.H(8), Floor Area Requirements for Senior Housing Units shall be consistent with Section 195-32.9.D(2). All other residential units, with the exception of units owned and/or operated by the Madison Housing Authority, shall conform with the following minimum floor area requirements:

- Studio/Efficiency: 575 square feet
- 1 Bedroom: 750 square feet
- 2 Bedroom: 950 square feet
- 3 Bedroom: 1,200 square feet

SECTION 6: This Ordinance shall take effect as provided by law.

Mrs. Tsukamoto opened up the public hearing on Ordinance 17-2010. Since no member of the public wished to be heard, the public hearing was closed.

Ms. Baillie moved that Ordinance 17-2010, which the Clerk read by title, be finally adopted. Mr. Conley seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links

Nays: None

Absent: Dr. Esposito

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Mrs. Tsukamoto declared the aforementioned adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

**ORDINANCE 20-2010
ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195 OF
THE BOROUGH CODE, LAND DEVELOPMENT ORDINANCE, REGARDING
OUTDOOR DINING AT BUSINESS ESTABLISHMENTS**

WHEREAS, the Borough Planner has recommended amending Chapter 195 of the Borough Code, the Madison Land Development Ordinance, in regard to outdoor dining at business establishments; and

WHEREAS, the Borough Council has considered the proposed amendment to the Madison Land Development Ordinance and wishes to amend the Code as recommended.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that Chapter 195 of the Borough Code entitled “Madison Land Development Ordinance” shall be amended as follows:

SECTION 1: Section 195-32.4, entitled CBD-1, CBD-2 Central Business District Zones Regulations shall have the following added to it:

D. Conditional Uses:

....

(4) Outdoor Dining.

SECTION 2: Section 195-32.5, entitled CC Community Commercial Zone Regulations shall have the following added to it:

D. Conditional Uses

...

(7) Outdoor Dining

SECTION 3: Section 195-33.B entitled “Outdoor Dining”, shall have the following added to it:

...

(11) Outdoor Dining:

(b) Outdoor dining refers only to the service of food and beverages, consistent with the definition of restaurant, but extended to include privately owned outdoor property on which a restaurant operates as the principal permitted use; outdoor dining on any public sidewalk or right-of-way shall continue to be governed by Borough Ordinance Section 166-43 and associated permit requirements.

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- (c) Outdoor dining does not include an outdoor bar or any other similar outdoor accessory use that serves only beverages, nor does it include any drive through or take out windows;
- (d) Public access shall be provided from within the principal restaurant use with a secondary means of emergency egress in accordance with applicable NJ building codes;
- (e) Outdoor dining areas shall be designed in accordance with barrier free requirements;
- (f) The calculation of off-street parking requirements shall include outdoor seating occupancy;
- (g) The approval of any application for outdoor dining shall not be construed as approval by the Borough Council for extension and/or renewal of any license under ABC jurisdiction; such extensions and/or renewals shall only be granted by the Borough Council.
- (h) All outdoor dining areas shall be clearly delineated by a solid decorative fence, wall or other structure at least than 4.5 feet in height but no more than six feet in height;
- (i) Hours of operation of outdoor dining areas shall not extend later than 10:00 pm;
- (j) All outdoor lighting for shall be downward facing and shall be turned off by 10:30pm;
- (k) No amplified music shall be permitted in outdoor dining areas.
- (l) No outdoor dining area that serves alcoholic beverages shall be located within 200 feet of a school or public park.
- (m) No outdoor dining area shall obstruct pedestrian access serving one or more stores or businesses in addition to the property on which outdoor dining is proposed.

SECTION 4: This Ordinance shall take effect as provided by law.

Mrs. Tsukamoto opened up the public hearing on Ordinance 20-2010. Since no member of the public wished to be heard, the public hearing was closed.

Ms. Baillie stated that Ordinance 20-2010 was reviewed by the Borough of Madison Planning Board and sent back to the Borough Council for further consideration. Mr. Mezzacca will meet with Borough Planner Susan Blickstein for further clarification.

