

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

**August 13, 2007 – 7:00 p.m.**

**Call to Order**

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 13<sup>th</sup> day of August 2007. Mayor Kerkeslager called the meeting to order at 7:00 p.m. in the Committee Room of the Hartley Dodge Memorial, Kings Road, in the Borough of Madison.

**Statement in Compliance with the Open Public Meetings Act**

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

"In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by publishing a copy of the meeting notice in the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of the Hartley Dodge Memorial, and filing a copy in the office of the Clerk, all on January 4, 2007. Copies of said Notice were made available to members of the general public."

**Roll Call**

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

Mayor Ellwood R. Kerkeslager

Council Members:

Mary-Anna Holden

Astri J. Baillie

Donald J. Bowen

Carmela Vitale

Robert H. Conley

Absent: John M. Elias, excused

Also Present:

Joseph Mezzacca, Jr., Borough Attorney

Marilyn Schaefer, Borough Clerk

Raymond M. Codey, Acting Administrator

**AGENDA REVIEW**

One Personnel Matter, two Contract Matters and one Potential Litigation Matter were added to the Executive Agenda; discussion E9 Personnel Matter was removed from the Executive Agenda.

***Reading of Closed Session Resolution***

Mrs. Holden moved:

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

**EXECUTIVE SESSION MINUTES (1)**

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

**PERSONNEL MATTERS (6)**

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

**CONTRACT MATTERS (5)**

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

**POTENTIAL LITIGATION MATTER (1)**

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

Seconded: Mrs. Vitale

Vote: Unanimous voice vote of members present

***Reconvene in Council Chamber***

Mayor Ellwood R. Kerkeslager reconvened the Regular Meeting at 7:50 p.m. in the Council Chamber with all members present, except for Mr. Elias, who was absent and excused. The Pledge of Allegiance was recited by all.

***APPROVAL OF MINUTES***

Mr. Conley moved approval of the ***July 23, 2007 Regular Meeting Minutes***. Ms. Baillie seconded the motion, which passed by voice vote of members present, with Mrs. Vitale abstaining and Mr. Elias absent.

Ms. Baillie moved approval of the ***July 23, 2007 Executive Minutes***. Mr. Conley seconded the motion, which passed by voice vote of members present, with Mrs. Vitale abstaining and Mr. Elias absent.

***GREETINGS TO PUBLIC***

Mayor Kerkeslager read and presented the following proclamation to three members of **The Kaleidoscope of Hope Foundation (KOH)**, who received permission by voice vote of Council Members present to tie ribbons around the trees at Waverly Place as a reminder that September 2007 is National Ovarian Cancer Awareness Month.

***Proclamation – September 2007 – Ovarian Cancer Awareness Month***

***Proclamation***  
***of the***  
**Borough of Madison**  
***Proclaiming***  
***National Ovarian Cancer Awareness Month***

***September 2007***

**WHEREAS**, Ovarian cancer is called the "silent killer" because its symptoms are often vague or subtle; and

**WHEREAS**, Ovarian cancer is the fourth leading cause of cancer death among women and the leading cause of gynecologic cancer death in the United States; and

**WHEREAS**, Each year, more than 22,000 Americans are diagnosed with the disease and approximately 16,000 die from it; and

**WHEREAS**, If detected in its early stages, survival from ovarian cancer is 90-95 percent. Yet the five-year survival rate for the disease is only 28 percent, because it is so difficult to detect early; and

**WHEREAS**, The Kaleidoscope of Hope Foundation (KOH), a local non-profit group co-founded by ovarian cancer survivors Gail MacNeil of Chatham Township and Lois Myers and Patricia Stewart of Harding Township, raises funds for ovarian cancer research and to increase awareness of the disease and its symptoms, and wishes to remind the public that September is Ovarian Cancer Awareness Month; and

**WHEREAS**, KOH will be holding its annual Walkathons on September 16 at Loantaka Brook Reservation in Morristown starting with special guest speaker Senator Richard J. Codey; on September 29 at Avon and September 30 at Richard DeKorte Park in Lyndhurst; and

**NOW, THEREFORE**, I, Ellwood R. Kerkeslager, Mayor of the Borough of Madison, do hereby

proclaim **September as Ovarian Cancer Awareness Month** and declare my support of the *Kaleidoscope of Hope Walkathons*.

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**Ellwood R. Kerkeslager, Mayor**

July 17, 2007

Mayor Kerkeslager made the following announcement:

Employee of the Month:

The Tax Department employees, including Francine DeAngelis, Carol Bradshaw, Hattie Evans and Jean Robinson, have been selected as Employees of the Month for August. In making the selection, the Committee was impressed with their teamwork in working together on a weekend to prepare the tax bill mailing, thus having the bills sent out in a timely manner and avoiding an extended grace period.

**REPORTS OF COMMITTEES**

**Community Affairs**

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

Mrs. Holden spoke about gypsies being here in Morris County; there was notification given to members of the Chamber of Commerce to be very careful to check identification to avoid incidences of scamming when individuals come door-to-door; eight individuals were found involved in a scam, and Mrs. Holden recognized one who had been on Waverly Place.

Since Mr. Elias is not present at this meeting, Mrs. Holden commented that the discussion of artificial turfing of fields will be put off until the September meeting.

Mrs. Holden thanked the Police Department for a terrific National Night Out.

**Utilities**

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

Tri-State Water, a private water testing company not affiliated with the Borough and not hired by the Borough, has been going and getting water samples and doing water testing in the Borough; Ms. Baillie confirmed that the Borough is not testing, the Borough water is safe, the company doing the testing is a for-profit company that is trying to sell a product to filter water and has no association with the Borough.

**Health & Public Assistance**

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

**Public Works and Engineering**

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

#### National Night Out

Mrs. Vitale added congratulations to the Police Department and especially to the Police Chief for encouraging the paid division and volunteers to participate in National Night Out, which was a very hot night; Chief Chirico was there in full dress; Mrs. Vitale gave special thanks to 23 nice neighborhoods who participated, and gave special thanks to Lieutenant Jerry Mantone, who did a wonderful job organizing the event.

