

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

February 24, 2020 - 7 p.m.

CALL TO ORDER

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 24th day of February, 2020. Mayor Conley 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 transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of the Hartley Dodge Memorial, and filing a copy in the office of the Clerk, all on January 10, 2020. This Notice was made available to members of the general public.”

ROLL CALL

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

Mayor Robert H. Conley

Council Members:

Carmela Vitale

Maureen Byrne

John F. Hoover

Debra J. Coen

Rachel F. Ehrlich

Absent: Astri J. Baillie, excused

Also Present:

Raymond M. Codey, Borough Administrator

James E. Burnet, Assistant Borough Administrator

Elizabeth Osborne, Borough Clerk

Matthew J. Giacobbe, Esq. Borough Attorney

AGENDA REVIEW

There was approval of the Regular and Executive Agenda.

READING OF CLOSED SESSION RESOLUTION

Ms. Byrne moved:

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

MINUTES FOR APPROVAL (1)

February 10, 2020

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

CONTRACT MATTERS (2)

AFFORDABLE HOUSING UPDATE

ELECTRIC POWER PURCHASE

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

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PERSONNEL MATTERS (4)
SETTLEMENT AGREEMENT
DEPUTY COURT ADMINISTRATOR
SIDEWALK SWEEPER
TAX ASSESSOR

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

Seconded: Mr. Hoover
Vote: Approved by voice vote

RECONVENE IN COUNCIL CHAMBER

Mayor Conley reconvened the Regular Meeting at 8 p.m. in the Council Chamber with all members present. The Pledge of Allegiance was recited by all. Mayor Conley asked for a moment of silence for the passing of five Madison residents; Alfred Garreffa, Carmela Tribune, William Easton, Theodore Bruns and Alan Beaman

APPROVAL OF MINUTES

Ms. Byrne moved approval of the *Executive Minutes of February 10, 2020*. Mr. Hoover seconded the motion, which passed with a unanimous voice call vote recorded.

Ms. Byrne moved approval of the *Regular Meeting Minutes of February 10, 2020*. Mr. Hoover seconded the motion, which passed with a unanimous voice call vote recorded.

GREETINGS TO PUBLIC

Mayor Conley made the following comments:
Mayor Conley noted an additional meeting to be held March 2, 2020 at 7:00 p.m. to continue discussion of the 2020 Municipal Budget. Mayor Conley provided an update on a meeting of the South East Morris County Mayors regarding the Columbia Turnpike intersection at Park Avenue, noting more development in the area.

REPORTS OF COMMITTEES

Finance and Borough Clerk

Mrs. Vitale, Chair of the Committee, joined the Council meeting after Reports.

Public Safety

Ms. Baillie, Chair of the Committee, absent, excused.

Public Works and Engineering

Ms. Byrne, Chair of the Committee, made the following comments:
For the Finance Department, tonight will be the seventh discussion regarding the 2020 municipal budget, including reports from Borough Department Heads. Reports will include accomplishments and goals, as well as 2020 capital needs. A Special Budget hearing will be held Monday March 2nd. All budget presentation will be on the Borough's website. Engineer/Public Works reports that bid openings for the 2020 Road Improvements (Albright Circle and Beverly Road) and Glenwild Road Reconstruction will be held March 19th. Matina Construction continues site improvement at new Recycling Center. The Police Range Building bids have a scheduled bid opening on February 27th and the Dodge Field Playground Building

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bid opening is scheduled for March 12th. Fencing for the dog park has been initiated by GM Fence. In anticipation of the June 2nd Primary Election, the filing Deadline for Nomination Petitions for County Committee Member as well as Municipal Office is March 30, 2020. Forms are available in the Borough Clerk's Office Voter Registration forms (as well as Mail in Ballot applications) are also available in the Borough Clerk's office or on line at morriselections.org Reminder - Pet licenses are due now before February 29th. \$15 annual fee, need up to date rabies vaccine

Community Affairs

Mr. Hoover, Chair of the Committee, made the following comments:
The Senior Citizen Advisory Committee, help distribute 150 reusable shopping bags collected for seniors. The committee has three new members. And the last regularly scheduled meeting held at the Rexford Tucker apartments was well attended. May Day in Madison is scheduled for Saturday, May 2. Donation envelopes will be included in the March utility bills. The T-shirt art contest information will be distributed to the schools this week. If you'd like to volunteer, please email ddc@rosenet.org. From the Chamber of Commerce, Breakfast with the Mayor. Tuesday, March 10, 7:45 am at the Museum of Early Trades & Crafts, \$15 per person. Full hot breakfast catered by Bagel Chateau Madison. The Taste of Madison is Monday, March 23 at Brooklake Country Club. The committee is still seeking sponsorships. Tickets are currently available for pre-sale at TasteofMadison.org or at Gary's Wine & Marketplace. The Madison Community Arts Center events include the Rio Clemente Concert on February 17th sold out. In addition to the quartet, the performance included a color guard. Many members of the Jersey Jazz Society were in attendance, Mind Your Body, a Madison based business, rented the arts center Sunday, February 23 for their dance showcase, "We Got Love." The Recreation Advisory Committee hopes to have spring sports on the fields early this year due to a lack of winter weather.

Health

Ms. Coen, Chair of the Committee, made the following comments:
Ms. Coen reported that the annual influenza season official ends March 31st. Coronavirus cases are increasing worldwide, with no confirmed cases in New Jersey. Radon kits are available at the Madison Health Department. A Joint replacement seminar was held at the Rexford Tucker Apartments on February 6th. The next schedule Board of Health meeting is march 24th at the Health Department.

Utilities

Ms. Ehrlich, Chair of the Committee, made the following comments:
On February 11, 2020, the Madison Police Department received a grant in the amount of \$3,018.04 to offset the cost of body armor replacement for our officers whose body armor is approaching expiration. The life expectancy of a vest is approximate 5 years. On March 14, 2020 Madison Police will be assisting the Morristown Police Department with assets for their St. Patrick Day events. This interagency cooperation is part of a Region 4 deployment for the Morris County Regional Emergency Deployment System (MCREDS). On Tuesday, February 11th, the Fire Department responded to a residential structure fire on Bee Meadow Parkway in Whippany. There were no injuries. The home was unoccupied at the time of the fire. The cause of the fire is believed to be improperly discarded rags from the floors being refinished earlier in the day. On Thursday, February 20th Madison Fire, Police and EMS were dispatched to a serious car accident at the intersection of Hillcrest and Green Village Road. The occupant of one of the vehicles had to be extricated by the Fire Department. Units were on scene for about 1.5 hours. The Madison Fire Department is need of Volunteer Firefighters. If you

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are a Madison resident, or live within 2 miles of our borders, are between the ages of 18 and 40 years old and in good physical and mental health please consider joining the fire department. For the Water Department, on Wednesday, Feb. 12, the Water Department responded to a call from a resident on Oxford Lane. The resident stated that there was water seeping out of a Water Cap at the intersection of Oxford Lane and Buckingham Drive. After the leak was excavated, it was determined that a 6" Water Main Valve was leaking. Repairs were made to the Valve with no interruption of service and before it became a potential hazard.

Mrs. Vitale joined the Council meeting at 8:30 p.m.

COMMUNICATIONS AND PETITIONS

The Borough Clerk announced receipt of the following communications:

Email dated February 24, 2020, John McGrath, West End Avenue, opposing the proposed tree protection ordinance.

