

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

**Wednesday, May 30, 2007 – 6:00 p.m.**

**Call to Order**

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on Wednesday, the 30<sup>th</sup> day of May 2007. Acting Mayor Elias called the meeting to order at 6:00 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. Notice of change in time to 6:00 p.m. was published in the Daily Record on May 25, 2007 and copies of that notice were transmitted to the Madison Eagle, Independent Press and Star Ledger, and posted on the bulletin board at the main entrance to the Hartley Dodge Memorial, all on May 23, 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:

Council Members:

Mary-Anna Holden  
Astri J. Baillie  
Donald J. Bowen  
Carmela Vitale

John M. Elias, Acting Mayor

Robert H. Conley

Absent: Mayor Ellwood R. Kerkeslager, excused

Also Present:

Raymond M. Codey, Acting Administrator

Joseph Mezzacca, Jr., Borough Attorney

Marilyn Schaefer, Borough Clerk

**AGENDA REVIEW**

One Contract Matter was added to 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 MATTER (1)**

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

**CONTRACT MATTERS (4)**

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**

Acting Mayor John M. Elias reconvened the Regular Meeting at 7:50 p.m. in the Council Chamber with all Council Members present; Mayor Kerkeslager was absent, excused. The Pledge of Allegiance was recited by all.

**GREETINGS TO PUBLIC**

On his own behalf and that of Council, Acting Mayor Elias welcomed the public to the meeting and noted the meeting is proceeding on time and expressed his hope it will remain that way for the better part of the evening!

**APPROVAL OF MINUTES**

Ms. Baillie moved approval of the Regular Meeting Minutes of May 14, 2007. Mr. Conley seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

The was Council consensus to carry the **Executive Minutes of May 14, 2007** to the next meeting for approval.

## **REPORTS OF COMMITTEES**

### **Community Affairs**

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

Mrs. Holden reported that the Environmental Commission has requested that a Council Liaison be assigned to that body; Mrs. Holden suggested that this could be done under New Business at the end of the meeting.

Mrs. Holden thanked Wayne Henderson and Peter Flemming of Madison's Patriotic Celebrations/Veterans Affairs Coordinators for a wonderful Memorial Day Parade and Ceremony where Florham Park and Chatham Borough joined Madison. Mrs. Holden spoke of the very successful kick-off of "Operation Hometown Madison"; former Mayor Jack Dunne signed up 57 people who are active duty service men and women; it doesn't matter where they are stationed; Operation Hometown Madison would like to know where they are; that log will be placed in the Clerk's office.

Mrs. Holden was not at the last DDC meeting where Schering-Plough was honored for working with Project Community Pride, so therefore missed the discussion regarding the parking authority, which she felt may be a bit premature; Mrs. Holden and the Council have worked on parking issues over a long period of time and were successful in providing extra parking for merchants on Kings Road from Green Village Road to Madison Avenue, and at the old Health Center parking lot; Mrs. Holden has spent time talking to NJ Transit about future needs and a possible public/private partnership for parking in the future, has been working to try to get a jitney service; the **The Last Mile Shuttle - Giralda Express** - runs from the Convent Station train station to Giralda Farms in Madison. **The Last Mile Shuttle - Madison** - runs from the Madison train station, Route 124 - Main Street, Ridgedale Avenue, Algonquin Parkway, DeForest Avenue and back to the train station.

Other comments included that the Little League would like to get their batting cages installed; Mrs. Holden met with Senior Coordinator Edna Lerley-Byrne regarding the best location for an elevator at the Civic Center; the Chamber of Commerce sidewalk sales will take place this Saturday, June 2, 2007; also this Saturday, June 2, Jazzfest kicks off with a free outdoor concert headlined by two great bands at the Drew University campus in Madison at 6 p.m.

### **Utilities**

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

Ms. Baillie reported that Madison's Electric Department is now working on Niles Avenue; they keep up with everything so that Madison has great electric service for the Borough of Madison.

### **Health & Public Assistance**

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

Mr. Bowen referred to a resolution of the Council as part of an ongoing collaborative effort with the Board of Freeholders in Morris County, the Mayors and Council Members of surrounding towns and airport operators to phase out Stage 1 and Stage 2 aircraft, which are the older, noisier aircraft, from operating in general aviation airports like Morristown Airport.

### **Public Works and Engineering**

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

You may see the Arbor Pro contractors wearing orange vests with hand-held devices. They are conducting the tree inventory by walking along the Madison right-of-way counting and assessing the health and species of all Madison street trees.

#### Department of Public Works

Mrs. Vitale spoke of camera-based inspections of Woodland Road sewers just west of the December partial collapse, where an additional segment of sanitary sewer has been identified as being in danger of imminent collapse and requires immediate replacement. Emergency construction crews were dispatched to Madison to repair this problem; they started work at 8 a.m. this morning and will work through the night.

#### Hanging Baskets and Trees

The hanging baskets in the downtown will go up next week; this gives Madison a unique look. Three trees will be replaced at the Rosedale ball field compliments of the Parks Committee.

### **Finance and Borough Clerk**

On behalf of Mr. Elias, Chair of the Committee, Mrs. Vitale made the following comments:

#### Primary Election, June 5, 2007

The Primary Election is Tuesday, June 5, 2007, from 6 a.m. to 8 p.m. Mrs. Vitale reminded everyone to check the front of his/her sample ballot for the polling location because there are four new polling locations in Madison: Madison Baptist Church--District 9, formerly Torey J. School; Madison Masonic Lodge--Districts 7 & 12, formerly Madison Junior School; North Star Athletic Club--Districts 2, 4 & 10, formerly Madison High School & Central Avenue School; YMCA--District 8, formerly Kings Road School. The four unchanged polling locations are: Grace Church--Districts 3 & 11; Madison Housing Authority--Districts 6 & 14; Madison Public Library--Districts 5 & 13; St. Vincents Parish Center--District 1.

#### Cole Park

Cathie Coultas was present at the meeting; a couple of weeks ago the Council discussed a plaque that would be placed at Cole Park, which was promised about 35 years ago; Mrs. Coultas brought the plaque for Council to see; they have not decided on whether the plaque will be placed on a boulder or on a structure at the park; Mrs. Coultas was invited to speak. The plaque was approved by Council in 1938; Howard Cole, the grandson of Howard Grant Cole, came to an Historical Society program; he looked at the park and gave his suggestion as to the location; placement on a boulder was approved by the

Council in 1938; on behalf of the Parks Committee, Mrs. Coultas asked if the Parks Committee could proceed to place the plaque on a boulder or on the structure known as the Summer House which was part of the gift from Howard Cole in 1918. After consideration and Council comments, Mrs. Holden moved placement on the boulder; Ms. Baillie seconded the motion, which passed by unanimous voice vote.

## **Public Safety**

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

Mr. Conley spoke about Verizon trucks all around the Borough wiring Madison for FiOS network; every truck was accompanied by a police car to protect their safety and that of the public; the need was so great that Florham Park police had to be brought in to supplement; Verizon is reimbursing the cost of police presence as part of their project.

## **Finance**

Mr. Elias, in his capacity as liaison to Finance, took a moment to make a statement in response to the dialogue which has transpired over the past few months regarding the cash policy of the Borough.

First and foremost, Mr. Elias thanked those members of the public who began this dialogue; it is an important exercise and benefits Madison as a whole; periodically, members of the public come forward to challenge the Council and make us think about what we are doing; on the one hand it gives us an opportunity to rethink what we have taken for granted as what should be the manner in which we conduct our business. Perhaps more importantly, it ultimately offers an opportunity to educate the public and people who are not as intimately involved with issues such as the budget and the cash policies of this Borough; at times it is possible to almost take for granted that this is a remarkably well-run Borough which is extremely well-positioned to meet the challenges of the future; critics may say that is the point that perhaps the Borough is too well-positioned; Mr. Elias disagreed with that; it is important to put all this dialogue into perspective; first and foremost what we have is a matter of opinion, if not philosophy—no one is right, no one is wrong; the Borough is engaging in what it believes to be, and what the Borough's Chief Financial Officer recommends and believes to be, in the best interests of Madison. Everyone should feel comfortable in getting up to challenge those operating assumptions; but at the same time it is important for everyone to be on the same page and to be dealing with a common set of facts.