#### Department of Public Works

The Department of Public Works is busy with milling and paving work, which will be done in three weeks; spoke of the demolition of the Livesey Kennels, which will be starting this week and will be done within two weeks; spoke of the age-related sewer collapse last week, which is now repaired. Mrs. Vitale advised that on the agenda tonight is a request for a chain link fence to be installed at the railroad bridge on Samson Avenue.

#### **Finance and Borough Clerk**

Mr. Elias, Chair of the Committee, absent.

#### **Public Safety**

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

#### National Night Out

Mr. Conley spoke of the hottest night, which was National Night Out, which did not deter the crowds from showing up and the police did a great job; there is great support in the community. Mr. Conley said the event presented another opportunity to recruit additional people to sign a pledge for "Drive a Safe Pace for a Safe Place"; during National Night Out, people got to see the Borough's new radar tracker and message board, also known as a speed stalker, which flashes the speed of a passing car; this current piece of equipment records average speed, how many people are driving over the speed limit, etc, so it will give great information as well as slow people down; it is also available for messages, such as National Night Out, or to announce disruptions going on.

#### Police Department Emergency Services Unit (ESU)

The Madison Police Department Emergency Services Unit participated in a tactical response drill at Fairleigh Dickinson University, along with eight other SWAT and ESU teams as well as the Morris County Prosecutor's Office personnel and Sheriff's team; the realistic drill covered large scale incidents similar to the tragic situation that took place at Virginia Tech; Madison's team received praise from the Incident Commander at the debriefing regarding their role in the professional response. Mr. Conley learned that the reverse 911 service works because neighbors in Florham Park were notified through the system that this drill event was going on.

#### **COMMUNICATIONS AND PETITIONS**

The Borough Clerk announced receipt of the following communication:

Sent to Mayor and Council by Certified Mail from Wen-Jan Armbruster and Chris Armbruster of Trail

Place giving reasons for the Borough to remove two trees sitting alongside the Spring Garden Brook. Mayor Kerkeslager commented that the letter has been addressed already by Mr. Codey, Public Works and the Shade Tree Management Board. Mr. Codey commented that upon visiting the site, it was determined that the trees are not Borough trees and are the responsibility of the property owner.

### ***INVITATION FOR DISCUSSION (1 of 2)***

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

***Fran Mantone, Woodland Road***, asked when the fence at Dodge Field will be replaced—the one knocked down during the recent automobile accident at that location—and asked if the same type of fencing will be used as the replacement; she was advised that the plan is to replace it with a similar black fence. (Please note that the type of fence to be used was discussed during the work session under #8 later in the meeting).

***Don Brunner, Redmond Drive***, spoke about a crosswalk from Blockbuster and Starbucks across the street on the east end of Madison. Mayor Kerkeslager spoke of the area needing traffic calming in the east business district to make it safer for pedestrians. Council comments included that because this is a State highway, it brings the approval process to another level and is not solely Madison's decision.

***Vic Schumacher, Central Avenue***, asked about when the new building is going to be completed; he asked if anyone can say with some degree of certainty how the process will unfold from this day forward and when residents may start "walking through the doors". Mayor Kerkeslager commented that Mr. Codey will give an overview of that later in the meeting.

***Sam Cerciello, Park Avenue***, spoke about the Fire & Police building deficiencies, responsibilities of officials, etc. Mayor Kerkeslager commented that Mr. Codey will give an overview of that later in the meeting, and there will be another invitation for public discussion.

Mr. Mezzacca was recognized by the Chair and commented that there was a governmental process that went on as to the Fire & Police building project; there was a determination made upon recommendations from the Borough's experts that the Borough can no longer proceed with the contract—it was not being properly adhered to by the contractor; there was a determination by the Mayor and Council to terminate the contract based upon professional advice; the professional advice included advice from the architect, the construction manager, the Borough Engineer, the Borough Administrator and the Borough Attorney.

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

### **Fire & Police Building**

Mayor Kerkeslager asked Mr. Codey to give a summary of work that has been done on the Fire & Police building, where the Borough stands with the project, how much work is left to do, and what kinds of things have been done since the last meeting of the Council in July.

Mr. Codey advised that since the Council's last meeting in July, Architect Bob Russell has completed a detailed report listing the corrective work that the building needs to become operational. The Borough Attorney has negotiated with the surety to incorporate that work that needs to be completed;

Mr. Mezzacca is currently negotiating a takeover agreement with Liberty Mutual, the bonding company, in terms of the nature of the unfinished work, the funding for the corrective work, the time frames and the process of selecting the contractor and the subcontractors. In terms of the work that has been going on while the negotiations take place is that a Borough working committee is proceeding to direct work that can't wait and is outside the scope of Eastern Builders' contract; since the contract has been terminated, all the locks have been replaced at the site and fencing secured, trees and plantings were removed and reinstalled properly, alarm systems, sprinkler systems, generator and telecommunications operations, among other systems, have been put in place and are on track and/or activated where necessary; scaffolding will be going up on the perimeter of the building to address conditions identified by the architect needing remedial work; in short, work is continuing where possible at the site.

Mayor Kerkeslager asked for any additional comments from the Council; if everything falls into place, the completion of the building could be accomplished in four months.

### ***Agenda Discussions***

#### **08/13/07-1 APPROPRIATE \$3,700.00 FROM FIRE DEPARTMENT TRUST ACCOUNT FOR FIRE DEPARTMENT CASCADE SYSTEM – FILL PANEL**

Mrs. Holden moved approval of Fire Chief Atchison's recommendation to purchase the fill panel for the Fire Department cascade system. Mr. Bowen seconded the motion, which passed by voice vote of members present.

An ordinance is listed for introduction later in the meeting.

#### **08/13/07-2 AMEND CHAPTER 176-10 OF THE BOROUGH CODE ENTITLED "TOWING AND STORAGE FEES" TO REFLECT THE INCREASE IN THE NEW JERSEY STATE POLICE FEES**

Mr. Conley moved approval of Chief Chirico's recommendation to amend the towing and storage fees. Mrs. Holden seconded the motion, which passed by voice vote of members present.

An ordinance is listed for introduction later in the meeting.

#### **08/13/07-3 ADJUSTMENT OF Term expiration dates for TWO LIBRARY Trustees**

Mrs. Holden moved approval of the adjustment of the term expiration dates for two Library Trustees. Mr. Conley seconded the motion. Mayor Kerkeslager explained the requirement to have one term expire each year under the State Library rules. There was voice approval to approve the term expiration adjustments. Action is listed later in the meeting under "New Business".