Email dated February 24, 2020, Kate Ronson, Highland Avenue, supporting the proposed tree protection ordinance.

Email dated February 22, 2020, Ann Matlock, Madison Avenue, supporting the proposed tree protection ordinance.

Email dated February 22, 2020, Chris Schorr, Shadylawn Drive, supporting the proposed tree protection ordinance.

Email dated February 21, 2020, Alison Hock, Woodland Road, opposing the proposed tree protection ordinance.

INVITATION FOR DISCUSSION (1 of 2)

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

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

AGENDA DISCUSSIONS

02/24/2020-1 BUDGET HEARING – DEPARTMENT HEADS

Mayor Conley reminded residents that the full details of the proposed budget and presentation is available on the Borough's website. Lynn Favereau, Director of the Madison Public Library presented strategic goals for the library for 2020 including application for the NJ Construction Bond Act grant. Director of the Madison Health Department Michael Fitzpatrick addressed the Council, proving Health Department tasks and goals for next year including implementation and enforcement of the plastic bag ban ordinance. Fire Chief Louie DeRosa noted that the Fire Department will celebrate their 139th anniversary, as well as 2019 statistics and accomplishments and 2020 goals. Chief DeRosa noted the lack of volunteers and asked that anyone interested contact the Fire Department. Construction Official Russ Brown provide statistic on permits and inspections. Borough Engineer Robert Vogel noted 2019 accomplishments including completed road and sewer projects

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and trails at Summerhill Park. Mr. Vogel explained 2020 projects for reconstruction and milling and overlay and development of plans and specifications for the 2021 Road, Water Main, Sewer Main and other infrastructure project.

02/24/2020-2 SOLAR ENERGY SYSTEMS

Mayor Conley explained a proposed ordinance to regulate solar energy installation in an organized manner, noting the introduced ordinance will go to the planning board for review.

Ordinance 6-2020 is listed for Introduction.

ADVERTISED HEARINGS

The Clerk made the following statement:

Ordinances scheduled for hearing tonight were submitted in writing at a Regular meeting of the Mayor and Council held on January 27, 2020 and February 10, 2020, 2020, were introduced by title and passed on first reading, were published in the Madison Eagle and made available to members of the general public requesting same.

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

**ORDINANCE 3-2020
AN ORDINANCE OF THE GOVERNING BODY OF THE BOROUGH OF
MADISON AMENDING THE CODE OF THE BOROUGH OF MADISON TO
ADD A NEW CHAPTER 178 ENTITLED "TREE PROTECTION"**

WHEREAS, the Governing Body of the Borough of Madison has determined that one of the Borough's characteristics that has made it an attractive and welcoming community are its tree lined streets and tree canopy; and

WHEREAS, the Governing Body of the Borough of Madison has determined that the preservation, protection, maintenance and controlled removal of certain trees is essential to the health, safety, economy and general welfare of the Borough; and

WHEREAS, The New Jersey Shade Tree and Community Forestry Assistance Act,

N.J.S.A. 13:1L-17.1 et. seq. provides that shade trees and forests are a necessary and important part of community and urban environments, and are critical to the environmental, social and economic welfare of the State; and

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WHEREAS, the protection and preservation of trees has been found by the New Jersey Courts to unquestionably affect the public interest.

NOW, THEREFORE, be it ordained by the Governing Body of the Borough of Madison, County of Morris, State of New Jersey, as follows:

SECTION 1: The Code of the Borough of Madison is hereby amended to add a new Chapter 178, which shall read as follows:

"Chapter 178, Tree Protection"

§ 178-1. Findings of Fact

The Borough Council finds that indiscriminate, uncontrolled and excessive destruction and removal of trees upon lots and tracts of land within the Borough of Madison will cause increased drainage control costs, increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, decreased groundwater recharge, increased buildup of atmospheric carbon dioxide, the establishment of a heat island effect and increased dust and pollution. The singular or cumulative effect of any of the foregoing could adversely impact the character of the Borough, decrease property values, render the land unfit and unsuitable for its most appropriate use, and negatively affect the health, safety and general welfare of the Borough's residents.

§178-2. Purpose

The Governing Body desires to regulate and control indiscriminate and excessive removal of trees within the Borough and to require appropriate tree replacement.

§178-3. Definitions

The following words and expressions used in this Chapter shall have the following meanings:

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BOROUGH TREE: A tree located on land owned by the Borough or which is located on a street, highway, public place, right-of-way, Borough easement, park or parkway or within the sidewalk lines.

LIMIT OF DISTURBANCE LINE: The line on a property beyond which the natural grade and existing vegetation will not be disturbed by a construction project. It shall be indicated on a plan by a dashed line and shall include not only the area around each structure's foundation but also clearing and grading required for driveway, power, water, sewer, communications, and other installations.

DRIPLINE: A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

LANDMARK TREE: Any tree designated and identified as such by the Shade Tree Management Board (STMB) of the Borough of Madison pursuant to the standards set forth in the General Code of the Borough of Madison Chapter 45-1.

NON-BOROUGH TREE: Any tree other than a Borough tree as heretofore defined.

MUNICIPAL ARBORIST: The Administrative Officer of the Tree Protection ordinance, duly appointed by the Governing Body who shall have the following qualifications:

1. Bachelor's degree in forestry, arboriculture or horticulture from an accredited college or university, or
2. Certification as a "Certified/Licensed Tree Expert" (CTE/LTE) by the State of New Jersey, or
3. International Society of Arboriculture (ISA) Certified Arborist, and

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4. A minimum of five (5) years' experience in the planting, care and maintenance of trees.

REPLACEMENT TREE: A nursery-grown certified tree marked with a durable label indicating genus, species and variety, and satisfying the standards for nursery stock and installation thereof set forth by the American Nursery & Landscape Association and guaranteed for two years. The Municipal Arborist shall publish on the municipal website a suitable species list for Replacement Trees. Any tree used in a required planting must be at least 2 ½ inches caliper in diameter and must be nursery stock, balled and burlapped and guaranteed for two years from the date of installation.

SHADE TREE MANAGEMENT BOARD: The advisory committee established by Chapter 45 of Borough of Madison Code.

SIGNIFICANT TREE: Any tree, measured 4.5 feet above the grade with a diameter of 16 inches (circumference of 50 inches) or greater, or any tree designated by the Shade Tree Management Board as a Landmark Tree.

TREE: Any deciduous or evergreen species, measured 4.5 feet above the grade with a diameter of 6 inches (circumference of 19 inches) or greater, up to a diameter of 16 inches (circumference of 50 inches).

TREE FUND: A fund established by the Governing Body only to be expended for the planting of trees in any public street, public park or public right-of-way at locations on the Tree Planting Schedule defined herein.

§178-4. Appointment of Municipal Arborist.

A Municipal Arborist shall be appointed by the Mayor and confirmed by the Council with the advice of the Shade Tree Management Board on an annual basis commencing January 1 and ending December 31. The Municipal Arborist

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shall possess the qualifications defined in Section 178-3 and shall be paid for any services authorized on behalf of the Borough in accordance with an annual fee schedule established with the Borough. The Municipal Arborist shall be prohibited from taking any action on or representing any Madison private clients while under contract with the Borough. After the selection of the Municipal arborist, the Borough shall enter into a contract with the arborist, which shall set forth the fees charged by the arborist for providing services to the Borough. The Borough's contract with the arborist shall be published with the publication of the tree inventory and tree planting schedule as provided herein.