Second, it is important to know that Madison's cash retention policy, which, at the end of the day, is what is at the heart of this debate, does not exist in a vacuum; it is part and parcel of a financial policy that Robert Kalafut, Madison's Chief Financial Officer, has developed and implemented over the past seventeen years. Mr. Elias commented that he is speaking only for himself and he invited his fellow Council Members to weigh in accordingly. Mr. Elias enthusiastically endorses what Robert Kalafut has done during Mr. Elias' term on the Council because he has seen the policy provide direct benefit to the community of Madison; he offered a few instances: first and foremost, Mr. Elias noted Madison's triple "A" bond rating, which does not happen in a vacuum; it is a result of conscientious work and prudent fiscal management; Madison is one of five communities in New Jersey, a state with over 500 municipalities, that has a triple "A" bond rating. That is a testament to Robert Kalafut's stewardship.

Mr. Elias also noted the remarkable stability of market prices in Madison; regardless of what happens in the world at large, Madison's housing prices continue to climb; that too represents an accolade for Robert, that the market recognizes how financially sound this community is, which makes it attractive to

purchasers.

It is also important to recognize that even as Council Members weigh in on this issue, there is only one person in the debate who is truly a financial professional, and that is Robert Kalafut. His track record entitles him to the extent that he needs the benefit of the doubt when it is a close call; Mr. Elias views his own responsibility as a Council Member and as Liaison to Finance to assess the department head, support those who succeed, assist those who struggle, and make an appropriate assessment of the people Madison has in place; Mr. Kalafut has passed every test given him and, again, the proof is in his record.

The most important and perhaps vivid example of the strength of Mr. Kalafut's stewardship is what the Borough recently experienced in the context of Madison's Electric Utility. Over the last six to nine months, Mr. Kalafut, on behalf of the Borough, has been engaged in negotiations for a new contract for electric power that comes into Madison's community; he is one of eight representatives of municipalities and, early on, was committed to getting Madison a new contract—for his fear which was realized was the longer the municipalities waited, the more the rates would climb; in fact, Madison's cost of electricity will increase in the next contract by 105%; it will double; yet because Mr. Kalafut has marshaled operating surplus from the Electric Utility over the last seven or eight years, Madison has been able to absorb those increased costs with only three 9% rate hikes over the next three years—one a year. That 70% differential is closed because Madison has surplus to close it—do not underestimate the value of that surplus; what one has to do is speak to some of the Financial Officers and Department Heads at the other seven municipalities who are not nearly as fortunate.

Now to the bottom line, the issue is what cash does Madison have on hand and how much should be applied to reduction of property taxes. At the end of 2006, cash on hand was \$48 million; that number, while impressive, was totally meaningless, because much of that money is committed or otherwise allocated to expenses; what is really important is identifying what operating and surpluses the Borough had in our accounts that could be transferred to satisfy the operating burden Madison has as a municipality; in fact, of the \$48 million on hand, approximately \$18.4 million was available for transfer. This Council, under Mr. Kalafut's stewardship, agreed to transfer \$9.3 million, or more than 50% of what was available; Madison kept on hand money in Electric Utility, money in Municipal Operating surplus budget, and a small amount in the Water Utility; all prudent decisions in light of the changed financial position the Borough finds itself; not only will the Borough no longer enjoy the substantial operating surpluses from the Electric Utility that have gone so far as to fund Madison's capital improvement program, but Madison also finds itself with two state mandates which limit Madison's ability to increase spending and raise taxes to 4% a year; this simply would not be the time to "empty our faucet" for a one-time hit when Madison does not know what the future holds. Mr. Kalafut has provided the Borough Council with a road map that has garnered this community a triple "A" rating; Mr. Elias respects and values the Chief Financial Officer's opinion—Mr. Kalafut is a professional with no political agenda and he has done in this year as in years past what he believes to be in the best interests of Madison. He will be here on the 11<sup>th</sup> of June with Madison's auditor to provide specific detail regarding Madison's budget; Mr. Elias encouraged everyone, given the atmosphere that exists for this issue currently, to come and pay attention to where Madison is because this is a marvelous story that Mr. Kalafut has to tell; it provides this community with financial security going forward, and at the same time, provides for reasonable allocation of Madison's resources to meet the appropriations budget Madison has and to minimize the tax burden Madison's taxpayers feel.

In closing, Mr. Elias noted that this year's budget represents an allocation of 53% from non-tax revenue; every dollar spent comes from something other than property taxes; only 47% comes from property

taxes; this is almost a complete reversal of where Madison was ten years ago, where 53% of the municipal budget was satisfied with tax dollars as opposed to non-tax revenue. Secondly, this Council over the past four years has systematically transferred, as an absolute dollar amount and as a percentage, more dollars from municipal operating surplus than any other Council that preceded; contrary to suggestion, this Council has not been squirreling away money for some other purpose, and Mr. Elias could not imagine why any governing body would sit on money when faced with a need to raise taxes. The Council has and continues to make substantial transfers from these surplus sources to minimize the burden placed on taxpayers; a large degree of thanks is owed to Mr. Kalafut for his stewardship over the past 17 years.

Mr. Elias thanked everyone.

### ***COMMUNICATIONS AND PETITIONS***

The Borough Clerk announced receipt of the following communications:

Received May 23, 2007 from Harry Gerken, Executive Director of Ten Towns Great Swamp Watershed Management Committee, requesting that Madison join the Ten Towns in requesting that the new visitor center at the National Refuge be named after Helen E. Fenske, who played a very important role in the initial preservation of the Great Swamp established by federal law in 1960, and worked with government, private and public organizations over the last 50 years helping to expand the Great Swamp to its current area of 7,600 acres.

Received May 25, 2007 from Eugene E. Zipper, Greenwood Avenue, who commented in detail as to his contention that lightening the ever-increasing tax burden on Madison residents should dictate the disposition of the Green Village Road School property and that goal would be achieved by a sale to private interests.

Received May 24, 2007 from Pradip P. Shah, Resident Engineer, State of New Jersey DOT, advising the Borough that on or about June 4, 2007 work will commence on Rt. 124 at Kings Road involving curb, sidewalk, paving, drainage and electrical work; the contractor, Rosangela Contracting Co., Inc., expects working hours to be from 7 a.m. to 3:30 p.m. Monday to Friday. All lanes will remain open. As soon as a field office is established, Mr. Shah will forward information as to key contact personnel.

acting Mayor Elias asked who would take responsibility for following up regarding the Ten Towns' request. Mr. Conley was recognized by the Chair and suggested that under New Business, he would make a motion to approve the request.

### ***INVITATION FOR DISCUSSION***

Acting Mayor Elias opened the meeting to the public for their opportunity to ask questions and make comments. Acting Mayor Elias 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 five (5) minutes or less.

**Sam Cerciello, Park Avenue**, asked if there could be public comment after Council discussions. Mr. Mezzacca commented that public comment is solicited during ordinances for hearing. Each ordinance listed for hearing and final adoption was identified for Mr.Cerciello—Ordinances 28 through 36-2007 listed on the Agenda. Mrs. Holden was recognized by the Chair and commented that the invitation for discussion was moved up before discussions at the last meeting; Mr. Bowen suggested having more than one public comment.

**Eugene Zipper, Greenwood Avenue**, asking about revenues and taxes, was advised that Madison has a much broader consumer base for Madison's Electric Utility than the tax base; Mr.Kalafut's Budget in Brief, which will be available on June 11, 2007 during the Budget hearing, will enumerate all the components. Mr. Zipper commented on Mr. Eliaś endorsement of Mr.Kalafut and suggested that when the HDM is renovated, Mr.Kalafut deserves a bigger office.