#### **08/13/07-4 Joint Meeting/Sewer legislation**

Mr. Mezzacca reported that a meeting is scheduled later this week, and he will return to Council when the ordinance is ready for introduction.

#### **08/13/07-5 LAND USE ORDINANCE – FENCE ORDINANCE PROPOSAL**

The ordinance listed for introduction later in the meeting, which was submitted by the Board Planner, Peter Steck, was removed from the agenda; there were questions and recommendations which need

to be resolved, so the ordinance will be brought back to the Planner and will be brought back to Council at a future meeting.

The ordinance was removed from the list for introduction.

***Added to Agenda***

**08/13/07-5(2) APPLICATION FOR STATE MUNICIPAL AID FOR WOODLAND ROAD RECONSTRUCTION**

Borough Engineer Robert Vogel mentioned two minor corrections to the application and spoke of why the application is critical at this time. After detailed discussion, Mrs. Vitale moved approval of the application for State Municipal Aid for Woodland Road reconstruction. Ms. Baillie seconded the motion, which passed by voice approval of members present.

A resolution authorizing submittal of the above application is listed on the Consent Agenda.

**08/13/07-6 REJECT BID FOR AERIAL TRUCK AND AUTHORIZE REBID**

Mr. Conley moved approval of Fire Chief Atchison's recommendation to reject the bid for an Aerial Truck and authorizing rebid. Mrs. Holden seconded the motion, which passed by voice approval of members present.

A resolution is listed on the Consent Agenda.

**08/13/07-7 ADOPT RESOLUTION STATING GOVERNING BODY REVIEWED GENERAL COMMENTS AND RECOMMENDATIONS CONTAINED IN THE 2006 AUDITED MUNICIPAL FINANCIAL STATEMENTS**

Mrs. Holden moved approval of Chief Financial Officer Robert Kalafut's recommendation regarding the audited municipal financial statements. Mr. Bowen seconded the motion. Mr. Kalafut commented about the auditor's recommendations as contained in the audit report. At the conclusion of comments, the motion passed by voice consent of members present.

A resolution is listed on the Consent Agenda.

**08/13/07-8 APPROPRIATE \$17,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR DODGE FIELD FENCING**

There was detailed discussion as to the type of fencing to be used at Dodge Field, which will be black and possibly chain link for safety reasons; this will be reviewed. Mrs. Vitale moved approval of Messrs. Codey and Maines' recommendation for the above appropriation. Ms. Baillie seconded the motion, which passed by voice approval of members present.

An ordinance is listed for introduction later in the meeting.

**08/13/07-9 APPROPRIATE \$2,800.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR FENCING ALONG SAMSON AVENUE RAILROAD BRIDGE**

Mr. Conley moved approval of Messrs. Codey and Maines' recommendation for the above appropriation for fencing along the Samson Avenue railroad bridge. Ms. Baillie seconded the motion, which passed by voice approval of members present.

An ordinance is listed for introduction later in the meeting.

**08/13/07-10** ENDORSEMENT OF AFFORDABLE HOUSING TRUST FUND SPENDING PLAN REFERRED BY PLANNING BOARD

Mr. Mezzacca commented on the Spending Plan referred by the Planning Board and the need to have an approved Spending Plan to be forwarded to the Council on Affordable Housing. Ms. Baillie moved approval of endorsement of the spending plan. Mrs. Vitale seconded the motion, which passed by voice approval of members present, with Mr. Bowen abstaining and Mr. Elias absent.

A resolution so endorsing is listed on the Consent Agenda and will be forwarded to the Council on Affordable Housing.

**08/13/07-11(1)** Luke Miller Forge Archaeological Research

Mrs. Holden commented on her recommendation to allow research to be done at the Luke Miller Forge site; the Madison Historical Society wishes to conduct an archaeological research project at the 105 Ridgedale Avenue site pursuant to a grant application, previously approved by Council. The Society needs written approval to access the site.

Mrs. Holden moved approval to allow research at the Luke Miller Forge site and authorization for the Mayor to sign a form granting access by the Madison Historical Society to do the research at that portion of the "Luke Miller" property that is attached to Summerhill Park. Ms. Baillie seconded the motion, which passed by voice approval of members present.

It was determined that the Mayor may sign the form granting access since the Council previously approved the \$20,000.00 grant application by the Madison Historical Society to the New Jersey Historical Commission for archeological research at the Luke Miller Forge.

**08/13/07-11(2)** Missing Trees Sculptural Exhibit

Mrs. Holden moved approval to grant permission to artist Patricia Brentano to install on the lawn of the Museum of Early Trades & Crafts one of her ten sculptures as a coordinated effort at locations around the Garden State. Mr. Conley seconded the motion. The piece is wooden and carved out in the silhouette of a tree, is freestanding and 4 by 6' in size, with spikes attached to the bottom to secure it in the ground. The request is made to install one of these sculptures on the front lawn centered on the large stained-glass window facing Main Street from the last week in August until October 14, 2007. Ms. Brentano will provide the Borough with any necessary Certificate of Insurance for the installation's duration. Her focus in this thematic exhibit is to underscore the public's need to emphasize and revitalize the "garden" in the Garden State by dramatizing interest in replanting gateways to the State, such as along highways, near tunnels and at airports. At the conclusion of comments, the motion passed by voice consent of members present.

A resolution so approving will be listed on the August 27, 2007 Agenda.

***Removed from Agenda***

**08/13/07-11(3)** Soundproofing of Civic Center All-Purpose Room

Mrs. Holden asked that this discussion be removed from the Agenda and brought back in September; there were brief comments, including the need for a status report on the elevator at the

Civic Center.

**08/13/07-11(4)** Adopt Resolution opposing extending voting by one hour at the end of the day

Mrs. Holden moved approval of adopting a resolution opposing Assembly Bill No. 3959, which would extend voting by one hour at the end of the day. Mr. Conley seconded the motion. The motion passed by voice vote, with Mr. Bowen abstaining and Mr. Elias absent. Comments included that an extra hour is moot when absentee voting is available to all.