178-5. Duties of the Municipal Arborist.

The Municipal Arborist shall be charged with performing site inspections, administration and enforcement of the tree removal and protection requirements of this Chapter, reviewing and providing written reports on development applications, attendance at the Shade Tree Management Board meetings, and the preparation, maintenance and updating of the tree inventory.

§178-6. Removal Restrictions

Subject to the exemptions set forth herein, no person shall remove or damage, or cause to be removed or damaged any tree located upon Borough-owned land, easements or right-of way without the express approval of the Municipal Arborist, unless such action is specifically exempted by the provisions of this Chapter.

§178-7. Tree Removal Permits.

A. Permit Required. A tree removal permit is required for any of the following:

- (1) Any tree 6 inches in diameter (circumference of 19 inches) or greater; or
- (2) Any removal or destruction of any Significant Tree; or

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(3) Any removal or destruction of more than 50% of standing non-Borough trees on a lot during any calendar year.

B. Exemptions.

(1) A permit is not required for removal of any Borough tree directed to be removed by the Borough of Madison, County of Morris or State of New Jersey.

(2) Any property owner shall be permitted to remove two (2) non-significant trees on their property within any (24) month period without applying for a tree removal permit.

C. Permit Application. Applications for a permit shall be made to the Municipal Arborist on forms provided for this purpose in the Land Use Department and shall contain the following information:

(1) The name and address of the owner of the property from which the trees are to be removed.

(2) The name and address and phone number of the applicant. Where the applicant is not the property owner, written consent of the property owner is required.

(3) A development plan of the property or diagram that shall contain the following information:

(a) A description of the premises where removal is to take place, including lot and block numbers and street addresses as assigned.

(b). An indication of all trees to be removed, specifically by an assigned number, the species and diameter of each tree with a diameter of six (6) inches or more.

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- (c) An indication of all trees to remain and proposed Replacement Trees, if any, including their size and species specifically by an assigned number.
 - (d) Any other information which may reasonably be required to enable the application to be properly evaluated including, but not limited to, a description of the purpose for which this application is to be made; e.g. scenic improvements, hardship, danger to adjacent properties, removal of diseased or damaged trees, transplanting or removal in a growing condition to other locations, installation of utilities, drainage of surface water, or other pertinent information.
- (4) Any removed tree that requires a permit must be replaced on a one to one basis. If, in the discretion of the Municipal Arborist, due to available space, species of trees and/or required space between plantings, a lesser number would be appropriate, the Municipal Arborist may grant a downward adjustment.

In lieu of providing a Replacement Tree, the owner of real property must contribute \$350.00 per removed tree to the Tree Fund, with such funds to be used for tree plantings in public spaces. Each December, the Borough shall publish an inventory of trees located on public streets, public parks and public rights-of-way (“tree inventory”). The Municipal Arborist shall be required to maintain and update the tree inventory. In conjunction with the publication of the tree inventory, the Borough shall publish a schedule of trees on the tree inventory to be replaced or new tree plantings to be made on public streets, public parks or public rights-of-way in the ensuing twelve months (“tree

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planting schedule”). Trees purchased with monies in the tree fund shall be planted at locations on the tree planting schedule nearest to the site(s) that generated the remittance of monies pursuant to Section 178-12

D. The Municipal Arborist shall deny the permit if the application does not comply with this Ordinance.

E. Additional Requirements for Construction Projects.

(1) Where the removal of a tree, and/or more than 50% of the standing non-Borough trees on a lot (as defined in Section 178-3 hereof), is proposed for the construction of any building, recreation area or any structure for which a building permit is required, no building permit shall be issued until the applicant has obtained a tree permit required under this Chapter.

(2) The plan of the property submitted with the permit application shall indicate the construction disturbance line.

(3) The plan shall indicate any or all trenches for underground public utilities.

(4) Tree Protection During Construction.

All trees to be preserved are to be protected during construction using the following criteria:

a. The limit of protection shall be the dripline unless otherwise approved by the Borough Engineer or his or her designee with the advice of the Municipal Arborist.

b. Tree protection barriers shall be installed by the Applicant and approved by the Municipal Arborist and shall remain and be maintained until all construction and grading are completed and final inspection has taken place.

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- c. The protective barriers shall be independently supported fencing firmly secured and not supported by any trees and shall be a minimum of three (3) feet high.
- d. Unless the project site is constrained in such a manner that the tree protection area would encompass all usable area typically required for construction activities to proceed, in the tree protection areas, it shall be prohibited to:
 - i. Store any building material.
 - ii. Store any fill of soil.
 - iii. Store or park any equipment, including temporary toilet facilities.
 - iv. Use as a work area.
 - v. Attach any signs, wires, or other attachments to any tree.
 - vi. Exception: Tree removal equipment is permitted, but only during operations for tree removal.
- e. The provisions of Section 195-44 et. seq. of the Borough Code, Soil Erosion and Sediment Control, shall be adhered to where applicable.

F. Applications for Development

(1) All Land Development applications to the Planning Board or Zoning Board of Adjustment for development under the Borough of Madison Land Development Ordinance shall contain a demolition permit plan which, shall be prepared by an appropriately licensed professional (professional engineer, land surveyor, landscape architect, professional planner, architect,

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forester, certified arborist, certified tree expert, etcetera) showing all surface features, subsurface structures and trees proposed to be removed as part of the development.

(2) The demolition plan shall be a completeness item on the checklists for single and two-family residential applications, minor and major subdivisions and site plan applications.

(3) The Municipal Arborist shall review the development plans and provide a written report to the appropriate Land Use Board and the Applicant at least ten (10) business days prior to the scheduled meeting date. The Municipal Arborist shall be paid from the Technical Review escrow for each application pursuant to Section 195-12(B) of the Borough of Madison Land Development Ordinance.

G. Other Permit Considerations.

(1) All reasonable efforts shall be made to preserve Landmark Trees and Significant Trees including, but not limited to, relocation of planned and/or proposed infrastructure, driveways, and buildings. Removal of Landmark Trees shall require written notice to the Shade Tree Management Board.

(2) If the Municipal Arborist or certified arborist submits in writing that a tree is dead, dying, hazardous, storm damaged and /or infested with insects, a replacement tree is not required.

H. Standards.

Upon receipt of a tree removal permit application the Municipal Arborist shall inspect the site on which are located the tree or trees sought to be removed. The Municipal Arborist shall issue such permit based on any of the following factors:

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(1) Where the area where such tree or trees are located will be occupied by a building, deck, patio, pool or structure, a driveway, a roadway, a stormwater management facility, or a sewer line or other underground utility, or where the area where such tree or trees are located is within twelve (12) feet of a building or structure or within seven (7) feet of any of the other improvements set forth in this paragraph.

(2) Where a Certified Arborist recommends in writing that the proposed removal would constitute a horticulturally advantageous thinning of an existing overgrown area.

(3) Where proposed changes in the topography of the area where such tree or trees are located would require significant remediation, such as welling or construction of an aerification system, to allow the tree or trees to survive.

(4) Where the presence of the tree or trees is likely to cause hardship or will endanger the public or an adjoining property owner.

(5) Where the tree or trees are damaging a structure.

(6) Where the root system has become invasive to the extent that no other solution remains.