**Cathie Coultas, Stonehedge Lane**, speaking as a member of Madison's Historical Society, commented that in 1805 there was an area called Genungtown where Rockwood Avenue, East Madison and Greenwood Avenue meet. At the site a school became known as the East Madison School. The Genung family has received permission to put an historic sign in Florham Park as the site of the original building, which we believe was in Madison, probably is under Rt. 24. The sign will read as follows:

GENUNGTOWN SCHOOL

1805 - 1905

AMONG THE PIONEERS WHO CAME TO THIS AREA AROUND 1720 WERE THREE BROTHERS: THOMAS, ICHABOD AND JEREMIAH GENUNG. THE REGION BECAME KNOWN AS THE GENUNGTOWN SETTLEMENT. IN 1805, A SCHOOL WAS BUILT TO PROVIDE ORGANIZED EDUCATION TO MEET THE NEEDS OF THE CHILDREN. THE SCHOOL HOUSED ONE OF THE FIRST LIBRARIES IN NEW JERSEY AND WAS USED AS A MEETING PLACE FOR EARLY METHODISTS. THE SCHOOL WAS LOCATED AT THE NORTHEAST CORNER OF EAST MADISON AND GREENWOOD AVENUES. CHILDREN ATTENDED FROM A WIDE RURAL AREA THAT INCLUDED THE COMMUNITY OF COLUMBIA (FLORHAM PARK) AND BOTTLE HILL (MADISON). THE SCHOOL REMAINED IN USE UNTIL CLOSING IN 1905.

FLORHAM PARK HISTORICAL SOCIETY

MADISON HISTORICAL SOCIETY

JUNE 2007

mrs. Coultas felt the Mayor and Council would like to know that the sign is being put up and has been approved by the Council in Florham Park. On June 15, 2007, Mr.Genung and a relative from France are coming to Madison. If anybody knows anyone who speaks French, Mrs.Coultas would like to know as they need a translator. Mr.Genung has invited people who are interested in the history to come to a

luncheon at the Main Streets Café at 12:30 p.m. on the 15<sup>th</sup>, so Mrs. Coultas is extending that invitation on his behalf. The sign will be done by the 15<sup>th</sup>, but it will not yet be put in place.

**Sam Cerciello, Madison**, thanked Mr. Codey, Mrs. Vitale and Mr. Elias for having lunch the other day so he could explain his feelings regarding the Fire & Police building; he felt many people in Madison are disappointed with what is going on; he wished to know what is going on right now.

Mr. Elias commented that all questions regarding the Fire & Police building are referred to the Borough Attorney.

Mr. Mezzacca commented that the bonding company was notified immediately upon termination of the contract with Eastern Builders. The bonding company came within a day to Mr. Mezzacca's office where there was a meeting with them and representatives of the Borough; they have since brought in various people to inspect the building, review the plans and do assessments; that is still underway and hopefully they will give us their response of what they think should be done with the building and whether they will do it. The Borough will move forward from there. Experts are reviewing everything. It is clear from inspections that there were leaks in the roof and certain masonry issues that are being looked at. There are items not finished or items not finished properly according to plans also being looked at. So that is all that can be reported now. The process is moving quickly.

Mr. Cerciello asked that the Borough stop what it is doing and spoke about what he felt was wrong, who he knew in the business, and what the Borough did wrong and asked how this happened.

### ***Agenda Discussions***

#### **05/30/07-1** review FIRE/POLICE BUILDING capital project; HDM RENOVATIONS; REVIEW OF RELOCATION AND RENOVATIONS

Borough Engineer Robert Vogel felt Mr. Mezzacca covered the subject clearly and added that he has not seen such a quick response from a surety company; there have been over six meetings with them on six separate days. Regarding the relocation project, the Borough expects to be ready to bid the Hartley Dodge Memorial building renovation project shortly. As to the relocation of staff, there is an expectation that the evaluation of Bayley-Ellard will be fruitful; the floor plans are being developed to occupy a portion of that property and, with Mr. Codey's help, the willingness of the diocese has been high in terms of their dealings with the Borough; that looks as good and certainly better a solution than any considered for relocation so far.

#### **05/30/07-2** RESOLUTION AWARDING CONTRACT FOR FURNISHINGS RELATED TO FIRE & POLICE BUILDING IN THE AMOUNT OF \$228,909.20 UNDER STATE CONTRACT TO BFI OF CRANBURY, NJ

It was noted that the State Contract on the above proposed purchases has been extended through the end of June 2007; there was Council consensus to hold off on the resolution of award; therefore, the resolution awarding the contract was removed from the Consent Agenda.

#### **05/30/07-3** AWARD CONTRACT FOR \$19,950 TO TURTLE & HUGHES FOR PURCHASE OF 15KV METERING & SWITCH CABINET IN THE AMOUNT OF \$19,950.00

Mrs. Vitale moved approval of Electric Utility Superintendent Michael Piano's recommendation to award a contract on the above described project. Mrs. Holden seconded the motion. Mr. Mezzacca explained the award of this contract as a professional services contract as a non-fair and open contract. It is an unfortunate choice of words that the Legislature requires, and what it means is that if certain contracts have to be awarded as professional services contracts, which has been allowed under the law for a long time, if they are going to be awarded without open bidding, anything over \$17,500.00 has to have certain certifications from the bidder that they haven't contributed more than \$300.00 to any political office or campaign of members of the Borough Government who may vote on it; so the state gave sample resolutions that call the award a non-fair and open; what it means is that it was not awarded by public bidding; it does require solicitation of bids.

Mr. Piano explained that this is a project that has been planned for some time and requires quite a bit of coordination, and is a budgeted item. There was no further discussion, and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

A resolution will be listed on the June 11, 2007 Consent Agenda.

**05/30/07-4 APPROPRIATE \$100,000.00 FOR THE PREPARATION AND PAINTING OF THE KINGS ROAD & JAMES PARK SUBSTATIONS**

Mrs. Holden moved approval of Electric Utility Superintendent Michael Piano's recommendation to appropriate funds for the above project. Ms. Baillie seconded the motion. Mr. Piano commented in detail including that project will take one week to complete and is slated for September 2007. Part of doing this project requires the Electric Department to take half the substation out of service. Over the years there have been several other issues that took priority over that. This is a major undertaking. There was no further discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

An ordinance is listed for introduction later in the meeting.

**05/30/07-5 AWARD CONTRACT TO SYSTEMS SALES, NEPTUNE, NJ, in the amount of \$57,000.00 FOR PURCHASE OF AN ALARM MONITORING SYSTEM**

Mr. Elias moved approval of Police Chief Chirico's recommendation to award the above contract. Mrs. Holden seconded the motion, which passed by unanimous voice consent.

A resolution will be listed on the June 11, 2007 Consent Agenda.

**05/30/07-6** Madison Chatham Joint Meeting

Concur with the Finance and Operating Committee approval to award contract to Omni Environmental in an amount not to exceed \$20,000.00 for Tasks #1 and #2

Concur with the Finance and Operating Committee approval to grant salary increase to Frank Fabrizio

Concur with the Finance and Operating Committee recommendation to amend the Madison-Chatham Joint Meeting Personnel Policy as to payment of salary and overtime compensation

Concur with the Finance and Operating Committee approval to award contract to CDM for Engineering and Construction Services in an amount not to exceed \$21,640.00

Because there was not a quorum of Madison officials present at the Madison-Chatham Joint Meeting, the above four recommendations of the Finance and Operating Committees of the Joint Meeting need approval. Mr. Conley moved approval of the four recommendations of the Finance and Operating Committees of the Madison-Chatham Joint Meeting. Mrs. Holden seconded the motion. There was no further discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Four resolutions are listed on the Consent Agenda.

**05/30/07-7** APPROPRIATION OF \$430,000.00 FOR 2007 MILL & OVERLAY PROJECTS OF MUNICIPAL ROADS INCLUDING DEAN, JOHN, DWYER, HOWARD, MYRTLE, BURNET AND CHATEAU THIERRY

There was consensus to bring this discussion back at the next meeting to hear comments from Chief Financial Officer Robert Kalafut.