A resolution is listed on the Consent Agenda.

***Invitation for Discussion by the Public (2 of 2)***

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

***Vic Schumacher, Central Avenue***, was advised that the elevator for the Civic Center, which was mentioned earlier in the meeting, is a regular elevator, not a motorized chair. Regarding the fence and wall diagram, there has to be clear sight at intersections, which should not be blocked by vegetation; he asked what about non-conforming intersections; Mayor Kerkeslager commented that when a complaint is received, action is taken to resolve the matter; Mr. Schumacher asked how residents will be made aware of the "clear sight at intersections"; it may be handled on a case-by-case basis; the new ordinance, when introduced and adopted, will be advertised.

***Fran Mantone, Woodland Road***, spoke about the fence ordinance, which was on the agenda for first reading but was withdrawn for further review; she commented that not every neighborhood is the same; sometimes fences are used to keep out undesirables; everything is not picture perfect in every town; people may have other reasons for fences; to say it can only be three feet, there may be instances where people need a fence higher for various reasons.

***Eugene Zipper, Greenwood Avenue***, spoke about Ordinance 59-2007 regarding development fees; someone who constructs buildings in the Borough of Madison will be assessed a fee, a percentage cost of the new structure; therefore, a contractor will be charged a fee and the buyer of the home will wind up paying those fees for the cost of affordable housing.

Mr. Mezzacca commented at length, including that the state is imposing on all towns the construction of affordable housing; it depends on the density increase in a town, be it commercial or residential; so whatever additional construction goes on, there will be an imposition on the Borough of Madison to have further affordable housing based upon a ratio established by the Council on Affordable Housing (COAH); either the Borough does not levy the fee and the taxpayers would then have to pay for the affordable housing, or the Borough adopts a development fee ordinance.

Mr. Zipper commented that the total number of affordable housing units, if 500 or thereabout, is approximately 10% of the dwelling units in Madison, and he felt this to be too large of a percentage.

***Sam Cerciello, Park Avenue***, commented on the fees received by Eastern Builders, contractor for the Fire & Police building, and Gilbane, Construction Manager for the Borough, and the amount of money already put into the project. He spoke about the sidewalk project, writing the specs, felt the

building contractor was not qualified; recommended that the Borough sue certain contractors; spoke about the terrible workmanship at the Fire & Police building. Mr.Cerciello spoke about a building on Main Street and gave his opinion on where it should have been placed and what color it should have been; recommended the Borough stop contracts on the renovations of the Hartley Dodge Memorial.

**Jim McCloskey, Dean Street**, worked the polls for a number of years; agreed that voting hours should not be extended one hour in the evening.

**Vic Schumacher, Central Avenue**, was advised that Mr.Codey will be "Administrator" on October 1, 2007, and will be "Acting Administrator" until then.

### ***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 July 23, 2007, were introduced by title and passed on first reading, were published in the Madison Eagle on July 26, 2007, and made available to members of the general public requesting same.

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

### **ORDINANCE 49-2007**

#### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$60,000.00 FROM THE ELECTRIC CAPITAL IMPROVEMENT FUND FOR THE EXCAVATION AND INSTALLATION OF UNDERGROUND CONDUIT FOR THE NEW FEEDER CIRCUIT TO THE RECKSON BUILDING AT GIRALDA FARMS**

**WHEREAS**, the Superintendent of Public Works has recommended that the Borough appropriate \$60,000.00 from the Electric Capital Improvement Fund for the excavation and installation of an underground conduit for the new feeder circuit to theReckson building at Giralda Farms; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the Electric Capital Improvement Fund in an amount not to exceed \$60,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$60,000.00 from the Electric Capital Improvement Fund for the excavation and installation of an underground conduit for the new feeder circuit to theReckson building at Giralda Farms; and

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

**SECTION 1:** The amount of \$60,000.00 is hereby appropriated from the Electric Capital

Improvement Fund for the excavation and installation of an underground conduit for the new feeder circuit to the Reckson building at Giralda Farms.

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

Ms. Baillie moved that Ordinance 49-2007, which was read by title, be finally adopted. Mr. Bowen seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

Mayor Kerkeslager declared Ordinance 49-2007 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

### **ORDINANCE 50-2007**

#### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$8,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR PURCHASE OF COMPUTER HARDWARE FOR THE MADISON PUBLIC LIBRARY**

**WHEREAS**, the Library Director has recommended that the Borough appropriate \$8,000.00 from the General Capital Improvement Fund for the purchase of computer hardware for the Madison Public Library; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the General Capital Improvement Fund in an amount not to exceed \$8,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$8,000.00 from the General Capital Improvement Fund for the purchase of computer hardware for the Madison Public Library; and

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

SECTION 1: The amount of \$8,000.00 is hereby appropriated from the General Capital Improvement Fund for the purchase of computer hardware for the Madison Public Library.

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

Mrs. Holden moved that Ordinance 50-2007, which was read by title, be finally adopted. Mrs. Vitale seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

Mayor Kerkeslager declared Ordinance 50-2007 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

### ***INTRODUCTION OF ORDINANCES***

The Clerk made the following statement

Ordinances being introduced at this meeting will have a public hearing on August 27, 2007, except for Land Development Ordinance 59-2007, which will have a hearing on September 10, 2007, during the Regular Meeting of the Mayor and Council in the 2<sup>nd</sup> Floor Council Chamber of the Hartley Dodge Memorial, Kings Road, in the Borough of Madison at a meeting scheduled to begin at 7:45 p.m. or as soon as practical thereafter, at which time and place all interested parties will have an opportunity to be heard; said ordinances will be published in the Madison Eagle, be posted on the Bulletin Board at the main entrance to the Hartley Dodge Memorial and be made available to members of the public who request same.

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

### **ORDINANCE 51-2007**

**BOND ORDINANCE TO AUTHORIZE THE 2007 ROAD RECONSTRUCTION PROGRAM IN, BY AND FOR THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS, NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,142,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO APPROPRIATE STATE AND**

**FEDERAL GRANTS, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS**

Mrs. Vitale moved:

BE IT RESOLVED that Ordinance 51-2007 heretofore introduced and read by title by the Borough Clerk, does pass on first reading and that said ordinance be further considered for final passage at a meeting to be held on the 27<sup>th</sup> day of August, 2007, at 7:45 p.m., or as soon thereafter as the matter can be reached, at the regular meeting place of the Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said ordinance, and that the Borough Clerk is hereby authorized and directed to publish said ordinance according to law with a notice of its introduction and passage on first reading and of the time and place when and where said ordinance will be further considered for final passage.