(7) Where the location of the tree interferes with the use of an existing outdoor pool.

I. Conflicts with Other Laws.

Notwithstanding anything in this Chapter to the contrary, no tree removal shall be permitted where prohibited by any other municipal, state or federal statute, ordinance or regulation.

J. Fees.

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(1) The application fee shall be \$25.00 for each tree to be removed. Said fee may be changed by ordinance at the discretion of the Governing Body.

(2) The permit application fee shall be waived if the tree or trees to be removed are determined by the Municipal Arborist to be dead, dying, hazardous, storm damaged, infested and/or directed to be removed by the State of New Jersey.

K. Scheduling Requirements.

(1) The Municipal Arborist shall issue an approval or a denial of a tree removal application within ten (10) business days of a complete permit application being filed.

(2) The applicant must notify the Municipal Arborist when the following events have taken place:

(a) Tree or trees to be removed shall be indicated on site with flagging tape.

(b) All tree removals are completed.

(c) For construction projects:

(i) If existing trees are within the construction zone, after required tree protection measures have been installed.

(ii) For projects that require demolition, after demolition, but prior to start of construction.

(iii) If excavation of building structures is required after excavation, prior to construction.

(iv) If trenching is required, after mark-out of all trenches.

(v) Final grade is established.

L. Permit Time Limit.

All tree removal permits shall be limited to one (1) year from date of issuance. If the approved tree removal has not occurred within one (1) year, a new permit must be applied for and is subject to the payment of new fees. If, however, the

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applicant diligently pursues other governmental approval, or if approved development is ongoing, the permit may be renewed for up to one year.

§ 178-8. Public Utilities and Public Transportation Corporations

Any public utility or public transportation corporation that maintains overhead wires, underground pipes or conduits shall review plans for pruning and/or tree removal at least two (2) weeks prior to the commencement of work with the Municipal Arborist and a representative of the Shade Tree Management Board and obtain written permission from the Municipal Arborist to proceed. Utilities and public transportation corporations may undertake emergency tree work to restore electrical, telephone, cable TV or other wire services without prior advance notice. In such event, the utility shall notify the Municipal Arborist of said work within three (3) business days of commencement. The utilities owned and operated by the Borough of Madison shall be exempt from the noticing requirements.

§178-9. Enforcement. The Municipal Arborist shall have the sole jurisdiction and responsibility to identify any violations hereunder. The Municipal Arborist shall oversee all applicable tree removal or destruction and soil removal incidental thereto. Upon ascertaining a violation of this chapter, the Municipal Arborist shall maintain all relevant documentation associated with any violation. The Municipal Arborist shall contact the owner of the property within three (3) business days to correct the violation. If such violation(s) are not resolved within 10 days, the Municipal Arborist shall issue a summons to be heard in the Municipal Court as provided in this Article. In addition to other remedies, the Borough Engineer or his/her designee or other proper municipal official may institute a stop work order to prevent a continuing violation of the terms of this chapter.

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§178-10. Violations and Penalties. Any person violating or causing to be violated any of the provisions of this chapter shall be subject to a fine of not less than \$100 and not more than \$2,000 for each offense, together with court costs.

§ 178-11. Appeals.

If an applicant or permit holder disagrees with the decision of the Municipal Arborist, as the Administrative Officer of this ordinance, they may request a meeting with the Municipal Arborist and the Shade Tree Management Board for review of the matter and/or may appeal to the Zoning Board of Adjustment regarding the decision of the Administrative Officer, as provided for in the Municipal Land Use Law.

§178-12 Payment to Tree Fund.

- A. A Tree Fund shall be established by the Governing Body to receive and disburse replacement tree contributions. Appropriations from the Tree Fund shall be authorized by the Governing Body. The purpose of the fund is to provide for the planting of replacement trees on public land. The Tree Fund will also cover administrative costs to implement plans, specifications, and bid documents for planting contracts on public lands only, in accordance with the Local Public Contracts Law.
- B. All tree replacements under the ordinance codified in this Section shall be made on the actual site from which the trees were removed and shall replace each tree destroyed or removed. However, if the site in question cannot physically accommodate the total replacement amount of trees, a fee of \$350.00 per replacement tree may be paid to the Tree Fund in lieu of such replacement.

SECTION 2: SEVERABILITY. If any section, paragraph, subdivision, clause or provision of this ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this ordinance shall be deemed valid and effective.

SECTION 3: EFFECTIVE DATE. This chapter shall take effect as provided by law.

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Mayor Conley opened up the public hearing on Ordinance 3-2020.

Gene Cracovia; Barnesdale Road, provided a brief background on the formation of a tree protection ordinance and encouraged Council to adopt this evening.

Alan Sawyer; Fox Chase Road, raised objection to the proposed ordinance as written noting his concern that the ordinance is overly restrictive.

Allison Hock; Woodland Road, noted researching other tree protection ordinances and the proposed ordinance could be better written.

Tom Salaki; Fairwood Road, noted that the proposed ordinance is a beginning to protect Borough trees.

Chris Schorr; Shadeylawn Drive, offer support for the proposed tree protection ordinance.

Claire Whitcomb; Fanwood Road, spoke in favor of the tree protection ordinance noting now is the time to protect trees.

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

Ms. Byrne moved that Ordinance 3-2020, which was read by title, be finally adopted. Mr. Hoover seconded the motion. Mrs. Vitale noted introduction of a similar ordinance in 2007, agrees it is time to move forward. Ms. Coen noted support for the proposed ordinance. Mr. Hoover thanked those who worked on the proposed ordinance and suggested more work is needed. Ms. Ehrlich noted many benefits to a tree protection ordinance. There was no further Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Byrne, Ms. Coen, Mrs. Ehrlich

Nays: Mr. Hoover

Absent: Ms. Baillie

Mayor Conley declared Ordinance 3-2020 adopted and finally passed and ordered the Clerk to publish the notice thereof in the newspaper and to record the ordinance as required by law.

ORDINANCE 4-2020

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING
CHAPTER 136A OF THE BOROUGH CODE ENTITLED “PLASTIC
BAGS, SINGLE USE” PROHIBITING THE USE OF PLASTIC BAGS
AND REGULATING THE USE OF PAPER BAGS BY RETAIL
ESTABLISHMENTS WITHIN THE BOROUGH OF MADISON**

WHEREAS, the Borough Administrator has recommended revision of Chapter 136A of the Borough Code Entitled: “Plastic Bags, Single Use”; and

WHEREAS the Borough Council has determined to revise Chapter 136A of the Borough Code.

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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: Chapter 136A of the Borough Code entitled “Plastic Bags, Single Use” is hereby amended as follows, additions in **bold**, omissions as ~~strike~~ through:

Chapter 136A. PLASTIC BAGS, SINGLE USE

Section 1. Chapter 136A (Plastic Bags, Single Use) of the Code of the Borough of Madison is hereby inserted to read as follows:

136A-1 DEFINITIONS

As used in this Chapter, the following terms shall have the meanings indicated.

....

Reusable Bag – A durable carryout bag with stitched handles for reinforcement made from any natural or synthetic materials other than plastic film, including, but not necessarily limited to, woven or nonwoven plastic or cloth, that is at least 10 mils thick, and that is specifically designated and manufactured for multiple reuse, and that is washable or is made from a material that can be cleaned or disinfected regularly.

....