**05/30/07-8** ADOPT A RESOLUTION AUTHORIZING \$20,000.00 GRANT APPLICATION BY THE MADISON HISTORICAL SOCIETY TO THE NEW JERSEY HISTORICAL COMMISSION FOR ARCHEOLOGICAL RESEARCH AT THE LUKE MILLER FORGE

Mr. Bowen moved approval of Mrs. Vitale's recommendation authorizing the above-described grant application. Mrs. Holden seconded the motion. Mrs. Vitale explained that originally it was thought that the Museum of Early Trades & Crafts would be the lead applicant for this grant; however, the Museum will be seeking its own grant, so the Historical Society will take the lead. Cathie Coultas of the Madison Historical Society commented as did members of the Council. 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. Elias, Mr. Conley

Nays: None

A resolution of approval will be listed on the June 11, 2007 Consent Agenda.

**05/30/07-9 GVRS RESPONSE**

Mr. Conley commented that a resolution is listed on the Consent Agenda formalizing the Borough's response to the Board of Education's letter regarding the Green Village Road School (GVR) saying the Borough is not interested in the GVR school property with restrictions, but wants to continue contract negotiations regarding usage of the east wing of the Hartley Dodge Memorial.

A resolution is listed on the Consent Agenda.

***Added to Agenda***

**05/30/07-10 AUTHORIZE A NEGOTIATION OF CONTRACT FOR THE PURCHASE OF LAMP POSTS FOR THE FIRE & POLICE BUILDING**

Mrs. Vitale moved approval to authorize negotiation of a contract to purchase lamp posts for the Fire & Police building. Mrs. Holden seconded the motion. The lamp posts will match the lamp posts in the downtown. There was no further discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Mr. Mezzacca commented that a formal resolution is not needed to authorize negotiations, and that the negotiations may proceed.

***There was Council consensus to have an additional "Invitation for Discussion"***

**INVITATION FOR DISCUSSION**

Acting Mayor Elias opened the meeting to the public for their opportunity to ask questions and make comments. Acting Mayor Elias 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 five (5) minutes or less.

***Don Brunner, Redmond Drive***, asked if part of the Central Avenue School property can be used for

parking as contained in the Downtown Development Commission (DDC) report and was advised that this has not come to Council from the DDC yet. Mr. Brunner asked how much the dog and cat license fees were raised and was advised that effective January 2008 the fee goes to \$15/yr for a neutered animal and \$18.00/yr for non-neutered per the recommendation of the Board of Health.

**Sam DeMarzo, Ridgedale Avenue**, spoke about Florham Park's old firehouse being moved to preserve it and asked if the Borough's old firehouse issue can be revisited; commented that aesthetically the new Fire & Police building is a problem; it is not the image of Madison; it is here to stay and it is a problem.

### ***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 May 14, 2007, 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.

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

## **ORDINANCE 28-2007**

### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$15,000.00 FROM THE WATER CAPITAL IMPROVEMENT FUND TO MAKE REPAIRS AT 5 WATER WELLS**

**WHEREAS**, the Superintendent of Public Works has recommended that the Borough appropriate \$15,000.00 from the Water Capital Improvement Fund to make repairs at five water wells; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the Water Capital Improvement Fund in an amount not to exceed \$15,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$15,000.00 from the Water Capital Improvement Fund to make repairs at five water wells; 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 \$15,000.00 is hereby appropriated from the Water Capital Improvement Fund to make repairs at five water wells.

**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.

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

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 29-2007**

#### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$18,000.00 FROM THE GENERAL FUND BALANCE FOR ROOF REPAIR AT BUTLER BUILDING**

**WHEREAS**, the Superintendent of Public Works has recommended that the Borough appropriate \$18,000.00 from the General Fund Balance for repair of the roof at the Butler building; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the General Fund Balance in an amount not to exceed \$18,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$18,000.00 from the General Fund Balance for repair of the roof at the Butler building; 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 \$18,000.00 is hereby appropriated from the General Fund Balance for repair of the roof at the Butler building.

**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.

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

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 30-2007**

#### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$10,000.00 FROM THE GENERAL FUND BALANCE TO PURCHASE SEWER PUMPS**

**WHEREAS**, the Superintendent of Public Works has recommended that the Borough appropriate \$10,000.00 from the General Fund Balance to purchase sewer pumps; and

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

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$10,000.00 from the General Fund Balance to purchase sewer pumps; and

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

**SECTION 1:** The amount of \$10,000.00 is hereby appropriated from the General Fund Balance to purchase sewer pumps.

**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.

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

Mrs. Vitale moved that the above ordinance, which the Clerk read by title, be finally adopted. Mr. Elias

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 31-2007**

#### **ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$15,000.00 FROM THE GENERAL FUND BALANCE TO PURCHASE CLAW FOR LOADER**

**WHEREAS**, the Superintendent of Public Works has recommended that the Borough appropriate \$15,000.00 from the General Fund Balance to purchase an attachment claw for the loader for leaf collection; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the General Fund Balance in an amount not to exceed \$15,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$15,000.00 from the General Fund Balance to purchase an attachment claw for the loader for leaf collection; 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 \$15,000.00 is hereby appropriated from the General Fund Balance to purchase an attachment claw for the loader for leaf collection.

**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.

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

Mrs. Vitale moved that the above ordinance, which the Clerk read by title, be finally adopted. Mr. Elias seconded the motion. There was no Council discussion, and the motion passed with the following roll

call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 32-2007**

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING  
\$22,200.00 FROM THE GENERAL FUND BALANCE TO DESIGN ADDITION  
FOR SEWER DEPARTMENT AT BOROUGH GARAGE**

**WHEREAS**, the Superintendent of Public Works has recommended that the Borough appropriate \$22,200.00 from the General Fund Balance to design an addition to the Borough Garage for the Sewer Department; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the General Fund Balance in an amount not to exceed \$22,200.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$22,200.00 from the General Fund Balance to design an addition to the Borough Garage for the Sewer 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 \$22,200.00 is hereby appropriated from the General Fund Balance to design an addition to the Borough Garage for the Sewer 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.

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

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 33-2007**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 147  
OF THE BOROUGH CODE TO INCREASE THE FEE FOR A DUPLICATE TAX  
BILL TO \$5.00**

**WHEREAS**, the Borough of Madison, Tax Collector has recommended that the fee for a duplicate tax bill be increased from \$3.00 to \$5.00 for each bill requested pursuant to N.J.S.A. 54:4-64; and

**WHEREAS**, the Council has determined to make such increase.

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

**SECTION 1:** Section 147-1 of the Borough Code entitled "Fees for Copies of Particular Records and Documents" is hereby amended as follows:

§147-1 (B) (1) Duplicate tax bills: \$5.00 each.

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

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

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 34-2007**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING THE BOROUGH CODE TO INCLUDE CHAPTER 157 ENTITLED "SERVICE CHARGE FOR RETURNED CHECKS"**

**WHEREAS**, the Borough Administrator has recommended that the Borough adopt an ordinance imposing a service charge of \$20.00 for any payment tendered to the Borough by a check or other written instrument that was returned for insufficient funds, pursuant to N.J.S.A. 40:5-18; and

**WHEREAS**, the Council has determined to adopt such an Ordinance. **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 Borough Code is amended to include Chapter 157 entitled "Service Charge for Returned Checks":

§157-1. In accordance with N.J.S.A. 40:5-18, a service charge of \$20.00 shall be added to any account owing to the Borough of Madison when payment is tendered by check or other written instrument which is returned for insufficient funds.

§157-2. Whenever an account owing to the Borough of Madison is for a tax or special assessment, the service charge authorized by Section 157-1 shall be included on any list of delinquent accounts which is prepared for the enforcement of the lien.

§157-3. Any service charge authorized by Section 157-1 shall be collected in the same manner prescribed by Law for the collection of the account for which the check or other written instrument was tendered. In addition, the governing body may require future payments to be tendered in cash or by certified or cashier's check.