Ms. Baillie moved that Ordinance 20-2010 be carried to the meeting of June 14, 2010, seconded by Mr. Conley, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links

Nays: None

Absent: Dr. Esposito

ORDINANCE 21-2010 item removed from agenda of April 26, 2010, and the # retired

ORDINANCE 22-2010

ORDINANCE OF THE BOROUGH OF MADISON AMENDING SECTION 56-4 OF THE BOROUGH CODE TO INCREASE ANNUAL ALCOHOLIC BEVERAGE LICENSE FEES

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WHEREAS, the Borough Clerk has recommended that the fees for licenses to sell alcoholic beverages be increased; and

WHEREAS, the Borough Council has determined that there is a need to approve such increase.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that Chapter 56 of the Borough Code entitled “Alcoholic Beverages” shall be amended as follows:

SECTION 1:

§ 56-4 Fees established.

Annual fees for licenses to sell alcoholic beverages in the Borough of Madison, beginning July 1, 2010, shall be as follows:

A. Plenary retail consumption license:

| Period | Fee |
|---|------------|
| July 1, 2010, through June 30, 2011, and thereafter | \$2,386.00 |

B. Plenary retail distribution license:

| Period | Fee |
|---|------------|
| July 1, 2010, through June 30, 2011, and thereafter | \$1,798.00 |

C. Club license: \$180.

SECTION 2: All other provisions of the Ordinance not inconsistent herewith shall remain the same.

Mrs. Tsukamoto opened up the public hearing on Ordinance 22-2010. Since no member of the public wished to be heard, the public hearing was closed.

Mr. Conley moved that Ordinance 22-2010, which the Clerk read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links

Nays: None

Absent: Dr. Esposito

Mrs. Tsukamoto declared the aforementioned adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

ORDINANCE 23-2010

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 147 OF THE BOROUGH CODE ESTABLISHING A FEE OF \$50.00 FOR CALCULATION OF AMOUNT TO REDEEM A TAX SALE CERTIFICATE PURSUANT TO N.J.S.A. 54:5-54

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WHEREAS, the Madison Borough Tax Collector has recommended that the Borough Code be amended to establish a fee of \$50.00 to provide a calculation of the amount to redeem a tax sale certificate pursuant to N.J.S.A. 54:5-54; and

WHEREAS, the Borough Tax Collector is required, pursuant to N.J.S.A. 54:5-54, to provide a calculation of the amount to redeem a tax sale certificate twice within one calendar year at no cost; and

WHEREAS, N.J.S.A. 54:5-54, authorizes a municipality to set a fee not to exceed \$50.00 for any subsequent calculation to redeem a tax sale certificate in excess of twice within one calendar year; and

WHEREAS, the Borough Council has determined to amend Chapter 147 of the Borough Code to establish a fee of \$50.00 for each calculation requested to redeem a tax sale certificate in excess of two per calendar year.

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

SECTION 1: Section 147 of the Borough Code is hereby amended to include the following:

§ 147-4. Fee for Tax Sale Redemption Calculation.

There shall be no fee for calculation by the tax collector of the amount required to redeem a tax sale certificate for the first two requests per calendar year, but for any subsequent calculation requested in the same calendar year, there shall be a fee of \$50.00 per calculation request, pursuant to N.J.S.A. 54:5-54.

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

Mrs. Tsukamoto opened up the public hearing on Ordinance 23-2010. Since no member of the public wished to be heard, the public hearing was closed.

Mr. Conley moved that Ordinance 23-2010, which the Clerk read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links

Nays: None

Absent: Dr. Esposito

Mrs. Tsukamoto declared the aforementioned adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

Note: Ordinances 24-2010, 25-2010, 26-2010, 27-2010 and 28-2010 have a hearing advertised for May 24, 2010

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INTRODUCTION OF ORDINANCES

The Clerk made the following statement:

The ordinance scheduled for first reading has a hearing date set for May 24, 2010, will be published in the Madison Eagle, posted on the Bulletin Board and made available to members of the public requesting copies.