136A-2: USE PROHIBITED; EFFECTIVE DATE

- A. Effective March 1, 2020, no retail establishment shall provide to any customer, or to any person, a single use plastic carry-out bag, as defined in **Section 136A-1**. This prohibition applies to bags provided for the purpose of carrying goods away from the point of sale and does not apply to product bags or produce bags used to carry product(s) or produce within the retail establishment to the point of sale. The prohibition applies to single use plastic carry-out bags used for take-out deliveries from retail establishments within the Borough of Madison. The point of sale in such transactions is deemed to be at the retail establishment, regardless of where payment for the transaction physically occurs.

136A-3: MANDATORY FEE; EFFECTIVE DATE

- A. Effective March 1, 2020, all retail establishments shall make available to customers, upon request by the customer, one of the following types of bags for the purpose of carrying goods or other materials away from the point of sale, subject to the provisions of this Ordinance: **a reusable bag as defined herein or**, a paper bag, for a fee of .10 (ten cents) per bag. The fee charged shall be reflected in the sales receipt and shall be subject to applicable tax.

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The fee charged shall be retained by the retail establishment.

B. The following paper bags provided by operators of retail establishments shall be exempt from the .10 (ten cent) fee:

(5) Bags that contain pharmacy prescriptions and medicinal products; ~~or~~

(6) Bags that function as "produce bags" or "product bags," which shall mean bags used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or, for reasons of public health and safety, to prevent such food items from coming into direct contact with other purchased items; **or**

(7) Paper bags provided by retail establishments with ten or fewer employees.

136A-4: PROMOTION OF REUSABLE BAGS

(F) Nothing in this Ordinance shall prohibit a retail establishment from offering for sale reusable bags, as defined above.

....

136A-6: ENFORCEMENT / PENALTIES

....

(F) The Madison Health Officer and/or his/her designee is hereby empowered to utilize discretion in providing administrative exceptions regarding the implementation and enforcement of the provisions herein.

Section 2: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 3: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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Section 4: EFFECTIVE DATE

This Ordinance shall take effect immediately after passage and publication as provided by law.

Mayor Conley opened up the public hearing on Ordinance 4-2020.

Clair Whitcomb; Fanwood Road; spoke in favor of the plastic bag ban noting how well banning plastic bags has worked in other communities.

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

Ms. Byrne moved that Ordinance 4-2020, which was read by title, be finally adopted. Mr. Hoover seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Ms. Baillie

Mayor Conley declared Ordinance 4-2020 adopted and finally passed and ordered the Clerk to publish the notice thereof in the newspaper and to record the ordinance as required by law.

**ORDINANCE 5-2020
ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING
\$40,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR
ADDITIONAL DESIGN CHANGES TO THE RECYCLING CENTER
CONSTRUCTION PROJECT**

WHEREAS, Ordinance 34-2019 and Ordinance 46-2019 appropriated a total of \$210,000.00 from the General Capital Improvement Fund for the Department of Public Works Recycling Center project; and

WHEREAS, the Assistant Borough Engineer has recommended that the Borough appropriate an additional \$40,000.00 from the General Capital Improvement Fund for additional sitework associated with design changes for the Department of Public Works Recycling Center project; and

WHEREAS, funds are available in the General Capital Improvement Fund and the availability of funds has been certified by the Chief Financial Officer; and

WHEREAS, the Borough Council has determined that the Borough should appropriate an additional \$40,000.00 from the General Capital Improvement Fund for the Department of Public Works Recycling Center project.

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:

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SECTION 1: The amount of \$40,000.00 is hereby appropriated from the General Capital Improvement Fund for the Department of Public Works Recycling Center project.

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.

Mayor Conley opened up the public hearing on Ordinance 5-2020. Since no member of the public wished to be heard, the public hearing was closed.

Ms. Byrne moved that Ordinance 5-2020, which was read by title, be finally adopted. Mr. Hoover seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Ms. Baillie

Mayor Conley declared Ordinance 5-2020 adopted and fully passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

INVITATION FOR DISCUSSION (2 of 2)

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

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

Stephen Stocker; Park Avenue, raised concern regarding the proposed tree protection ordinance noting a permit should be required for tree removal at any size.

Johanna Habib; Central Avenue, requested Council reconsider electric utility charges to the Board of Education.

INTRODUCTION OF ORDINANCES

The Clerk made the following statement:

The ordinance scheduled for introduction and first reading tonight will have a hearing during the meeting of March 9, 2020 in the 2nd Floor Council Chamber of the Hartley Dodge Memorial Building, Kings Road, in the Borough of Madison at 8 p.m., or as soon thereafter as practical, for further consideration and final adoption. Said ordinance will be published in the Madison Eagle, be posted at the main entrance to the Borough offices and be made available to members of the public requesting same, as required by law.

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

ORDINANCE 6-2020 ORDINANCE OF THE BOROUGH OF MADISON
ESTABLISHING CHAPTER 195-36.1 OF THE MADISON LAND DEVELOPMENT
ORDINANCE, ENTITLED "SOLAR ENERGY SYSTEMS"

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WHEREAS, the Borough of Madison Planning Board has recommended that the Madison Land Development Ordinance Section 195-36.1 be established to regulate solar energy facilities and structures; and

WHEREAS, the Borough Council has determined to adopt such amendment.

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

SECTION 1: Chapter 195 of the Madison Land Development Ordinance, entitled “Land Development”, Section 195-36.1 entitled “Solar Energy Systems” is hereby established as follows:

§ 195-36.1 Purpose; Add new section 195-36.1. Solar Energy Systems.

A. The purpose of this ordinance is:

- 1) To amend and supplement the Land Development Code of the Borough of Madison to regulate solar photovoltaic energy facilities and structures and balance the objective of providing reasonable opportunities for on-site solar or photovoltaic electric generation for on-site electricity consumption with protection of the natural and built environment.
- 2) To promote the conservation of energy through the use of planning policies and practices designed to reduce energy consumption and to provide for utilization of renewable energy sources accessory to and directly supportive of a use permitted by Madison Land Development Ordinance.

B. Definitions.

- 1) Solar Photovoltaic Energy System, Accessory. A system of solar photovoltaic modules, panels or arrays for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating (including heat exchange systems with exterior panels), or for electricity, that:
 - a) Is located on the electric consumer’s premises;
 - b) Is designed and intended to offset part of the electric consumer’s on-site electric energy consumption; and
 - c) Is accessory, subordinate and incidental to the electric consumer’s principal use of the premises for other lawful purpose(s).
- 2) Building-Integrated Solar Energy Systems. A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems shall include photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, and skylights that do not visually differ from conventional building materials.
- 3) Ground Mounted Solar Energy System. Systems which are not mounted on existing structures. This does not include parking canopy systems.
- 4) Public View. The view by the public of a building from any point on a street or walkway which is used as a public thoroughfare, either vehicular or pedestrian.