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

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

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 35-2007**

**ORDINANCE OF THE BOROUGH OF MADISON – CALENDAR YEAR 2007 –  
TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO  
ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14**

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous years final appropriations, subject to certain exceptions; and

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

**WHEREAS**, the Governing Body of the Borough of Madison in the County of Morris finds it advisable and necessary to increase its CY 2007 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

**WHEREAS**, the Governing Body hereby determines that a one percent increase in the budget for said year, amounting to \$149,062 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

**NOW THEREFORE BE IT ORDAINED** by the Governing Body of the Borough of Madison, in the County of Morris, in the State of New Jersey, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2007 budget year, the final appropriations of the Borough of Madison shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$521,718 and that the CY 2007 municipal budget for the Borough of Madison be approved and adopted in accordance with this ordinance; and

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

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

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

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

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Acting Mayor Elias declared the above ordinance 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 36-2007**

#### **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, ENTITLED "AFFORDABLE HOUSING DEVELOPMENT FEES"**

**WHEREAS**, the Madison Planning Board 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 which was codified as Article VIII of the Madison Borough Code entitled "Affordable Housing Development Fees", Section 195-46; and

**WHEREAS**, Ordinance 19-2005 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" 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 Ass'n 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) rules. The purpose of this ordinance is to establish standards for the collection, maintenance and expenditure of development fees in accordance with COAH's rules. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low and moderate income housing. All fees collected shall be used for the express purpose as stated above and be administered by the Borough of Madison. This ordinance shall be interpreted within the framework of COAH's rules on development fees.

(2) The Borough of Madison ("Borough") Governing Body recognizes there is a need for low and moderate income housing in the Borough. This ordinance will enable the Borough to collect affordable housing development fees in connection with eligible development projects in the Borough to allow it to better meet the low and moderate income housing demands in the community.

##### **B. Non-residential development fees.**

(1) Developers of commercial development within the Borough shall pay a fee of two (2) percent of the appraised value on the document utilized for construction financing.

(2) When the Borough approves an increase in floor area pursuant to *N.J.S.A. 40:55D-70d(4)*, the Borough may assess a development fee of six (6) percent of the appraised value on the document utilized for construction financing on the additional floor area 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 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.

(3) The imposition of development fees shall not be construed as a condition of preliminary or final site plan approval or as a stipulation included in a developers agreement for the purposes of calculating growth exclusions pursuant to *N.J.A.C. 5:94-2.4(a)5*.

##### **C. Mixed-use development fees.**

(1) Developers of mixed-use development within the Borough shall pay a fee of two (2) percent of the appraised value on the document utilized for construction financing. For purposes of this ordinance, mixed-use development shall be defined as the development of a tract of land, building, or structure with a variety of complementary and integrated uses,

such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment.

(2) When the Borough approves an increase in floor area pursuant to *N.J.S.A. 40:55D-70d(4)*, the Borough may assess a development fee of six (6) percent of the appraised value on the document utilized for construction financing on the additional floor area 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 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.

(3) The imposition of development fees shall not be construed as a condition of preliminary or final site plan approval or as a stipulation included in a developers agreement for the purposes of calculating growth exclusions pursuant to *N.J.A.C. 5:94-2.4(a)5*.

#### **D. Residential development fees.**

(1) 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 (1) percent of the coverage amount of the Home Owner Warranty document of a for-sale unit, or the cost of construction where the HOW Warranty does not apply for a non-rental unit, or the appraised value on the document utilized for construction financing for a rental unit, provided no increased density is permitted.

(2) When the Borough approves an increase in residential density pursuant to *N.J.S.A. 40:55D-70(d)(5)*, the Borough may impose a development fee of six (6) percent of the coverage amount on the Home Owners Warranty document for each additional for-sale unit, or the appraised value on the document utilized for construction financing for each additional rental unit. If the zone on a site has changed during the two-year period preceding the filing of such a variance application, the 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 value of the existing structure, as of the date hereof, by more than 50%.

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

(1) Affordable housing developments shall be exempt from development fees. All other forms of new construction, unless otherwise excluded as set forth herein, are subject to development fees.

(2) The Borough shall impose and collect development fees when an existing structure is expanded or undergoes a change to a more intense use (except as otherwise set forth herein). The development fee to be imposed and collected shall be calculated based on the increase in the equalized assessed value of the improved structure.

(3) Developments that have received preliminary or final approval prior to the imposition of a development fee shall be exempt from development fees unless the developer seeks a

substantial change in the approval.

**F. Collection of development fees.**

The Borough of Madison may collect up to fifty (50) percent of the development fee on any specific development at the time of issuance of the building permit. The remaining portion shall 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

**G. Contested development fees.**

Imposed and collected development fees that are challenged shall be placed in an interest bearing escrow account by the Borough. 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. If the development fees are retained by the Borough, the developer shall immediately reimburse the Borough for all costs incurred by the Borough in defending such challenge, including but not limited to all attorneys' fees and court costs.

**H. Housing trust fund.**

(1) All development fees shall be deposited in a separate, interest-bearing housing trust fund in a bank or other financial institution chosen by the Borough (the "Bank"). The Borough shall provide 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)*. This authorization shall be submitted to COAH within seven (7) days from the opening of the trust fund account. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

(2) With the approval of COAH and of the Division of Local Government Services, the Borough may invest development fee revenue in a cash management fund, provided that the amount of money in the cash management fund that comprises the funds and income attributable to such funds shall at all times be identifiable. The Borough shall provide written authorization, in the form of a two-party escrow agreement between the municipality and COAH to permit COAH to direct the disbursement of development fees as provided for in *N.J.A.C. 5:94-6.16(b)*. This authorization shall be submitted to COAH within seven (7) days from the opening of the trust fund account. All interest attributable to such funds shall only be used on eligible affordable housing activities approved by COAH.

**I. Use of development fees.**

(1) The Borough may use revenues collected from development fees for any activity approved by COAH to address the municipal fair share. Such activities include, but are not limited to:

(a) Rehabilitation;

(b) New construction;

(c) Regional Contribution Agreements ("RCA"), as subject to the provisions of *N.J.A.C. 5:94-4.4(d)*;

(d) Elder Cottage Housing Opportunities;

(e) Purchase of land for affordable housing;

(f) Improvement of land to be used for affordable housing;

(g) Purchase of housing;

(h) Extensions or improvements of roads and infrastructure to affordable housing sites;

(i) Financial assistance designed to increase affordability; or

(j) Administration necessary for implementation of the Housing Element and Fair Share Plan.

(2) Funds shall not be expended to reimburse the Borough 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's affordable housing obligation, the Borough shall use at least thirty (30) percent of the balance remaining to provide affordability assistance to low and moderate income households in affordable units included in the Borough's Fair Share Plan. The Borough shall use one-third (1/3) of the affordability assistance portion of development fees collected to provide affordability assistance to those households earning thirty (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 thirty (30) percent or less of median income may include buying down the cost of low income units in a municipal Fair Share Plan to make them affordable to households earning thirty (30) percent or less than median income.

(4) No more than twenty (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:

(a) Salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program;

(b) A Housing Element and Fair Share Plan; and/or

(c) An affirmative marketing program.

In the case of a rehabilitation program, no more than twenty (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 monitoring requirements. Development fee administrative costs are calculated and may be expended at the end of each year or upon receipt of the fees.

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

Mrs. Vitale moved that Ordinance 36-2007, which the Clerk read by title, be adopted. Mr. Elias seconded the motion. Mr. Mezzacca commented that Ordinance 36-2007 will be referred by the Clerk to the Planning Board asking for comments before the next meeting and hearing date of Wednesday, May 30, 2007. There was no further discussion and the motion passed with the following roll call vote recorded:

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

Nays: None

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

Mr. Mezzacca commented that the Madison Planning Board reviewed Ordinance 36-2007 and submitted their comments to the Mayor and Council recommending its adoption, as said ordinance amending the Land Development Ordinance of the Borough of Madison was consistent with the Master Plan, including the Housing Element of the Master Plan of the Borough of Madison.