Mrs. Tsukamoto called up the ordinance for first reading and asked the Clerk to read said ordinance by title:

ORDINANCE 29-2010

ORDINANCE OF THE BOROUGH OF MADISON AUTHORIZING GRANT OF ACCESS EASEMENT OVER EXISTING DRIVEWAY ON PROPERTY OWNED BY THE BOROUGH OF MADISON KNOWN AS BLOCK 1401, LOT 3

WHEREAS, the Council of the Borough of Madison adopted Resolution 289-2009 authorizing consent to an application before the Madison Zoning Board of Adjustment by 13 Madison Avenue, LLC, regarding property at 13 Madison Avenue, Madison, New Jersey, known as Block 1401, Lot 2 on the current tax map, which property is adjacent to property owned by the Borough of Madison known as James Park, Block 1401, Lot 3; and

WHEREAS, there is an existing driveway on the westerly portion of the Borough property that leads to a Borough-owned electric substation; and

WHEREAS, Resolution 289-2009 indicated that the Council was agreeable to providing an access easement over the said existing driveway based on the agreement of 13 Madison Avenue, LLC to allow certain exterior elements to be preserved on the historic dwelling located on 13 Madison Avenue; and

WHEREAS, the Madison Historic Preservation Commission, by letter dated December 9, 2009, indicated that the dwelling structure located on 13 Madison Avenue is one of the oldest structures in the Borough of Madison and holds significance as the home of the first French family in Madison; and

WHEREAS, 13 Madison Avenue, LLC, obtained variances and site plan approval from the Madison Zoning Board of Adjustment by resolution adopted January 14, 2010, for certain development on said property, which would result in the dwelling not being removed or demolished; and

WHEREAS, a condition of approval of the Madison Zoning Board of Adjustment was that the owner obtain an easement agreement with the Borough of Madison allowing shared use of the existing driveway on the adjacent Borough property, Block 1401, Lot 3, to allow access to the rear of Block 1401, Lot 2 for ingress and egress; and

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WHEREAS, the construction of a driveway on the existing property would require removal of a portion of the dwelling, which would cause the loss of significant historical elements; and

WHEREAS, the Madison Borough Council has determined to grant an easement for right of ingress and egress over the existing driveway into the rear of the property at Block 1401, Lot 2, provided the easement may be revoked for the reasons set forth in the access easement agreement.

NOW, THEREFORE, BE IT ORDAINED 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 execute an access easement agreement consistent with the terms hereof, in a form approved by the Borough Attorney.

Mr. Cerciello moved that Ordinance 29-2010, which the Borough Clerk read by title, be adopted. Mr. Conley seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links
Nays: None
Absent: Dr. Esposito

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.

Mr. Conley moved adoption of the Resolutions listed on the Consent Agenda. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links
Nays: None
Absent: Dr. Esposito

R 122-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES LICENSE APPLICATION SUBMITTED BY FRIENDS OF THE MADISON PUBLIC LIBRARY AND PTO TOREY J. SABATINI SCHOOL

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

FRIENDS OF THE MADISON PUBLIC LIBRARY

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I.D. No. 274-5-37411
R.A. No. 1153 – Off Premise
August 7, 2010

PTO TOREY J. SABATINI SCHOOL
I.D. No. 274-5-33160
R.A. No. 1155 – On Premise
June 5, 2010

BE IT FURTHER RESOLVED that a certified copy of this

Resolution be forwarded to the Legalized Games of Chance Control Commission.

R 123-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES LICENSE APPLICATION SUBMITTED BY ARTS COUNCIL OF THE MORRIS AREA TO CONDUCT AN ON-PREMISE 50/50 RAFFLES GAME ON SUNDAY, JUNE 27, 2010

WHEREAS, N.J.S.A. 5:8-1 et seq. and N.J.A.C. 13:47-1.1 et seq. prohibit the conducting of games of chance on Sunday unless specifically authorized by a duly adopted municipal ordinance; and

WHEREAS, on March 8, 1982, the Council of the Borough of Madison adopted Ordinance No. 5-82 to allow the Council, by resolution, to permit qualified organizations to conduct games of chance on Sunday; and

WHEREAS, the New Jersey Legalized Games of Chance Control Commission has issued Registration Identification No. 274-5-34612 to the Arts Council of the Morris Area; and

WHEREAS, an Application for Raffles License, together with all necessary documents and fees, has been submitted to the Madison Borough Clerk's Office by the Arts Council of the Morris Area to conduct an On-Premise 50/50 Raffles Game on Sunday, June 27, 2010, at Giralda Farms, Madison Avenue, Madison (Rain Site: Madison High School, Ridgedale Avenue, Madison);

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the afore-mentioned Application for Raffles License, R.A. No. 1154, to be held as listed above, be and the same is hereby approved.