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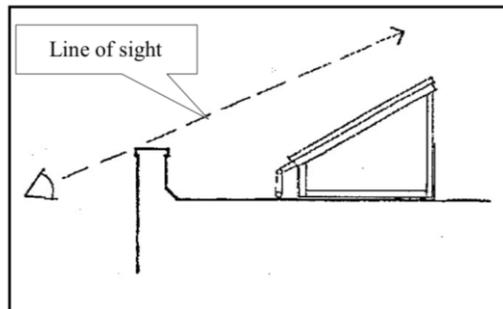
- 5) Roof Mounted Solar Energy System. A solar energy system consisting of solar collectors that are installed directly on the roof of a home, commercial building, and/or a permitted accessory structure, such as a garage, pergola, and/or shed.
 - 6) Solar Collector. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical or electrical energy.
 - 7) Solar Collector Surface. Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.
 - 8) Solar Mounting Device. Racking, frames or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
- C. Applicability. This section applies to solar energy systems to be installed and constructed after the effective date of the ordinance. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirement of this section, provided however, that any upgrades, modifications, or changes that alter the size or placement of existing solar energy systems shall comply with the provisions of this section.
- D. Permitted Accessory Use. Solar energy systems shall be allowed as an accessory use, subject to the requirements set forth within this section.
- E. General Regulations.
- 1) In order to maintain a desirable visual environment throughout Madison by preserving and promoting the small town and historical characteristics of the Borough, it is the intention of this section that the installation of solar photovoltaic energy systems be installed in as inconspicuous and unobtrusive a manner as reasonably possible.
 - 2) The design of solar systems shall conform to all applicable local, state and national solar codes and standards. A building permit review by department staff shall be obtained and all design and installation work shall comply with all applicable provisions in the National Electric Code (NEC), the International Residential Code (IRC), International Commercial Building Code, State Fire Code, and any additional requirements set forth by the local utility for grid-connected systems.
 - 3) Electrical wiring connecting solar panel arrays, system transformers, inverters, and utility service shall be installed as flush as possible on structures upon which panels are mounted or installed underground.
 - 4) All connections from solar systems to the grid shall be underground where existing electric service is underground.
 - 5) Panels shall be darkish blue, grey or other neutral color and may not include any integrated graphics.
 - 6) A power disconnect and system shut-down device accessible to emergency services personnel shall be installed and marked conspicuously with a sign, which shall identify an emergency contact person and an emergency contact telephone number. The property owner shall make the property available to local emergency first responders for annual training on power disconnect and system shut down procedures that may be required in the case of an emergency. System diagrams shall be provided to local emergency first responders upon installation and updated when alterations to the system are completed.

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- 7) Installations proposed within the Bottle Hill Historic District and Civic Commercial Historic District shall be subject to the following provisions:
 - a) Solar panels shall not alter a historic site's character defining features.
 - b) All modifications to a historic site must be entirely reversible, allowing alterations to be removed or undone to reveal the original appearance of the site.
 - c) Exposed solar energy equipment must be consistent with the color scheme of the underlying structure.
 - d) Solar installations in these historic districts shall be subject to review by the Historic Preservation Commission.
 - 8) All solar photovoltaic equipment, except for roof-mounted solar photovoltaic panels as permitted herein, shall be effectively screened from public rights-of-way, with indigenous deer resistant evergreen plantings, and, to the greatest extent feasible, shall blend with the immediately surrounding area.
 - 9) Building integrated solar energy systems may be visible from the public view and are subject only to the screening and setback requirements for supporting equipment.
 - 10) Solar collectors shall be oriented and/or screened so that any glare is directed away from any adjoining properties and streets.
 - 11) All supporting equipment shall not be located any closer than twenty feet (20') to any other building or structure, except as permitted herein.
 - 12) Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. No such signs shall exceed one square foot in area. In no case shall any identification be visible from the property line.
 - 13) No solar energy system shall be lit. Parking lots under solar canopy systems may be lighted in accordance with Borough lighting regulations.
- F. Roof mounted solar photovoltaic energy systems. Installation or construction of roof mounted solar photovoltaic energy systems shall be subject to the following requirements:
- 1) A roof mounted solar photovoltaic energy system may not be placed on any lot which does not contain a permitted principal structure. A roof mounted system may be installed upon permitted principal and accessory buildings.
 - 2) A roof mounted solar photovoltaic energy system shall serve only the lot where it is located. All supporting ancillary equipment not attached to the structure housing solar arrays shall be located in the rear yard unless evidence is provided from a solar entity that such equipment cannot be feasibly located in the rear yard location (conforming to rear yard setback as noted herein), the applicant may then place supporting equipment in alternative areas, as follows:
 - a) Fifty percent of the actual rear yard setback or a minimum of twenty (20) feet, whichever is greater.
 - b) Side yard with a minimum setback that is equal to the respective minimum zone requirements or fifty (50%) percent of the actual setback line; whichever is greater.

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- 3) Roof mounted solar photovoltaic energy system panels shall not extend above the existing height of the roof: more than 12” on structures with pitched roofs with 3% slope or greater; or from 24” to a maximum of 48” on structures with flat roofs (flat roof shall be defined as a roof pitch less than 3% slope) provided a minimum four-foot perimeter setback is provided. Roof-mounted solar energy systems shall not exceed the maximum permitted height in the zone district for the structure or building on which they are mounted. For roof-mounted solar energy systems installed on a sloped roof, the system must be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of 12 inches between the roof and highest edge or surface of the system. In no instance shall it extend above the ridge of a peaked roof.
- 4) Panels shall not overhang or otherwise extend beyond any rooftop structure.
- 5) Exterior piping associated with the roof-mounted solar energy system shall be allowed to extend beyond the perimeter of the building on any facade of an accessory structure. Where exterior cables or piping are visible from any public right-of-way, they shall be treated architecturally to blend in with the building color and materials.
- 6) No system shall cover more than 80% of the entire roof area.
- 7) No system shall be mounted to a fence.
- 8) Where parapets are in place and rooftop orientation allows, solar collectors mounted on flat roofs shall be mounted behind a building parapet, below the line of sight from the nearest edge of the right-of-way(s) adjacent to front- and street-side yards (see below Illustration).



G. Parking lot roof canopy mounted solar photovoltaic energy systems. Installation or construction of roof canopy mounted solar photovoltaic energy systems shall be subject to the following requirements:

- 1) Site plan approval is required
- 2) An applicant for a parking lot roof canopy mounted solar photovoltaic energy system shall obtain all permits required by the Uniform Construction Code.
- 3) Parking lot roof canopy mounted solar photovoltaic energy systems shall be constructed above parking spaces and shall not be located in a front yard or any area between the front façade of a principal building and the street.