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

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

Nays: None

Abstain: Mr. Bowen

Acting Mayor Elias declared the above land development ordinance 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:

The Ordinances scheduled for introduction and first reading tonight will be published in the Madison Eagle on June 7, 2007, will have a hearing during the meeting of June 25 2007 in the Council Chamber of the Hartley Dodge Memorial, Kings Road in the Borough of Madison at 7:45 p.m., or as soon thereafter as practical, for further consideration and final adoption; will be posted at the main entrance to the Hartley Dodge Memorial and be made available to members of the public requesting same, as required by law.

Acting Mayor Elias called up Ordinances for first reading and asked the Clerk to read the ordinances by title.

**ORDINANCE 37-2007**

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING  
\$57,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR  
ALARM MONITORING SYSTEM**

**WHEREAS**, the Chief of Police has recommended that the Borough appropriate \$57,000.00 from the General Capital Improvement Fund to purchase an alarm monitoring system; 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 \$57,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$57,000.00 from the General Capital Improvement Fund to purchase an alarm monitoring 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 \$57,000.00 is hereby appropriated from the General Capital Improvement Fund to purchase an alarm monitoring 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 37-2007, which the 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. Elias, Mr. Conley

Nays: None

**ORDINANCE 38-2007**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING ORDINANCE 41-2004 WHICH APPROPRIATED \$180,000.00 TO COMPLETE THE SPRING GARDEN BROOK PROJECT TO INCREASE THE APPROPRIATION AN ADDITIONAL \$20,000.00 FOR A TOTAL APPROPRIATION OF \$200,000.00**

**WHEREAS**, Ordinance 41-2004 of the Borough of Madison appropriated \$180,000.00 from the General Capital Improvement Fund for the Spring Garden Brook Stabilization project; and

**WHEREAS**, the Borough Engineer has recommended that the Borough amend Ordinance 41-2004 to appropriate an additional \$20,000.00 from the 2006 Capital Budget thereby increasing Ordinance 41-2004 to \$200,000.00 to complete the project; and

**WHEREAS**, the Director of Finance has attested to the availability of the funds in the 2006 Capital Budget in an amount not to exceed \$20,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should amend Ordinance 41-2004 to appropriate an additional \$20,000.00 from the 2006 Capital Budget thereby increasing Ordinance 41-2004 to \$200,000.00 to complete the 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:

**SECTION 1:** Ordinance 41-2004 is amended to appropriate an additional \$20,000.00 from the 2006 Capital Budget thereby increasing Ordinance 41-2004 to \$200,000.00 to complete the 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.

Mrs. Vitale moved that Ordinance 38-2007, which the Clerk read by title, be adopted. Mr. Elias seconded the motion. Mr. Bowen observed that this is part of the price the Borough pays when people exceed their impervious coverage; restrictions on impervious coverage protect against damage downstream. There was no further discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

**ORDINANCE 39-2007**

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING  
\$40,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR  
DESIGN OF DRAINAGE IMPROVEMENTS ON GREEN VILLAGE ROAD**

**WHEREAS**, the Borough Engineer has recommended that the Borough appropriate \$40,000.00 from the General Capital Improvement Fund to design drainage improvements along Green Village Road; 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 \$40,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$40,000.00 from the General Capital Improvement Fund to design drainage improvements along Green Village Road; 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 \$40,000.00 is hereby appropriated from the General Capital Improvement Fund to design drainage improvements along Green Village Road.

**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 39-2007, which the Clerk read by title, be adopted. Mr. Elias seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

**ORDINANCE 40-2007**

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING  
\$38,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR  
FLOW MONITORING STUDY OF NORTH STREET SERVICE AREA**

**WHEREAS**, the Borough Engineer has recommended that the Borough appropriate \$38,000.00 from the General Capital Improvement Fund to perform a sewage flow monitoring study of the North Street service area; 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 \$38,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$38,000.00 from the General Capital Improvement Fund to perform a sewage flow monitoring study of the North Street service area; 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 \$38,000.00 is hereby appropriated from the General Capital Improvement Fund to perform a sewage flow monitoring study of the North Street service area.

**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 40-2007, which the Clerk read by title, be adopted. Mr. Elias seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

**ORDINANCE 41-2007**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 59  
SECTION 59-15 OF THE BOROUGH CODE ENTITLED "FEES" REGARDING**

**DOG AND CAT LICENSES TO INCREASE FEES**

**WHEREAS**, the Madison Board of Health has recommended amendments to the Borough Code to increase certain fees for dog and cat licenses beginning with the January 2008 licensing term.

**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 59 of the Code of the Borough of Madison, Section 15 thereof entitled **Fees**" is hereby amended as follows to increase certain fees for dog and cat licenses beginning with the January 2008 licensing term:

...

**Type of Fee Fee**

Dog and Cat Licenses and Registration Tags – Annual

Neutered \$ 15.00

All others \$ 18.00

Late Charge for Dog or Cat License and Registration Tag

effective February 1<sup>st</sup> \$ 10.00

....

**SECTION 2:** This ordinance shall take effect immediately and upon final passage and publication as required by law.

Mr. Bowen moved that Ordinance 41-2007, which the Clerk read by title, be adopted. MsBaillie seconded the motion. The old and new fees were read. There was no further discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

**ORDINANCE 42-2007 ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$100,000.00 FOR THE PREPARATION AND PAINTING OF THE KINGS ROAD & JAMES PARK SUBSTATIONS**

Ms. Baillie moved that Ordinance 42-2007, which the Clerk read by title, be adopted. Mr. Bowen seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

***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. Three resolutions were removed from the Consent Agenda: R 116-2007 through and including R 118-2007.

Mr. Elias moved approval of the Consent Agenda consisting of R 113-2007 through R 115-2007 and R 119-2007 through and including R 126-2007. Mr. Vitale seconded the motion, which passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None



**R 113-2007**

**RESOLUTION OF THE BOROUGH OF MADISON AWARDING PROFESSIONAL SERVICES CONTRACT TO ENVIRONMENTAL ENGINEERING CORPORATION OF MADISON, NJ FOR WELL SEARCH AND ALTERNATIVES STUDY IN THE AMOUNT OF \$2,450.00**

**WHEREAS**, a professional services contract was previously awarded to Environmental Engineering Corporation for professional services for a Phase Two environmental investigation of Block 4312, Lots 14, 15 and 16, commonly known as 22 Orchard Street, which contract was authorized pursuant to R

92-2006; and

**WHEREAS**, the Borough Engineer has recommended an amendment to the existing professional services contract with Environmental Engineering Corporation be entered into for professional services in an amount not to exceed \$2,450.00, pursuant to two written proposals dated December 6, 2006 and April 23, 2007, for well search and alternative remediation study; and

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

**WHEREAS**, the Director of Finance has attested to the availability of funds in an amount not to exceed \$2,450.00 for this purpose.

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

1. The Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough, an amendment to the professional services contract with Environmental Engineering Corporation for professional services for a Phase Two environmental investigation of Block 4312, Lots 14, 15 and 16 in an amount not to exceed \$2,450.00 in a form acceptable to the Borough Attorney.
2. The Borough Clerk is hereby directed to publish notice of the adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

**R 114-2007**

**RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING FINAL PAYMENT AND CHANGE ORDER REQUEST FROM CIFELLI & SON IN THE AMOUNT OF \$19,976.00 BRINGING TOTAL PAYMENT TO \$712,505.50 FOR THE GARFIELD AVENUE RECONSTRUCTION PHASE 1 & 2 CONSTRUCTION PROJECTS, \$692,529.50 HAVING BEEN AUTHORIZED BY R 66-2006**

**WHEREAS**, a contract for the Garfield Avenue Reconstruction Phase 1 & 2 construction project, in an amount not to exceed \$692,529.50 was awarded to Cifelli & Son, Inc. of Nutley, New Jersey, by Resolution 66-2006; and

**WHEREAS**, the Borough Engineer has recommended approval of a change order to the contract for changes regarding milling and traffic striping quantities that were encountered during the construction, in an additional amount of \$19,976.00 bringing the contract total to \$712,505.50; and

**WHEREAS**, the Borough Engineer has advised the project has been completed and has recommended approval of final payment including the change order to Cifelli & Son, Inc. of Nutley, New Jersey in an amount not to exceed \$19,976.00; and

**WHEREAS**, the Director of Finance has attested to the availability of funds in an amount not to exceed

\$19,976.00 for this purpose, which funds were appropriated by Ordinance 4-2006 as amended.