Mrs. Holden seconded the motion. The streets included in the ordinance are Green Avenue (from Kings Road to Woodland Road); Drew Place (drainage only); Dellwood Parkway (entire length); Midwood Terrace (from Prospect Street to Green Avenue); and Chapel Street (entire length). There was no further discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

**ORDINANCE 52-2007**

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$58,000.00 FROM THE FIRE DEPARTMENT TRUST FUND FOR PURCHASE OF FIRE DEPARTMENT VEHICLE**

**WHEREAS**, the Fire Chief has recommended that the Borough appropriate \$58,000.00 from the Fire Department Trust Fund for the purchase of a multi-purpose utility vehicle for the Fire Department; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the Fire Department Trust Fund in an amount not to exceed \$58,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$58,000.00 from the Fire Department Trust Fund for the purchase of a multi-purpose utility vehicle for the Fire Department; and

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

**SECTION 1:** The amount of \$58,000.00 is hereby appropriated from the Fire Department Trust Fund for the purchase of a multi-purpose utility vehicle for the Fire Department.

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

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

Mr. Conley moved that Ordinance 52-2007, which the Borough Clerk read by title, be adopted. Mrs. Holden seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

### **ORDINANCE 53-2007**

#### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$3,700.00 FROM THE FIRE DEPARTMENT TRUST FUND FOR FIRE DEPARTMENT CASCADE SYSTEM – FILL PANEL**

**WHEREAS**, the Fire Chief has recommended that the Borough appropriate \$3,700.00 from the Fire Department Trust Fund to replace the fill panel for the Fire Department cascade system; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the Fire Department Trust Fund in an amount not to exceed \$3,700.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$3,700.00 from the Fire Department Trust Fund to replace the fill panel for the Fire Department cascade system; and

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

SECTION 1: The amount of \$3,700.00 is hereby appropriated from the Fire Department Trust Fund to replace the fill panel for the Fire Department cascade system.

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.

Mr. Conley moved that Ordinance 53-2007, which the Borough Clerk read by title, be adopted. Mrs. Holden seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

**ORDINANCE 54-2007**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 176-10 OF THE BOROUGH CODE ENTITLED "TOWING AND STORAGE FEES" TO REFLECT THE INCREASE IN THE NEW JERSEY STATE POLICE FEES**

**WHEREAS**, the Borough Chief of Police has recommended that Chapter 176 of the Borough Code entitled "Towing and Storage" be amended to raise towing and storage fees to match the State Police rates; and

**WHEREAS**, the Borough Council agrees with this recommendation.

**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 176 of the Borough Code entitled "Towing and Storage" shall be amended as follows:

SECTION 1: Section 176-10 entitled "Towing and Storage Fees" is hereby amended to read as follows:

§ 176-10. Towing and storage fees.

A. Fee schedule.

Service Call	\$65.00 cars/\$95.00 trucks
Light Duty Calls	\$125.00
Heavy Duty	\$350.00 per hour

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Recovery Calls	\$150.00 cars/\$350.00 trucks
Storage Rate (daily)	\$35.00 cars/\$85.00 trucks/\$175.00 tractor-trailer
Inside Storage Rate (daily)	\$45.00
Mileage Rate	\$4.50 cars
Hourly Rate (heavy & recovery)	\$350.00
Recovery Rates	\$150.00 cars/\$350.00 trucks
Sliding Crane Service	\$450.00 per hour
Cleanup	\$25.00 minimum
Yard/Administration Fee	\$40.00
Waiting Time	\$85.00 per hour
Additional Man/Labor	\$85.00 per hour
Fuel Surcharge (when applicable)	20% of service/tow rate

B. Salvage title.

If the Madison Police call out a duty wrecker for accident or impound, and the vehicle has no value (salvage), and the owner fails to respond for payment, then the Borough of Madison will obtain title to the vehicle for salvage. The towing company will absorb the storage charge until the vehicle title is conveyed to the towing company by the Borough of Madison to discard the vehicle.

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

Mr. Conley moved that Ordinance 54-2007, which the Borough Clerk read by title, be adopted. Mrs. Holden seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

**Ordinance 55-2007 was removed from the Agenda and the # retired.**

**ORDINANCE 56-2007**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING ORDINANCE 2-2007 TO ESTABLISH SALARY RANGE FOR POSITION OF OFFICE ASSISTANT I, PART-TIME**

**WHEREAS**, the Borough Council has determined that a change is required in the salary ranges for non-union part-time employees to add the position of Office Assistant I, Part-Time.

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

Section 1. Ordinance 2-2007 setting the salary ranges for non-union part-time employees is hereby amended to add the salary range for the position of part-time Office Assistant I:

<b>TITLE</b>	<b>MINIMUM</b>	<b>MAXIMUM</b>
Office Assistant I	\$14.00/hr	\$18.00/hr

Section 2. All other provisions of the Ordinance remain unchanged.

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

Mrs. Holden moved that Ordinance 56-2007, which the Borough Clerk read by title, be adopted. Mrs. Vitale seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

## **ORDINANCE 57-2007**

### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$17,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR DODGE FIELD FENCING**

**WHEREAS**, the Borough Administrator has recommended that the Borough appropriate \$17,000.00 from the General Capital Improvement Fund to repair the Dodge Field fence, concrete wall and basketball backboard; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the General Capital Improvement Fund in an amount not to exceed \$17,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$17,000.00 from the General Capital Improvement Fund to repair the Dodge Field fence, concrete wall and basketball backboard; and

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

**SECTION 1:** The amount of \$17,000.00 is hereby appropriated from the General Capital Improvement Fund to repair the Dodge Field fence, concrete wall and basketball backboard.