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- 4) A minimum 10-foot wide buffer, consisting of plantings, fencing, berming or some combination thereof, shall be required adjacent to any residential property line to serve as a year-round buffer.
 - 5) The maximum permitted height of the system shall be twenty-two feet, as measured from the grade plane to the highest point of the mounting equipment, structure and/or panels, whichever is greatest.
 - 6) The parking lot roof canopy mounted solar photovoltaic energy system shall serve only the lot upon which it is located and may not serve any other lot either in common ownership or otherwise. All supporting equipment, such as transformers, inverters, power line interconnections, etc. shall be installed only in the rear or side yard area of any lot.
 - 7) The proposed location for all supporting equipment shall conform to the rear yard and side yard setback requirements for an accessory building or the requirements for parking setback in the zone (whichever is greater) in which the property is located (and in no case shall be located in the front yard).
- H. Ground-mounted solar photovoltaic energy systems. Where permitted, a ground-mounted solar photovoltaic energy system may be installed subject to the following requirements:
- 1) Accessory to principal permitted use.
 - 2) A ground-mounted solar photovoltaic energy system shall not be constructed on any lot which does not contain a permitted principal structure.
 - 3) A ground-mounted solar photovoltaic energy system shall serve only the permitted principal structure and permitted accessory buildings located on the tax lot upon which the energy system is located.
 - 4) Ground mounted solar photovoltaic energy systems shall require site plan approval.
 - 5) Ground-mounted systems shall be designed to minimize impacts on critical habitat areas, especially habitats of threatened and endangered species.
 - 6) Issuance of a construction permit. An applicant for a ground-mounted solar or photovoltaic energy system permit shall obtain all permits required by the Uniform Construction Code (UCC).
 - 7) Access. No new driveway access shall be created. Access shall be provided utilizing existing driveways. Any interior access road required between and among ground-mounted solar photovoltaic energy system arrays and components shall be designed as grassed roadways to minimize the extent of soil disturbance, water runoff and soil compaction.
 - 8) Maximum height. The maximum height of solar panel arrays from existing ground level shall not exceed 8 (eight) feet. System components shall not exceed the maximum permitted height for an accessory structure in the zone in which located.
 - 9) Ground mounted systems shall not be counted in the calculation of maximum impervious coverage unless the area under the panels, excluding any footings, consists of an impervious material.
 - 10) Ground mounted systems shall not exceed five (5)% of the total land area of the tract on which it is located. The area of the system shall be

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measured by the aggregate of all land on which the system is located, excluding transmission lines and subsurface elements.

- 11) Yard placement & visual buffering. All components of a ground-mounted solar photovoltaic energy system (solar panel arrays, supporting equipment including transformers, inverters, electric utility line connections, etc.) shall be installed only in yards not facing public rights-of-way and shall not be located closer to the side property line than the existing side yard/perimeter setback (whichever is greater) of the principal building upon the lot, subject to the following visual compatibility, placement and design standards.
 - a) The ground mounted system and its components shall be shielded by a minimum ten-foot wide landscaped buffer of plantings and/or plantings and berming around the perimeter of the facility. The buffer shall screen the system from view from adjoining residences, preserved open space, the public traveled way, including public rights-of-way, roads and publicly accessible trails.
 - b) Perimeter landscaped screen buffer. Landscaped screen buffer plantings shall be indigenous evergreen species for year-round screening, which shall grow to sufficient height within five (5) years to completely screen the system from off-site view. The landscaped screen buffer plantings shall be continually maintained to provide a permanent visual screen of the facility.
 - c) Where existing features may effectively serve to shield portions of the installation and its components from view, such features may be substituted for portions of the required perimeter landscaped buffer. Such features include, but are not limited to:
 - [1] Existing hedgerows or forested areas, which may be supplemented with additional plantings to achieve year-round effective visual screening of the installation and its components;
 - [2] Existing buildings, such as barns, garages, greenhouses, outbuildings, etc;
 - [3] Existing topographic features or structures such changes in elevation, ridgelines, retaining walls and similar features.
 - d) Where any of the above features may be substituted for the required perimeter landscaped buffer, such features shall be maintained for as long as ground-mounted solar or photovoltaic energy system remains on site. Where such features may be removed over time by will or act of God, the required perimeter landscaped buffer shall be provided within either two (2) months of the removal of such features.
- 12) Solar panel array ground mounting. To minimize land disturbance and facilitate future site rehabilitation, solar panel arrays shall be mounted to the ground through the use of earth screws, auger driven piers or a similar system that does not require the use of bituminous or concrete material.
- 13) Grading. The ground-mounted system and its components should be designed to follow the natural topography to the greatest extent possible to minimize the disturbance of soils.

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- 14) Soil erosion control, soil stabilization. All ground areas occupied by the ground-mounted solar photovoltaic energy system shall be planted and maintained with shade tolerant grasses for the purpose of soil stabilization. A seed mixture of native, non-invasive shade tolerant grasses shall be utilized to promote biodiversity and natural habitat.
- I. Review process.
- 1) No installation of solar energy systems shall be permitted without a zoning permit.
 - 2) For site plans, the Zoning Officer shall issue a denial of zoning permit and shall refer the application to the Planning Board for review.
 - 3) In the event that an application is made pursuant to the terms of this article for premises that are located in the Bottle Hill or Civic Commercial Historic District, approval must be obtained from the Madison Historic Preservation Commission (HPC). Applicants shall submit plans to the Zoning Officer for review, and, if appropriate, a zoning permit may be issued, conditioned upon HPC review and approval.
- J. Decommissioning, removal, restoration. All ground mount or parking lot canopy solar photovoltaic energy systems shall be maintained in continuous operation. A decommissioning plan shall accompany all applications for ground-mounted or parking canopy systems.
- 1) Solar photovoltaic energy facilities and structures (roof or ground) which have not been in active and continuous service for a period of eighteen (18) months shall be decommissioned and removed from the property to a place of safe and legal disposal.
 - 2) Upon cessation of activity and as part of decommissioning any ground-mount or parking lot canopy system, the Applicant shall submit a performance bond in a form and manner satisfactory to the Borough Engineer to ensure availability of adequate funds to restore the site to a useful condition. The Applicant shall further:
 - a) Deactivate, disconnect and remove all structures, unless otherwise noted herein.
 - b) Restore the surface grade and soil after removal of aboveground structures and equipment, including but not limited to removal of all components of the system including footings.
 - c) Replace soil, as necessary, within the top 12 inches of the soil profile, which shall be comprised of topsoil meeting the texture of loam as described in the USDA soil classification system, and the pH shall be in the range of 6.5 to seven. Tests shall be reviewed and approved by the Borough.
 - d) Decompact land where necessary to promote healthy plant growth prior to installation of topsoil and vegetation. Tests shall be reviewed and approved by the Borough.
 - e) Restore soil areas with native grasses, agricultural crops or plant species suitable to the area and which do not include any invasive species.
 - f) Provide quantity takeoffs, unit prices and overall cost estimates for decommissioning in current dollars.
 - g) Provide for the retention of buffers and plantings.

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- h) Restore parking areas and their surfaces for any parking under decommissioned canopy solar installations.
 - 3) If the property owner fails to remove the system and restore the system in accordance with the decommissioning plan, the Borough may perform the work in place of the owner. All costs incurred by the Borough in connection with the same shall be a lien on the property upon which the work is performed. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.
 - 4) The Borough of Madison expressly reserves the right to require the removal of any solar energy system, or portion thereof, which is improperly constructed or maintained or which poses an imminent safety hazard. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.
- K. Permitted Accessory Solar Energy Systems.
 - 1) Building integrated systems are permitted as accessory uses in all zoning districts.
 - 2) Roof mounted systems are permitted as accessory uses in all zoning districts.
 - 3) Parking lot canopy systems are permitted accessory uses in the following districts in the rear yard only as regulated herein:
 - a) R-5 District
 - b) R-5A District
 - c) CC District
 - d) OR District
 - e) PCD-O District
 - f) Gateway District
 - g) P District
 - h) OSGU District
 - i) University District
 - 4) Ground mounted systems shall be permitted as accessory uses only in the PCD-O and OSGU Districts, upon finding by the reviewing Board that rooftop and/or parking lot canopy systems are not reasonably feasible due to specific site/building conditions.
 - 5) Additional Submission Requirements. In addition to the application requirements in all applicable construction codes and the Borough Land Use Ordinance, all applications for solar energy systems shall be accompanied by a property survey showing the proposed location or locations of the solar energy system and distance from property lines. In addition, photographs showing the property from the public view, and the location of the proposed solar energy system, must be submitted so as to determine compliance with the visibility and other provisions of this ordinance.