**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 final payment and change order request from Cifelli & Son, Inc. of Nutley, New Jersey, in the total amount not to exceed \$19,976.00 for the Garfield Avenue Reconstruction Phase 1 & 2 construction project is authorized.

**R 115-2007**

**RESOLUTION OF THE BOROUGH OF MADISON AWARDING  
PROFESSIONAL SERVICES CONTRACT TO OMLAND ENGINEERING FOR  
DESIGN SERVICES FOR A PORTION OF WOODLAND ROAD IN THE  
AMOUNT NOT TO EXCEED \$54,700.00**

**WHEREAS**, the Borough Engineer has recommended that the Borough award a contract for design services for the reconstruction of Woodland Road (hereinafter the "Contract"); and

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

**WHEREAS**, the Purchasing Agent has determined and certified in writing that the value of this acquisition will exceed \$17,500.00; and

**WHEREAS**, the Borough Engineer has recommended that the Borough Council award the Contract to Omland Engineering Associates, Inc. in an amount not to exceed \$54,700.00, for design services for the reconstruction of Woodland Road; and

**WHEREAS**, Omland Engineering Associates, Inc., has submitted to the Borough Purchasing Agent, the required documents to satisfy the requirements of N.J.S.A. 19:44A-20.5, since this matter may be awarded without competitive bidding; and

**WHEREAS**, the Director of Finance has attested that funds will be available in an amount not to exceed \$54,700.00 for this purpose, which funds were appropriated by Ordinance 17-2007.

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

The Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough, a professional service contract for professional services with Omland Engineering Associates, Inc., for design services for the reconstruction of Woodland Road, in an amount not to exceed \$54,700.00, such contract to be in a form approved by the Borough Attorney.

The Business Disclosure Entity Certification and Determination of Value be placed on file with this resolution.

The Borough Clerk is hereby directed to publish notice of the adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

nOTE:

**r 116-2007 AMENDING ARCHITECTURAL SERVICES —hmr, AND r 117-2007 AUTHORIZING CONTRACT WITH ROSEN GROUP FOR ELEVATOR DESIGN, R 118-2007 AWARDDING CONTRACT FOR FURNISHINGS AT THE FIRE & POLICE BUILDING, WERE REMOVED FROM THE AGENDA AT THE MEETING AND NOT ADOPTED**

**R 119-2007**

**RESOLUTION OF THE BOROUGH OF MADISON DECLINING OFFER BY THE MADISON BOARD OF EDUCATION TO TRANSFER THE GREEN VILLAGE ROAD SCHOOL AND REQUESTING MEETING**

**WHEREAS**, the Madison Board of Education, by letter dated October 9, 2006, offered to convey the Green Village Road School and property to the Borough of Madison with restrictions on the use that the Borough of Madison could utilize the building for; and

**WHEREAS**, the Borough Council has determined after due consideration of the matter that it would not be in the best interest of the public to accept the transfer of the building with the proposed restrictions; and

**WHEREAS**, the Borough Council has further determined that it would be in the best interest of the public to meet with the Board of Education or a subcommittee thereof to discuss alternatives regarding the property as well as potential use of certain office space in the Hartley Dodge Memorial building.

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

1. The offer of the Madison Board of Education to transfer the Green Village Road School to the Borough of Madison with certain restrictions as set forth in their letter dated October 9, 2006 is respectfully declined.
2. The Mayor and Council request that the Board of Education or a subcommittee thereof schedule a meeting with the Mayor and Council to further discuss the issues of a transfer of the Green Village Road School to the Borough of Madison as well as potential use of space by the Board of Education in the Hartley Dodge Memorial.

3. The Borough Clerk is requested to forward a copy of the within Resolution directly to the President of the Madison Board of Education and the Superintendent of Schools.

**R 120-2007**

**RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING PERMISSION FOR FLAGS TO BE FLOWN DOWNTOWN AND RIBBONS TO BE TIED ON TREES FROM MAY 29, 2007 TO JUNE 22, 2007 IN SUPPORT OF THE MADISON RELAY FOR LIFE TO TAKE PLACE JUNE 22, 2007**

**WHEREAS**, the American Cancer Society has requested permission for flags to be flown downtown and ribbons to be tied on trees from May 29, 2007 to June 22, 2007 in support of the Madison Relay for Life on Friday, June 22, 2007; and

**WHEREAS**, said flags would be flown after the removal of the American flags flown for Memorial Day until June 22, 2007; and

**WHEREAS**, the Borough Council has determined to grant this request.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the request for flags to be flown downtown and ribbons to be tied on trees from May 29, 2007 to June 22, 2007 in support of the Madison Relay for Life on Friday, June 22, 2007 is hereby approved with said flags to be flown after removal of the American Flags flown for Memorial Day.

**R 121-2007**

**RESOLUTION OF THE BOROUGH OF MADISON APPROVING THE RECOMMENDATION OF THE FINANCE COMMITTEE AND OPERATING COMMITTEE OF THE MADISON-CHATHAM JOINT MEETING TO AWARD A PROFESSIONAL SERVICES CONTRACT TO OMNI ENVIRONMENTAL FOR LOCAL LIMITS EVALUATION.**

**WHEREAS**, the Madison–Chatham Joint Meeting is required under their New Jersey Department of Environmental Protection ("NJDEP") to conduct a local limits evaluation; and

**WHEREAS**, the Madison–Chatham Joint Meeting desires to award a professional services contract to Omni Environmental to conduct a local limits evaluation; and

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

**WHEREAS**, the Secretary of the Madison-Chatham Joint Meeting has determined and certified in writing that the value of this acquisition will exceed \$17,500.00; and

**WHEREAS**, Omni Environmental has submitted to the Secretary of the Madison-Chatham Joint Meeting the required documents to satisfy the requirements of N.J.S.A. 19:44A-20.5, since this matter may be awarded without competitive bidding; and

**WHEREAS**; the Finance Committee and Operating Committee of the Madison-Chatham Joint Meeting have recommended that said contract be awarded to Omni Environmental to perform task #1 and task #2 of said proposal in an amount not to exceed \$20,000.00.

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

1. The Borough of Madison authorizes the Madison-Chatham Joint Meeting to award the Contract to Omni Environmental in an amount not to exceed \$20,000.00.
2. The Business Disclosure Entity Certification and Determination of Value shall be placed on file with this resolution.
3. A copy of this Resolution shall be forwarded to the Chatham Borough Clerk as well as the Secretary for the Madison-Chatham Joint Meeting.
4. The Borough Clerk is hereby directed to publish notice of adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

**R 122-2007**

**RESOLUTION OF THE BOROUGH OF MADISON APPROVING  
RECOMMENDATION OF THE FINANCE COMMITTEE AND OPERATING  
COMMITTEE OF THE MADISON-CHATHAM JOINT MEETING TO GRANT  
SALARY INCREASE TO FRANK FABRIZIO**

**BE IT RESOLVED** by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that in accordance with Resolution #07-24 of the Madison-Chatham Joint Meeting FrankFabrizio will receive a salary increase of \$1,500.00 for receiving his S-1 license; and

**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 of Madison hereby authorizes the Mayor to sign Resolution #07-26 of the Madison-Chatham Joint Meeting.

**BE IT FUTHER RESOLVED** that the Mayor and Council congratulate FrankFabrizio, on this accomplishment.

**R 123-2007**

**RESOLUTION OF THE BOROUGH OF MADISON APPROVING  
RECOMMENDATION OF THE FINANCE COMMITTEE AND OPERATING  
COMMITTEE OF THE MADISON-CHATHAM JOINT MEETING AND  
AUTHORIZING THE AMENDMENT OF THE MADISON-CHATHAM JOINT  
MEETING PERSONNEL POLICY AS TO PAYMENT OF SALARY AND  
OVERTIME COMPENSATION**

**WHEREAS**, the Finance Committee and Operating Committee of the Madison-Chatham Joint Meeting have recommended an amendment to the personnel policies and practices manual; and

**WHEREAS**, the amendment to the policy is reflected in resolution #07-27 of the Madison-Chatham Joint Meeting.

**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 of Madison hereby authorizes the Mayor to sign Resolution #07-26 reflecting the amendment to the personnel policies and practices manual of the Madison-Chatham Joint Meeting, subject to the authorization for adoption by the Borough of Chatham Council.