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

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

Mrs. Vitale moved that Ordinance 57-2007, which the Borough Clerk read by title, be adopted. Mrs. Holden seconded the motion. This is the first reading of the ordinance; there will be some discussion as to the type of fencing and other improvements at Dodge Field before final adoption of this ordinance. At the conclusion of discussion, the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

**ORDINANCE 58-2007**

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING  
\$2,800.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR  
FENCING ALONG SAMSON AVENUE RAILROAD BRIDGE**

**WHEREAS**, the Borough Administrator has recommended that the Borough appropriate \$2,800.00 from the General Capital Improvement Fund to install a chain link fence on Samson Avenue by the railroad bridge; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the General Capital Improvement Fund in an amount not to exceed \$2,800.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$2,800.00 from the General Capital Improvement Fund to install a chain link fence on Samson Avenue by the railroad bridge; and

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

**SECTION 1:** The amount of \$2,800.00 is hereby appropriated from the General Capital Improvement Fund to install a chain link fence on Samson Avenue by the railroad bridge.

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

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

Mrs. Vitale moved that Ordinance 58-2007, which the Borough Clerk read by title, be adopted. Mrs. Holden seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Mr. Elias

**ORDINANCE 59-2007**

**ORDINANCE OF THE COUNCIL OF THE BOROUGH OF MADISON  
AMENDING CHAPTER 195 OF THE MADISON BOROUGH CODE**

**ENTITLED "LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF MADISON" TO REPLACE ARTICLE VIII, AS AMENDED BY ORDINANCE 36-2007, ENTITLED "AFFORDABLE HOUSING DEVELOPMENT FEES"**

**WHEREAS**, the Madison Planning Board previously recommended that the Madison Land Development Ordinance be amended to provide for the collection of affordable housing development fees in regard to eligible development projects within the Borough; and

**WHEREAS**, the Borough Council adopted Ordinance 19-2005, modified by Ordinance 36-2007, which was codified as Article VIII of the Madison Borough Code entitled "Affordable Housing Development Fees", Section 195-46; and

**WHEREAS**, Ordinance 19-2005, as modified by Ordinance 36-2007, contained inconsistencies and did not fully comply with the provisions of N.J.A.C. 5:94-6.1 et seq.; and

**WHEREAS**, the Borough Attorney has recommended that the Borough adopt a replacement for Section 195-46 that will comply with the requirements of N.J.A.C. 5:94-6.1 et seq., and that such Ordinance shall be submitted to the Council on Affordable Housing for their approval pursuant to law.

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

**SECTION 1:** Article VIII, Section 195-46 of the Borough Code, entitled "Affordable Housing Development Fees" shall be completely replaced with the following:

**ARTICLE VIII**

**Affordable Housing Development Fees**

**Section 195-46: Affordable Housing Development Fees**

**A. Purpose.**

(1) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's rules. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees.

## **B. Basic requirements**

(1) The Borough of Madison shall not spend development fees until COAH has approved a plan for spending such fees and the Borough of Madison has received third round substantive certification from COAH or a judgment of compliance.

## **C. Definitions**

(1) The following terms, as used in this ordinance, shall have the following meanings:

(a) "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

(b) "COAH" means the New Jersey Council on Affordable Housing.

(c) "Development fee" means funds paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules.

(d) "Equalized assessed value" means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.

#### **D. Residential Development fees**

(1) Within all zoning districts(s) Developers of new residential housing, which shall include any residential development on an existing lot on which a former residential structure was located, within the Borough shall pay a fee of one percent of the equalized assessed value for residential development, provided no increased density is permitted.

(2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

(3) No fee shall be charged pursuant to this section for any addition or improvement to an existing residential structure, so long as such addition or improvement does not increase the equalized assessed value of the existing structure, as of the date hereof, by more than 50%.

#### **E. Non-residential Development fees**

(1) Within the all zoning district(s), non-residential developers shall pay a fee of two percent of the

equalized assessed value for non-residential development

(2) If an increase in floor area ratio is approved pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six percent of the equalized assessed value for non-residential development. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.

#### **F. Eligible exactions, ineligible exactions and exemptions**

(1) Affordable housing developments shall be exempt from development fees. All other forms of new construction shall be subject to development fees unless exempted below.

(2) Developments that have received preliminary or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.

(3) Subject to the provisions of §195-46(D)(3), development fees shall be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

(4) Developments that are providing for growth share or greater affordable housing pursuant to §195-48 and are subject to §195-48 shall not be subject to the development fee pursuant to this §195-46.

#### **G. Collection of fees**

(1) Fifty percent of the development fee will be collected at the time of issuance of the building permit. The remaining portion will be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

#### **H. Contested fees**

(1) Imposed and collected development fees that are challenged shall be placed in an interest bearing escrow account by the Borough of Madison. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

#### **I. Affordable Housing trust fund**

(1) There is hereby created a separate, interest-bearing housing trust fund for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls. All development fees paid by developers pursuant to this ordinance shall be deposited into this fund.

(2) Within seven days from the opening of the trust fund account, the Borough of Madison shall provide COAH with written authorization, in the form of a three-party escrow agreement between the

municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:94-6.16(b).

(3) No funds shall be expended from the affordable housing trust fund unless the expenditure conforms to a spending plan approved by COAH. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

## **J. Use of funds**

(1) Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the municipal fair share. Such activities include, but are not limited to: rehabilitation, new construction, RCAs subject to the provisions of N.J.A.C. 5:94-4.4(d), ECHO housing, purchase of land for affordable housing, improvement of land to be used for affordable housing, purchase of housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, or administration necessary for implementation of the Housing Element and Fair Share Plan. The expenditure of all funds shall conform to a spending plan approved by COAH.

(2) Funds shall not be expended to reimburse the Borough of Madison for past housing activities.

(3) After subtracting development fees collected to finance an RCA, a rehabilitation program or a new construction project that are necessary to address the Borough of Madison affordable housing obligation, at least 30 percent of the balance remaining shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or

less of median income by region.

(a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, and rental assistance.

(b) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the third round municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle the Borough of Madison to bonus credits pursuant to N.J.A.C. 5:94-4.22.

(c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

(4) The Borough of Madison may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:94-7.

(5) No more than 20 percent of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant

fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Development fee administrative costs are calculated and may be expended at the end of each year or upon receipt of the fees.