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L. Abandonment.

- 1) Where a solar energy system is out of service for a continuous eighteen-month period, there shall be a rebuttable presumption that the system has been abandoned.
- 2) The Borough may issue a notice of abandonment to the owner of a renewable energy system that is deemed to have been abandoned. The notice shall be sent return receipt requested.
- 3) The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date.
- 4) If the owner provides information that demonstrates the renewable energy system has not been abandoned, the Borough shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn.
- 5) If the Borough determines that the renewable energy system has been abandoned, the owner of the renewable energy system shall remove the renewable energy system and properly dispose of the components at the owner's sole expense within six months after the owner receives the notice of abandonment.
- 6) In the event that the owner fails to remove the renewable energy system, the Borough or its employees or contractors may enter the property to remove the renewable energy system (but shall not be obligated to remove the same), and in the event that the Borough performs the removal, all costs of such removal shall be reimbursed to the Borough by the owner. In the event the owner fails to reimburse the Borough, the Borough may place a lien on the property in the amount of the costs of said removal. In the event that the Borough incurs any additional costs in enforcing the lien or collecting the money owed, the owner shall be obligated to reimburse the Borough for the additional costs and expenses, including reasonable attorneys' fees.

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

Mrs. Vitale moved that Ordinance 6-2020, which the Borough Clerk read by title, be adopted. Ms. Byrne seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Ms. Baillie

CONSENT AGENDA RESOLUTIONS

The Clerk made the following statement:

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

Mrs. Vitale moved adoption of the Resolutions listed on the Consent Agenda. Ms. Byrne seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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Yeas: Mrs. Vitale, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Ms. Baillie

R 85-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING ACCEPTANCE OF SETTLEMENT AGREEMENT

WHEREAS, certain matters have arisen pertaining to S.M.'s employment with the Borough of Madison ("Borough"); and

WHEREAS, S.M. has agreed to a Settlement Agreement and Release and executed same on February 18, 2020; and

WHEREAS, the Borough Council has reviewed the Settlement Agreement and Release and seeks to accept and agree to the terms of same.

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

1). The Borough hereby accepts and ratifies the terms and conditions of the Settlement Agreement and Release executed by S.M. on February 18, 2020; and

2). The Borough hereby authorizes the Mayor to execute the Settlement Agreement and Release; and

3). That this resolution shall take effect immediately.

R 86-2020 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING BRYANNA BREA TO THE POSITION OF DEPUTY COURT ADMINISTRATOR

WHEREAS, the Morris County Superior Court Assignment Judge, Personnel Director/QPA and Joint Municipal Court Administrator have recommended that Bryanna Brea be appointed to the position of Deputy Court Administrator; and

WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that Bryanna Brea is hereby appointed to the position of Deputy Court Administrator of the Madison, Chatham, Harding and Morris Township Joint Municipal Court to be compensated at \$47,000.00 annually, with a six (6) month probationary period.

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R 87-2020 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING CHRISTOPHER DEROSA TO THE POSITION OF SIDEWALK SWEEPER

WHEREAS, the QPA/Personnel Director recommends the appointment of Christopher DeRosa to the part-time position of Sidewalk Sweeper effective February 25, 2020; and

WHEREAS, the Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison in the County of Morris and State of New Jersey, that Christopher DeRosa is hereby appointed to the part-time position of Sidewalk Sweeper effective February 25, 2020; and

BE IT FURTHER RESOLVED, that Christopher DeRosa be compensated at the hourly rate of \$14.00 per hour.

R 88-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING THE USE OF PUBLIC WORKS GARAGE PROPERTY FOR A TOWN SWAP EVENT ON APRIL 25, 2020

WHEREAS, the Madison Environmental Commission has requested permission to use Public Works Garage property on Saturday, April 25, 2020, between the hours of 9:00 a.m. and 12:00 p.m. for a public Town Swap event; and

WHEREAS, the Director of Public Works has recommended that such permission be granted; and

WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Madison Environmental Commission, along with the Department of Public Works, is hereby given permission to hold a public Town Swap event at Public Works Garage property, on Saturday, April 25, 2020, between the hours of 9:00 a.m. and 12:00 p.m. subject to such safety requirements as may be directed by the Madison Police Department and/or Fire Department.

R 89-2020 RESOLUTION OF THE BOROUGH OF MADISON CONFIRMING CHANGE ORDER #1 TO MATINA & SONS, INC. FOR THE MADISON DPW RECYCLING CENTER IMPROVEMENTS PROJECT

WHEREAS, the Assistant Borough Engineer has advised the Borough Council that additional work for the Madison Recycling Center Construction project is necessary to construct material storage bins; and

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WHEREAS, the Council wishes to authorize disbursement of Payment #1 in the amount of \$35,010.00 for this additional work; and

WHEREAS, the Chief Financial Officer has confirmed that adequate funds for this purpose are contained in Ordinances 34-2019 and 46-2019 (C-04-57-203-602).

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that payment in the amount of \$35,010.00 to Matina & Son, Inc., for the Madison DPW Recycling Center Improvements project is approved.

R 90-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING THE SALE OF SURPLUS PROPERTY OF THE BOROUGH NO LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

WHEREAS, the Borough of Madison has determined that surplus property on the attached schedule is no longer needed for public use; and

WHEREAS, the Borough of Madison intends to utilize the online auction services of Municibid to auction the surplus property.

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 is hereby authorized to sell the surplus property as indicated on an online auction website entitled Municibid.com; and

BE IT FURTHER RESOLVED that the terms and conditions of the State Contract T-2581/Vendor ID V00018618 for online auction services is available in the Borough Clerk's office; and

BE IT FURTHER RESOLVED that a certified copy of the within Resolution be forwarded by the Borough Clerk to the State of New Jersey Division of Local Government Services.

R 91-2020 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLE LICENSE APPLICATION SUBMITTED BY PTSO MADISON HIGH SCHOOL

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

PTSO MADISON HIGH SCHOOL

I.D. NO. 274-5-33795

R.A. No. 1500 Off-premise 50/50

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UNFINISHED BUSINESS - None

APPROVAL OF VOUCHERS

On motion by Mrs. Vitale, seconded by Ms. Byrne 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.

Current Fund	\$6,526,628.22
General Capital Fund	39,301.50
Electric Operating Fund	656,180.29
Electric Capital Fund	43,905.04
Water Operating Fund	17,893.09
Water Capital Fund	0.00
Trusts	<u>71,515.30</u>
Total	<u>\$7,355,423.44</u>

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

Yeas: Mrs. Vitale, Ms. Byrne, Mr. Hoover, Ms. Coen, Mrs. Ehrlich

Nays: None

Absent: Ms. Baillie

NEW BUSINESS

Mayor Conley announced the following appointment and requested Council confirmation:

UTILITY ADVISORY COMMITTEE

Jeffrey Kerr, 43 Dean Street, three-year term through December 31, 2022.

Mrs. Vitale moved confirmation of the foregoing appointments. Ms. Byrne seconded the motion, which passed with a unanimous voice call vote recorded.

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 10:45 p.m.

Respectfully submitted,

Elizabeth Osborne
Borough Clerk
Approved March 30, 2020 (EO)