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

R 124-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING TRANSFER OF 2010 LIVERY OWNER'S LICENSE FOR PRECISE LIMOUSINE TRANSPORT SERVICE, LLC

WHEREAS, any license issued for any taxicab or livery may be transferred to a substitute vehicle in accordance with the provisions of Chapter 173-7 of the Borough of Madison Code after approval of the Council and upon the payment to the Borough of a transfer fee of \$10.00 for each vehicle for which the license is to be transferred; and

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WHEREAS, prior to the approval or disapproval by the Council of the transfer of the license to permit the operation of such substituted vehicle, the owner may operate such substituted vehicle or cause the same to be operated, subject to the other provisions of Chapter 173-7; and

WHEREAS, Precise Limousine Transport Service, LLC, has made application to transfer Livery Owner's License No. 12 to a substitute vehicle and, at the same time, has provided proof of insurance and paid the appropriate transfer fee;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, to approve the license transfer request from Precise Limousine Transport Service, LLC.

R 125-2010 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING
BOROUGH REPRESENTATIVES TO SERVE ON THE PUBLIC POWER
ASSOCIATION OF NEW JERSEY BOARD OF DIRECTORS

WHEREAS, the Public Power Association of New Jersey has requested approval of the 2009 Bargaining Agent Annual Report and execution of a Unanimous Consent in Lieu of Meeting Resolution; and

WHEREAS, the Borough Administrator has recommended that he be authorized to execute the Unanimous Consent in Lieu of Meeting Resolution; and

WHEREAS, the Borough Administrator has recommended that Raymond M. Codey be designated as the Madison Borough delegate to the Public Power Association of New Jersey; and

WHEREAS, the Borough Administrator has recommended that James Burnet be designated as the Madison Borough alternate delegate to the Public Power Association of New Jersey.

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 Borough Administrator is hereby authorized to execute the Unanimous Consent in Lieu of Meeting Resolution on behalf of the Borough.
2. Raymond M. Codey is designated as the Madison Borough delegate to the Public Power Association of New Jersey.
3. James Burnet is designated as the Madison Borough alternate delegate to the Public Power Association of New Jersey.

R 126-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING
PROPERTY TAX EXEMPTION FOR DISABILITY DUE TO WARTIME INJURY
EFFECTIVE APRIL 27, 2010

WHEREAS, the owner of Block 1001, Lot 82 of the taxing district of the Borough of Madison is a citizen and resident of the State of New Jersey, who served in the United States military in time of war; and

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WHEREAS, the owner of Block 1001, Lot 82 of the taxing district of the Borough of Madison has been honorably discharged from the United States military and has been found by the United States Department of Veterans Affairs to have a 100% service-connected, permanent disability; and

WHEREAS, N.J.S.A. 54:4-3.30 provides that the dwelling house of any citizen of this State, who is honorably discharged from active military service in time of war and is declared to be 100% permanently disabled by the United States Veterans Administration or its successor, shall be exempt from property taxation; and

WHEREAS, the Borough Administrator has recommended that property taxes for the period of **April 27, 2010 to June 30, 2010** for Block 1001, Lot 82 be cancelled and refunded as the owner of the property qualifies for a tax exemption as a totally disabled veteran pursuant to N.J.S.A. 54:4-3.30; and

WHEREAS, the Borough Tax Assessor has determined that the property owner is eligible for the tax exemption beginning April 27, 2010, pursuant to N.J.S.A. 54:4-3.30.

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 property taxes for Block 1001, Lot 82 for April 27, 2010 to June 30, 2010, are cancelled and shall be refunded because the owner of the property is a disabled veteran who satisfies the requirements of N.J.S.A. 54:4-3.30.