### **K. Monitoring**

(1) The Borough of Madison shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

### **L. Ongoing collection of fees**

(1) The ability for the Borough of Madison to impose, collect and expend development fees shall expire with its substantive certification on December 31, 2014 unless the Borough of Madison has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Madison fails to renew its ability to impose and collect development fees prior to December 31, 2014, it may resume the imposition and collection of development fees only by complying with the requirements of N.J.A.C. 5:94-6. The Borough of Madison shall not impose a development fee on a development that receives preliminary or final approval after the expiration of its substantive certification on December 31, 2014 nor will the Borough of Madison

retroactively impose a development fee on such a development. The Borough of Madison will not expend development fees after the expiration of its substantive certification on December 31, 2014.

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

Mrs. Vitale moved that Ordinance 59-2007, which the Borough Clerk read by title, be adopted. Mrs. Holden seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Nays: None

Abstain: Mr. Bowen

Absent: Mr. Elias

***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. Holden moved approval of the Consent Agenda. Mrs. Vitale seconded the motion, which passed with the following roll call vote recorded:

Yeas: Mrs. Holden, Ms. Baillie

Mr. Bowen, as to R 189-2007 through R 193-2007, and R 196-2007 through R 198-2007

Mrs. Vitale, Mr. Conley

Nays: None

Abstain: Mr. Bowen, as to R 194-2007 and R 195-2007

Absent: Mr. Elias

 **R 189-2007**

**RESOLUTION OF THE BOROUGH OF MADISON PERTAINING TO THE 2006 AUDIT**

**WHEREAS**, N.J.S.A. 40A:5-4 requires the Governing Body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

**WHEREAS**, the Annual Report of Audit for the year 2006 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the Governing Body; and

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

**WHEREAS**, the Local Finance Board has promulgated a regulation requiring that the Governing Body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the Governing Body have reviewed, as a minimum, the sections of the annual audit entitled: "General Comments and Recommendations"; and

**WHEREAS**, the members of the Governing Body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled: "General Comments and Recommendations" as evidenced by the group affidavit form of the Governing Body, and

**WHEREAS**, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

**WHEREAS**, all members of the Governing Body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

**WHEREAS**, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local Governing Body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - "A local officer or member of a local Governing Body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

**NOW, THEREFORE, BE IT RESOLVED**, that the Governing Body of the Borough of Madison, County of Morris, State of New Jersey, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

**BOROUGH OF MADISON**

**GROUP AFFIDAVIT FORM**  
**CERTIFICATION OF GOVERNING BODY**

STATE OF NEW JERSEY

COUNTY OF MORRIS

We, members of the Governing Body of the Borough of Madison in the County of Morris and State of New Jersey, of full age, being duly sworn according to law, upon our oath depose and say:

1. We are duly elected members of the Governing Body of the Borough of Madison.
2. In the performance of our duties, and pursuant to the Local Finance Board Regulation, we have familiarized ourselves with the contents of the Annual Municipal Audit filed with the Clerk pursuant to N.J.S.A. 40A:5-6 for the year 2006.
3. We certify that we have personally reviewed and are familiar with, as a minimum, the sections of the Annual Report of Audit entitled:



**R 190 – 2007**

**RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES  
LICENSE APPLICATIONS SUBMITTED BY BULLPEN CLUB INC. AND  
PTO KINGS ROAD 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:

**BULLPEN CLUB INC.**

**I.D. No. 274-5-35149**

**R.A. No. 1058 – Off Premises**

**December 15, 2007**

**PTO KINGS ROAD SCHOOL**

**I.D. No. 274-5-18728**

**R.A. No. 1060 – On Premises**

**October 13, 2007**

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

**R 191-2007**

**RESOLUTION OF THE BOROUGH OF MADISON IN SUPPORT OF S-2507  
REPORTING OF LYME DISEASE**

**WHEREAS**, Lyme disease has reached epidemic proportions in the State of New Jersey and in Morris County; and

**WHEREAS**, there is a need to tighten procedures to assure the accurate and timely reporting of the incidents of this disease, which in turn will enhance public awareness and promote preventive measures; and

**WHEREAS**, S-2507 codifies Lyme disease reporting required by regulation, pursuant to N.J.A.C. 8:57-1.1 et seq., into statute by specifically providing that licensed health care professionals must report a confirmed case of Lyme disease to the health officer of the jurisdiction where the individual lives, or if unknown, where the diagnosis is made, within 24 hours of diagnosis. If the health officer is unavailable, the report must be made directly to the Department of Health and Senior Services.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Madison in the County of Morris and State of New Jersey supports Senate Bill S-2507; and

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall forward a copy of this resolution to Senator Anthony R. Bucco, District 25 (Morris), primary sponsor of this legislation; to the Members of the 21<sup>th</sup> Legislative District; and to all Morris County municipalities.

**R 192 - 2007**

**RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES  
LICENSE APPLICATION SUBMITTED BY BPOE #1465 MADISON LODGE**

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

**BPOE #1465 MADISON LODGE**

**I.D. No. 274-6-34038**

**R.A. No. 1059 – On Premises**

**Last Date: September 27, 2008**

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

[Resolution R 193-2007.pdf](#)

**RESOLUTION OF THE BOROUGH OF MADISON AMENDING THE 2007 CAPITAL  
BUDGET**

**R 194-2007**

**RESOLUTION OF THE BOROUGH OF MADISON ENDORSING AFFORDABLE  
HOUSING TRUST FUND SPENDING PLAN REFERRED BY PLANNING BOARD**

**WHEREAS**, the Council on Affordable Housing is required to approve a spending plan in order for the Borough of Madison to utilize and disperse development fees in the Affordable Housing Trust Fund; and

**WHEREAS**, a draft Spending Plan entitled "Borough of Madison Spending Plan for the Affordable Housing Trust Fund" dated August 7, 2007 (the "Spending Plan"), prepared in accordance with N.J.A.C. 5:94-6.2(c) and 6.5, has been recommended by the Planning Board to the Council of the Borough of Madison for consideration and approval; and

**WHEREAS**, the Council of the Borough of Madison having reviewed the aforementioned Spending Plan has determined to approve same.

**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 Spending Plan is hereby approved for the reasons set forth herein.