**R 124-2007**

**RESOLUTION OF THE BOROUGH OF MADISON APPROVING THE  
RECOMMENDATION OF THE FINANCE COMMITTEE AND OPERATING  
COMMITTEE OF THE MADISON-CHATHAM JOINT MEETING TO AWARD A  
PROFESSIONAL SERVICES CONTRACT TO CAMP DRESSER & McKEE**

**INC. FOR ENGINEERING AND CONSTRUCTION SERVICES FOR THE BURIED VALVE REPLACEMENTS**

**WHEREAS**, the Madison–Chatham Joint Meeting is replacing two (2) buried valves adjacent to the Primary Effluent Pumping Station; and

**WHEREAS**, the Madison–Chatham Joint Meeting desires to award a professional services contract to Camp Dresser & McKee Inc. (CDM), for engineering and construction services for the buried valve replacements; and

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

**WHEREAS**, the Secretary of the Madison-Chatham Joint Meeting has determined and certified in writing that the value of this acquisition will exceed \$17,500.00; and

**WHEREAS**, Camp Dresser & McKee Inc. has submitted to the Secretary of the Madison-Chatham Joint Meeting the required documents to satisfy the requirements of N.J.S.A. 19:44A-20.5, since this matter may be awarded without competitive bidding; and

**WHEREAS**; the Finance Committee and Operating Committee of the Madison-Chatham Joint Meeting have recommended that said contract be awarded to CDM for engineering and construction services of said proposal in an amount not to exceed \$21,640.00.

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

1. The Borough of Madison authorizes the Madison-Chatham Joint Meeting to award the Contract to CDM in an amount not to exceed \$21,640.00.
2. The Business Disclosure Entity Certification and Determination of Value shall be placed on file with this resolution.
3. A copy of this Resolution shall be forwarded to the Chatham Borough Clerk as well as the Secretary for the Madison-Chatham Joint Meeting.
4. The Borough Clerk is hereby directed to publish notice of adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

**R 125-2007**

**RESOLUTION OF THE BOROUGH OF MADISON CALLING FOR THE PHASING-OUT OF STAGE 1 AND STAGE 2 AIRCRAFT WEIGHING LESS THAN 75,000 POUNDS**

**WHEREAS**, the Morris County Board of Chosen Freeholders adopted a resolution calling for the phasing-out of Stage 1 and Stage 2 aircraft *weighing less than 75,000 pounds*; and

**WHEREAS**, members of Sound Initiative, a coalition formed by airport managers with the support of local and community leaders, has petitioned Congress to either phase-out these older aircraft or require them to upgrade to meet new standards; and

**WHEREAS**, New Jersey Assembly Resolution #70 memorializing the United States Congress to immediately commence phasing-out of these aircraft has yet to be passed by the Assembly; and

**WHEREAS**, as Morristown Municipal Airport lies within a densely populated county in the most densely populated state and noise from aircraft is a concern to many residents; and

**WHEREAS**, Congressman Rodney Frelinghuysen has expressed his desire to ensure that the general aviation airports benefit from noise reduction initiatives; and

**WHEREAS**, the elimination of Stage 1 and Stage 2 aircraft at Morristown Municipal Airport would reduce noise and be beneficial to our residents.

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

The Borough of Madison supports the phase-out of Stage 1 and Stage 2 aircraft *weighing less than 75,000 pounds*.

A copy of this resolution is to be sent to Congressman Frelinghuysen, Governor Corzine, Assembly Chair of the Transportation and Public Works Committee John Wisniewski, the Morris County State Legislative delegation, the Mayors of East Hanover, Hanover, Florham Park, Morristown, Morris Plains, Morris Township, Sound Initiatives, and the Morris County Board of Chosen Freeholders

**R 126-2007**

**RESOLUTION OF THE BOROUGH OF MADISON, MORRIS COUNTY, REQUESTING THAT THE COUNCIL ON AFFORDABLE HOUSING REVIEW AND APPROVE THE BOROUGH OF MADISON'S DEVELOPMENT FEE ORDINANCE**

**WHEREAS**, the Borough of Madison, Morris County was granted substantive certification by the Council on Affordable Housing (COAH) on July 12, 1995, was granted extended substantive certification on March 9, 2005 and filed for third round substantive certification on April 3, 2006; and

**WHEREAS**, N.J.A.C. 5:94-6.1 permits a municipality to prepare and submit a development fee ordinance for review and approval by the Council on Affordable Housing that is accompanied by and includes the following:

A description of the types of developments that will be subject to fees consistent with N.J.A.C. 5:94-6.8; and

A description of the amount and nature of the fees imposed, not to exceed the limits established in N.J.A.C. 5:94-6.6 and 6.7; and

**WHEREAS**, the Borough of Madison has prepared a development fee ordinance that is consistent with N.J.A.C. 5:94-6.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the Borough of Madison, in the County of Morris and State of New Jersey requests that COAH review and approve the Borough of Madison's development fee ordinance.

### ***Unfinished Business***

Mrs. Holden was recognized by the Chair and commented as to one of the points brought up at the last Council meeting. Each year Mrs. Holden has taken the position of refusing to fund a surplus and, in working very hard each year, questioned some of the budget processes; surplus funds are excess funds collected; Mrs. Holden feels the same this year as always. Is a surplus required?—yes it is. How much surplus is a cash management decision; since being on Council, Mrs. Holden has questioned the reserve for uncollected taxes at such a high level as Madison's actual collection was never below 99%; Mrs. Holden thinks it is time to look again and asked why the Borough should budget for a collection rate of 97% if Madison will actually collect at least 99% and probably closer to 100%. If the collection rate is anticipated to be 99% rather than 97%, the Borough can reduce \$1 million from the projected tax increase. There is sufficient cash on hand to cover any temporary deficiency. With the expectation that the Borough will collect at the same rate as in the past, budgeting for a 97% collection rate would mean that the extra reserve of \$1.4 million would roll over into more cash on hand next year; Mrs. Holden believes it is time to spend down cash and budget revenues wisely, based upon experience and scrupulous asset management; Mrs. Holden feels taxpayers demand relief at this time of large school tax increases.

### ***APPROVAL OF VOUCHERS***

On motion by Mr. Elias, 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 \$44,290.17

Health & Public Assistance 10,685.77

Public Works & Engineering 51,941.56

Community Affairs 8,836.64

Finance & Borough Clerk 481,988.37

Utilities 594,900.73

Total \$1,192,643.24

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

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

***New Business***

Ms. Baillie was recognized by the Chair and commented that it was brought to her attention by members of the Environmental Commission that they would like to have a Council Liaison; therefore, Ms. Baillie proposed that Council appoint a Liaison to the Environmental Commission.

Mrs. Holden moved appointment of Astri Baillie as Council Liaison to the Environmental Commission. Mrs. Vitale seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

Ms. Baillie thanked the Council.

Mr. Conley moved that Madison respond with a letter of support, joining the Ten Towns in requesting that the new visitor center at the National Refuge be named after Helen E. Fenske, who played a very important role in the initial preservation of the Great Swamp established by federal law in 1960. Mr. Bowen seconded the motion, which passed with the following roll call vote recorded:

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

Mrs. Vitale, Mr. Elias, Mr. Conley

Nays: None

A letter of support will be drawn up for Mayor Kerkeslager's signature.

***Adjournment***

There being no further business to come before the Council, the meeting was adjourned at 9:45 p.m. by unanimous voice vote.

Respectfully submitted,

Marilyn Schaefer

Borough Clerk

Approved June 11, 2007 (MS)