R 127-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING A PROBATIONARY FIREFIGHTER LIST

WHEREAS, the Borough Council established a hiring list of candidates to fill any future vacancies in the fire department by Resolution 132-2008, which list expired on April 28, 2010; and

WHEREAS, the Acting Fire Chief has recommended extending the hiring list for an additional twenty-four (24) months; and

WHEREAS, the Borough Administrator has recommended that said hiring list be extended.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris in the State of New Jersey that the Fire Department hiring list described herein is hereby extended for an additional period of twenty-four (24) months, until April 28, 2012.

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R 128-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING MADISON ENVIRONMENTAL COMMISSION ANJEC SMART GROWTH PLANNING ASSISTANCE GRANT APPLICATION IN THE AMOUNT OF \$12,000.00

WHEREAS, the Madison Environmental Commission (MEC) wishes to update Madison's Environmental Resource Inventory; and

WHEREAS, updating the Environmental Resource Inventory will cost a total of \$12,000.00, of which \$3,000.00 has been donated to the MEC, and a further \$3,000.00 will be provided in "in-kind" volunteer services; and

WHEREAS, the MEC has submitted an application for the Smart Growth Planning Assistance Program to the Association of New Jersey Environmental Commissions (ANJEC), for 50% reimbursement of the total project cost of \$12,000.00, which grant application was endorsed by Resolution 86-2010; and

WHEREAS, the Director of Finance has attested that funds will be available in an amount not to exceed \$6,000.00 for this purpose from the Clean Communities Grant.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, County of Morris and State of New Jersey, that the Borough of Madison authorizes the update to the Environmental Resource Inventory for a total cost not to exceed \$12,000.00 as described herein.

R 129-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING TEMPORARY SIGNS FOR THE ARTS COUNCIL OF THE MORRIS AREA

WHEREAS, the Arts Council of the Morris Area has requested permission to put up temporary signs advertising the 27th Annual Giralda Farms Concert featuring the New Jersey Symphony Orchestra on June 27, 2010, at the Giralda Corporate Park; and

WHEREAS, the signs would be located on Woodland Road and on Route 124 outside the gates of the Giralda entrances, commencing on May 26, 2010 and removed by June 28, 2010; and

WHEREAS, the Main Street Executive Director has recommended that a temporary sign permit be issued.

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 Arts Council of the Morris Area to put up temporary signs as described herein from May 26, 2010 to June 28, 2010, is approved.

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R 130-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING EXECUTION OF AN AMENDED AND RESTATED DECLARATION OF RECIPROCAL EASEMENTS

WHEREAS, the Borough of Madison previously purchased certain real estate located in the Borough of Florham Park known as Block 1401, Lot 5.02, for use as open space and recreation; and

WHEREAS, the Borough Council by Resolution 149-2007 authorized execution of an agreement which included the purchase of Block 1401, Lot 5.02 by the Borough of Madison from Rock-Florham, LLC, which agreement set forth that the parties agreed to enter into an amended Declaration of Reciprocal Easements (hereinafter DRE); and

WHEREAS, the property was purchased subject to the existing DRE with the agreement of the parties to amend same; and

WHEREAS, the purchase of the property on the terms set forth in the contract was authorized by Ordinance 4-2008 and Ordinance 72-2008 of the Borough of Madison; and

WHEREAS, the parties have negotiated the amendments to the DRE as set forth in an Amended and Restated Declaration of Reciprocal Easements; and

WHEREAS, the Amended and Restated Declaration of Reciprocal Easements provides among other things for the relocation of the gate owned by Rock-Florham, LLC, from Ridgedale Avenue to the inside border of its property, and the construction of a parking lot/turnaround on said Block 1401, Lot 5.02, which parking lot shall belong to and be utilized by the Borough of Madison and for which Rock-Florham, LLC and the Borough of Madison will reimburse Rock-GW, LLC for part of the cost of construction of said parking lot, subject to an appropriation ordinance being adopted for said cost.

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 execute the Amended and Restated Declaration of Reciprocal Easements in accordance with the terms of the purchase of said property as described above, with the Madison share of the parking lot construction costs being subject to an appropriation ordinance, the Amended and Restated Declaration of Reciprocal Easements to be in a form approved by the Borough Attorney.