**BE IT FURTHER RESOLVED** that pursuant to the Housing Element and Fair Share Plan of the Borough, the governing body of the Borough of Madison has determined that the Borough will fund any shortfall of funds required for implementing the portions of the Housing Element and Fair Share Plan which comply with the minimum requirements accepted by the Council on Affordable Housing for the Borough of Madison. In the event that a shortfall of anticipated revenues occurs as noted above, the Borough of Madison will appropriate funds from current operation funds or from a bond.

**R 195 - 2007**

**RESOLUTION OF THE BOROUGH OF MADISON OPPOSING ASSEMBLY  
BILL NO. 3959, WHICH WOULD EXPAND POLLING PLACE HOURS BY  
ONE HOUR IN THE EVENING**

**WHEREAS**, Assemblywoman Jennifer Beck has introduced Assembly Bill No. 3959, the purpose of which is to expand the polling/voting hours in primary, general, non-partisan, municipal, special and recall elections from 6:00 a.m. to 8:00 p.m. to 6:00 a.m. to 9:00 p.m.; and

**WHEREAS**, the polls, as provided by applicable statute, are already open for a period of fourteen (14) hours; and

**WHEREAS**, fourteen (14) hours, together with the fact that the process for permitting one to file an absentee ballot has been greatly liberalized and constitutes more than sufficient opportunity for anyone who wishes to vote, to vote; and

**WHEREAS**, this bill simply adds additional costs to the operation of every municipality relative to the conducting of elections and will serve no purpose, as one cannot force the voters to vote and the opportunities that are presented between 6:00 a.m. and 8:00 p.m. is more than sufficient, along with the liberal rules that now apply to voting absentee.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Madison in the County of Morris and State of New Jersey that it does hereby oppose Assembly Bill No. 3959, as it will not provide any significant increase in the number of voters and will result in an increase of cost and imposition upon the municipal clerks, who are required to operate the polling stations.

**BE IT FURTHER RESOLVED** that the Borough of Madison does recommend that the polls return to

the hours of operation of 7:00 a.m. to 8:00 p.m. for primary, general, non-partisan, municipal, special and recall elections; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to all New Jersey legislators representing any portion of Morris County and to all towns within Morris County.

**R 196-2007**

**RESOLUTION OF THE BOROUGH OF MADISON AMENDING R 153-2007  
ACCEPTING STATE OF NEW JERSEY DEP COMMUNITY  
STEWARDSHIP INCENTIVE PROGRAM GRANT AWARD IN THE  
AMOUNT OF \$25,000.00 TO CERTIFY THE AVAILABILITY OF THE  
MATCH FOR SUCH PURPOSES OF EIGHTY-TWO AND ONE HALF  
PERCENT (82.5%), WHICH MAY BE MADE UP OF IN-KIND SERVICES**

**WHEREAS**, the Borough Administrator has recommended that the Borough amend Resolution 153-2007 to correct the percentage of matching funds which may be made up of in-kind services.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that Resolution 153-2007 is hereby amended to provide that the Mayor and Council of the Borough of Madison authorize and hereby agree to match 25% of the Total Project Amount, in compliance with the match requirements of the agreement. The availability of the match for such purposes, whether cash, services, or property, is hereby certified. Eighty-two and one-half (82.5%) of the match will be made up of in-kind services (if allowed by grant program requirements and the agreement).

**BE IT FURTHER RESOLVED** that the Borough of Madison agrees to comply with all applicable federal, State and municipal laws, rules and regulations in its performance pursuant to the agreement.

**R 197-2007**

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

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

**WHEREAS**, the Borough received one bid from Rosenbauer-General Safety Equipment, LLC, of Wyoming, Minnesota, which bid package was not compliant with applicable public bidding laws, in that it was, among other deficiencies, missing a Consent of Surety, and addresses on the Stockholder Disclosure Form, which are mandatory statutory requirements; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison in the County of Morris and State of New Jersey that the bid from Rosenbauer-General Safety Equipment, LLC, of

Wyoming, Minnesota, for an aerial truck for the Fire Department is hereby rejected for the reasons set forth herein and the Borough Administrator is authorized to solicit new bids.

**R 198-2007**

**RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING NJDOT MUNICIPAL AID GRANT APPLICATION**

**WHEREAS**, the Borough Engineer recommends that the Borough apply to the New Jersey Department of Transportation ("NJDOT") for Municipal State Aid for the reconstruction of Woodland Road from Green Ave to Barnsdale Road; in the amount of \$250,000 based on estimated construction costs in the application and road design work underway by Omland Engineering Associates, and

**WHEREAS**, the Borough Council has determined it is appropriate to apply to the NJDOT for Municipal State Aid to help pay for the cost of the reconstruction of Woodland Road.

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

1. The Borough shall apply to the New Jersey Department of Transportation ("NJDOT") for Municipal State Aid to help defray the cost of the reconstruction of Woodland Road from Green Avenue to Barnsdale Road.
2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to enter into the attached application and agreement with the New Jersey Department of Transportation on behalf of the Borough of Madison in a form acceptable to the Borough Attorney.

**Unfinished Business** - None

**APPROVAL OF VOUCHERS**

On motion by Mrs. Holden, seconded by Mrs. Vitale 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 \$11,934.76

Health & Public Assistance 7,625.38

Public Works & Engineering 153,011.15

Community Affairs 4,746.04

Finance & Borough Clerk 9,999,275.81

Utilities 917,097.44

Total \$11,093,690.58

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

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

Nays: None

Absent: Mr. Elias

***New Business***

Adjustment of term expiration dates for two library trustees

Mayor Kerkeslager announced the following amendments to terms of appointments to the LIBRARY BOARD OF TRUSTEES and requested Council confirmation:

Mark Sheeleigh through December 31, 2009

Patricia Miller through December 31, 2008

Ms. Baillie moved approval of the foregoing appointments. Mr. Conley seconded the motion, which passed by voice vote of members present.

***ADJOURN REGULAR MEETING AND RECONVENE EXECUTIVE SESSION***

The Regular Meeting adjourned at 10 p.m. and the Executive Session immediately reconvened in the Committee Room.

***RECONVENE AND ADJOURN***

The Regular Meeting reconvened in the Committee Room at 11:15 p.m. and immediately adjourned.

Respectfully submitted,

Marilyn Schaefer

Borough Clerk

Approved August 27, 2007 (MS)