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R 131-2010 RESOLUTION OF THE BOROUGH OF MADISON ACCEPTING A GRANT FROM THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND PUBLIC ENTITY PROGRAM THROUGH THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY AND THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

WHEREAS, the Borough of Madison has applied for and has been awarded a grant in the amount of \$85,166.00 from the Hazardous Discharge Remediation Fund Municipal Grant Program through the Department of Environmental Protection and the New Jersey Economic Development Authority for the remedial investigation along with report preparation of the Orchard Street property;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison that the above referenced grant is hereby accepted and the Mayor of the Borough of Madison is hereby authorized to execute grant documents as an authorized representative thereunder, as the representative for the Borough of Madison.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the New Jersey Economic Development Authority.

R 132-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING ANNEXATION OF BLOCK 1401, LOT 5.02 AS CURRENTLY SHOWN ON THE TAX MAP OF THE BOROUGH OF FLORHAM PARK

WHEREAS, the Borough of Madison purchased approximately 49 acres in Florham Park from Rock-Florham, LLC, pursuant to an agreement entered into between the Borough of Madison, Rock-GW, LLC, Rock-Florham, LLC, and the Borough of Florham Park dated December 24, 2007; and

WHEREAS, said agreement provided, among other things, that the Borough of Madison would annex said property, now known as Block 1401, Lot 5.02, as well as annexing the adjoining tax Block 1503, Lot 1, owned by the Madison Board of Education and located in the Borough of Florham Park; and

WHEREAS, the final subdivision of Block 1401, Lot 5.02 was recently filed; and

WHEREAS, the Council wishes to commence proceedings to complete said annexation as described herein; and

WHEREAS, the Council wishes to authorize the Mayor and the Borough Attorney to execute said documents as required to notify the Borough of Florham Park and the Madison Board of Education of such requests.

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 Borough

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Attorney is authorized to bring proceedings to take such action as is necessary for the annexation of Block 1401, Lot 5.02 and Block 1503, Lot 1 into the Borough of Madison as provided by law, and the Mayor and the Borough Attorney are authorized to execute such documents as are required for said annexation.

INVITATION FOR DISCUSSION (2 of 2)

Council President Tsukamoto opened the meeting to the public for their opportunity to ask questions and make comments on any subject. The Council President 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.**

Tim Harrington, Cross Gates Road, noted concern regarding Madison Police Officers assigned to road reconstruction projects. Mr. Harrington noted that municipal employee salaries should be available on the Borough of Madison website. Mr. Harrington raised concern for growing debt to fund various projects.

Robert McDowell, Knollwood Avenue, asked if any response has been received from the Borough of Chatham regarding reconstruction of Brooklake Road. Mr. Codey explained that there is a verbal agreement from the Borough of Chatham for a \$70,000.00 reimbursement and that Chatham will provide a right of access for the Borough of Madison to pave their portion of the roadway.

UNFINISHED BUSINESS - None

APPROVAL OF VOUCHERS

On motion by Mr. Conley, seconded by Ms. Baillie 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.

| | |
|----------------------------|-----------------------|
| Public Safety | \$19,612.86 |
| Health & Public Assistance | 4,314.10 |
| Public Works & Engineering | 149,020.47 |
| Community Affairs | 20,145.47 |
| Finance & Borough Clerk | 5,175,425.00 |
| Utilities | <u>18,671.35</u> |
| Total | <u>\$5,387,189.25</u> |

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

Yeas: Ms. Baillie, Mr. Conley, Mrs. Tsukamoto, Mr. Cerciello, Mr. Links

Nays: None

Absent: Dr. Esposito

NEW BUSINESS - None

ADJOURN AND RECONVENE EXECUTIVE SESSION

There being no further business to come before the Council, the meeting was adjourned at 9:35 p.m. and the Executive Session immediately reconvened.

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RECONVENE AND ADJOURN

The Regular Meeting reconvened at 11:00 p.m. and immediately adjourned.

Respectfully submitted,

Elizabeth Osborne
Borough Clerk
Approved May 24, 2010 (EO)